PAMPHLETS

VOL. II

I am very sorry that I did not think, over Abbot's mentioning the many children &c. of catholic clergy in Cuba. Could we perhaps leave out something and give the fact — certainly interesting & worth being known — as a note to pag 12. col. left, where the article speaks of Petrarca? I have looked for it the fact and cannot find it again. Bradford reads quicker English than I do, & he perhaps can find it sooner, by running over the pages. In South America it is very frequent that clergymen live in concubinage. In Bolivar's memoirs it is mentioned also. I would beg B. to take care of the matter in Abbot's Mexico

Bolivar's Memoirs are in my case

I mentioned Hayes in Cuba & Mexico to Abbot

Doct. Lieber to J. B. Goodrich Jr.

Chance in Work Dax &c $5.00

Rec'd Payment

Mr Goodrich, would not send for the above again, but the owner of things is going to sea in a day or two, & wishes it closed before he goes.

Dec 3d. 1829 -

13 Boston U.S.

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POLITICAL TRACT NO. 10.

MAY, 1832.

JUDGE HARPER'S SPEECH,

BEFORE THE

CHARLESTON STATE RIGHTS

AND

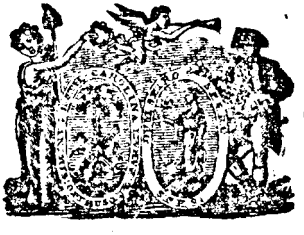
FREE TRADE ASSOCIATION,

AT

THEIR REGULAR MEETING, APRIL 1, 1832,

EXPLAINING AND ENFORCING

THE REMEDY OF NULLIFICATION.



"Animis Opibusque Parati."

PUBLISHED BY THE STATE RIGHTS AND FREE TRADE ASSOCIATION.

CHARLESTON:

PRINTED BY E. J. VAN BRUNT,

No. 121 *East-Bay.*

1832.

10,509

JUDGE HARPER'S SPEECH.

After some remarks on the state of opinions at Washington, so far as he had been able to observe them, on the subject of the Protective Policy, Judge Harper proceeded to say, that the remedy of State interference, or Nullification, proposed in South-Carolina, began now to engage the attention of the people of the rest of the United States. Many individuals, even in the States most devoted to the Tariff policy, rejoice to apprehend that there may be a remedy for the usurpation of power, short of secession or civil strife; that there is a medium between disunion and consolidation; and that Nullification is not intended to make, but to prevent, a revolution. There are some, particularly in the western portion of the Union, who agree with us respecting the Rights of the States, though they differ from us as to the protecting system; who would not see all the grounds of liberty destroyed, and an absolute, consolidated government established, even for the sake of a policy to which they are favourably disposed. Our friends of the other Southern States encourage us to proceed. It is true they say to us—"the people of our States are less informed and less excited than in South Carolina, where these topics have been so long agitated. They are all devoted to Free Trade and to the Rights of the States. But with respect to the particular measures of resistance to be adopted, they are reluctant to express opinions on matters which they have not fully considered, and on which they are not fully informed, and you would in vain attempt to concert such measures with them. Such an attempt would call forth a thousand various projects and opinions; would lead to interminable discussions and negotiations; and be more likely than any thing else to retard or defeat any effectual resistance. No! South-Carolina, who has been hitherto in advance, must vindicate her right to the post, which she has assumed to herself. Let her act, and let a practical question be put to the people of the other Southern States, on which it is necessary to decide one way or the other; let it be proposed to them to make common cause with South-Carolina, or to aid in putting her down by violence; and there cannot be a doubt of their decision. They CANNOT sacrifice their dearest interests, renounce their long cherished principles, and forge chains for their own limbs and those of their posterity."

Let us examine a little the nature of this check of State interposition, or Nullification. All we ask is, that the arguments in its favour shall be examined with the strictest scrutiny. All we complain of is, that it is denounced without examination. Men appear unwilling to understand us. The very simplicity and obvious

character of some truths seem to render them utterly incomprehensible. It is, perhaps, natural to think that a very simple truth, which has long lain in the way of observation, must, if it were indeed a truth, have been discovered before; and if discovered, must have engaged the attention of reflecting men. But yet we know that this does not always happen, and that the most obvious and important truths have long escaped observation. It is now, however, no longer doubtful that the truth for which we contend was known to one eminent individual, who better than any one else understood the true character of our institutions, It is no longer disputed that Mr. JEFFERSON was the advocate of our doctrine, and the author of the term "Nullification." We hope that this will abate the distrust and aversion which have been entertained towards it.

No answer has ever been attempted to the common argument—that if individuals enter into a compact, and have no arbiter, or superior authority, to interpret it for them, each must decide on its interpretation, so far as respects the government of his own conduct; that if independent and sovereign States form a compact, each, not only may, but must of necessity determine the true meaning of the compact, so far as it is to be carried into effect by itself, or within its own territory.—And it is plainly impossible that any answer should be given. The argument in favour of the Constitution having provided such an umpire in the Supreme Court, rests upon this, viz:—It is taken for granted that by the 25th section of the Act of 1789, the appeal from the State Courts in the last resort, in cases involving any question arising under the laws and Constitution of the United States, is rightfully allowed to the Supreme Court; then, although the Supreme Court be not a political tribunal (as it has itself determined) but its only function being to decide the rights of individuals, yet, in the ordinary working of the Government, it will happen, that in deciding the rights of individuals, as they are affected by the conflicting State and Federal laws, this tribunal will determine how far either laws shall have operation and effect, and consequently what are the relative rights and powers of the Federal and State Governments; and this ordinary working of the Government can only be interrupted by some extra-constitutional or revolutionary movement.

I appeal to you whether this be not the whole of the argument; and fairly stated. I appeal to the advocates of the power of the Supreme Court, whether any thing can be added to it. And yet what sort of jargon is this? We have been accused of refined speculation—political metaphysics, it has been called—and often by men so long accustomed to verbal refinement as to have lost the faculty of distinguishing plain truth and direct argument when they are offered to them But how is it that a tribunal professing to have *no* political power, shall exercise *all* political power?—that a constituent department of one government, certainly a weaker, and in some respects subordinate department, shall be the exclusive and final arbiter of the powers of that whole government? as well as of the powers of States acknowledged to be, for some purposes at least, sovereign and independent?

The truth is, however, that even in *the ordinary working* of the Government, the Supreme Court is not the authority of the last

resort. There is a power beyond that, in the Senate of the United States sitting as a Court of Impeachment. A Judge may be tried for a wilful violation of the Constitution, and the Senate may not only judge of him and his motives, but interpret the Constitution too, and that in the very last resort. Though a particular decision cannot be reversed, yet a rule of conduct will be furnished, to which the Court will in future be compelled to conform. Will you then say that the Senate is the supreme arbiter of the constitutional powers of the Federal and State Governments?

If the Constitution, (as it might very well have done) had not provided for the establishment of Courts by the Federal Government, but authorizing it to act on the persons and property of individuals, had left its laws to be carried into effect by means of the State tribunals, would you say that *those Courts*—the creatures of a State—whose rule of conduct might be prescribed by it—whose constitution might be modified by it at pleasure—whose very existence might be abolished at its will—were the supreme arbiters of the powers of their creator. The absurdity would strike every one; yet this is, to all intents and purposes, the argument of those who suppose such an arbiter to be found in the Supreme Court. Would not the relative powers of the State and Federal Government have been the same under that Constitution as under the present? The authority of the Supreme Court in relation to this matter, is precisely of the same character with that of every other functionary of both State and Federal Governments, whether legislative, executive, or judicial; all must, in the discharge of their proper functions, incidentally, and in the first instance, interpret the Constitution. To none of them is this interpretation committed as a substantive and ultimate power.

Our idea is the plainest in the world, if those who differ from us would deign to comprehend it. It is that ours is a confederacy, and nothing but a confederacy. The notion of a Government partly consolidated and partly federative; of State Governments partly sovereign and partly subordinate; is incongruous and impossible. Twenty-four distinct and independent sovereigns have agreed, by the constitutional compact, for certain specific purposes of common interest, to exercise their powers jointly. For this purpose they have provided, as other confederacies have done, for the appointment of a central council and authorities subordinate to it, called a Federal Government. It does not detract from its character as a Confederated Government, that they have provided (what has not been so usual among confederacies) that the central government, instead of making requisitions on the several contracting sovereigns, and carrying its regulations into effect solely by means of their authority, has power to make requisitions on individuals in the first instance, and to affect their persons and property. In thus acting upon individuals, however, it acts solely by the permission and under the authority, (as expressed by the compact of confederation,) of the sovereign in whose territory the jurisdiction is exercised. That sovereign may, therefore, inhibit any exercise of the power, rightfully and in good faith, if the joint authorities have exceeded the powers granted in the compact.

Let us suppose that in former times, when theological affairs engaged more of the attention of the world than they do at pre-

sent, half a dozen of the sovereigns of Christendom had entered into a compact for the appointment, from their respective dominions, of an ecclesiastical council to regulate matters of religious faith and practice. Suppose them further to have stipulated that the council might appoint ecclesiastical tribunals to exercise jurisdiction within the dominions of each, that the regulations of the council, when within the scope of their authority, should be paramount to the temporal laws with which they should come in collision, or supreme, and, if you please, that there should be an appeal from the lay to the ecclesiastical tribunals, in cases involving any question of religious faith or practice. Would this ecclesiastical establishment have been any thing else than a part of the machinery of each of the contracting sovereigns for the government of his own dominions? This might have been dangerous power to grant, and have opened the way to the usurpation of powers not granted; but would any one have dreamed that by such compact, the council in question was constituted the rightful sovereign of all the dominions of the contracting parties?—that any sovereign might not rightfully control those tribunals when he perceived them to exceed their proper authority?—or that he was restrained by anything but the faith of the compact from suppressing them altogether, or banishing them his dominions.

This is not similar, but identical. The States, before the formation of the Constitution, were sovereign: they exercised, uncontrolled, all the powers of government. This is not matter of argument, but of historical fact, and established by evidence perfectly indisputable. They entered into a compact providing for the establishment of a common council, for the regulation of certain affairs of common interest, and provided that it should appoint officers and tribunals to execute its powers in the most effectual manner. Certainly the States did not stipulate to become consolidated for every purpose; to abandon altogether their sovereign character, and to become corporations. Yet, unless they have done this, I will prove, so that no one shall question it, that they must retain every right of sovereignty and have rightful power to control every tribunal and function within their respective territories.

What is sovereignty?—there is no mystery in this—sovereign—supreme—the highest and ultimate authority in a State. Such an authority there must, of necessity, be in every State. Can there be any doubt of this? It may not reside in a single individual, or a single department; as in the instance of the British Parliament of King, Lords and Commons. But when sovereignty is thus distributed the concurrence of all the departments is required to render any act effectual. If under our American constitutions, there were no provision for an appeal to the people in Convention, it might be said that sovereignty resided in the legislature, the executive and the judiciary, since there would be no ulterior authority to control any act in which they concurred. But the sovereignty would, in effect, reside in the legislature, which might organize and modify the other departments at its pleasure. It would be vain to talk of an abstract sovereignty residing in the people. A sovereignty which can never be called into action is a nonentity. If, under such a Constitution, the people should assemble and

modify the form of government, this would be revolution and force. When we speak of sovereignty, we mean the highest *legal* power, exercised according to the forms of the Constitution. It means this, or it means nothing. Is it possible to conceive of a State in which there is not such an authority?

There is a sense in which a sovereign may be said to be subordinate or dependant. A weaker sovereign has been subordinate to a more powerful one, from the dread of superior force. But we speak of *legal* power. The process of the superior sovereign does not run into the dominions of the inferior. He does not control according to the forms of law. If he does, the inferior is no longer sovereign in any sense. He is but a functionary of the superior, governing power.

A State partly sovereign and partly subordinate; a government partly consolidated and partly federative, currently as this language has been repeated by those who have been contented to use words without ideas annexed to them, is a monster, inconceivable as the Chimæra. If, as some have suggested, sovereignty were distributed between the Federal and State authorities, then the concurrence of both would be necessary to render any act effectual. But is this the case? If the State does not possess the right of Nullification, is its concurrence required to give effect to any act of the Federal Government? Is there any act of the State which may not be arrested on the ground of repugnance to the laws or Constitution of the United States? The argument in favor of the partial sovereignty of the States stands thus:—The States may regulate all their internal concerns; they may legislate on all subjects, but those on which they have surrendered their powers to the Federal Government; their laws have full operation and effect, and are the highest authority on the matters which they regulate—unless, indeed, the States transcend their rightful powers, and their laws come into collision with the Constitution or laws of the Federal Government; then, to be sure, their operation is liable to be arrested; and the question, whether the States have transcended their powers, is to be judged of by the Supreme Court—a tribunal appointed by the Federal Government. Are those who argue thus aware that they have given us the very definition of the powers of a corporation?—that the pettiest town council—the associated grocers' company—is sovereign in the very sense they have supposed the States to be sovereign? Think—reflect—the laws of a corporation are binding on its members; they have full operation and effect, and are the highest authority on the matters which they regulate; unless the corporation transcends its powers, and its regulations come in collision with those of the superior government; then, indeed, their operation is to be restrained, and the question, whether the corporation has transcended its powers, is to be judged of by a tribunal appointed by the superior government. There can be no question of sovereignty or supremacy, but in the case of a collision of authorities, and the very test of sovereignty or subordination is, which shall judge of the validity of the other's act. And practically, is it not evident that a majority of the people of the United States, which elects the Congress and President, and indirectly appoints the Judges, may, if there be no right of State interposition, assume any power they may think

advantageous, and restrain the exercise of any power by the States that it thinks peoper to exercise. If this be so, what is the sovereignty to the States?

To say that the States are sovereign, is to affirm, in terms, the right of Nullification. Unquestionably—if the term sovereignty has the only meaning that can be attributed to it, and signifies the authority in the last resort. I am aware that many who concede the sovereignty of the States, have done so without thinking it necessary to annex a meaning to the term, and that all, even our opponents, are willing to admit the States to be sovereign, in such sort, that they shall be subordinate for any purpose that it may suit the views of the governing majority to render them subordinate. But I have never been able to conceive how those who concede and contend for the right of a State to secede from the Union, can deny the right to nullify. The right of secession is founded on the sovereignty of the State, in the sense in which I have used the word. It depends on this, that when the State has declared the separation, the Federal authorities are bound to yield obedience and forbear the exercise of their functions. If a county or parish should think proper to declare a secession from the State, the pretention would be laughed at. The State authorities would be bound still to go on to execute the laws within the seceding district. And why is this?—because the county or parish is not sovereign. If it were, the State authorities would be bound to yield obedience. Those who contend for the State right of secession, cannot mean the right of rebellion or revolt. If they did, the Federal authorities would not only have the right, but would be bound to go on to execute the Federal laws, notwithstanding the act of secession. They must mean a *legal* right—the exercise of an authority to which all are bound to submit. But it is not easy to comprehend how the Federal authorities can be bound to submit, when they are commanded to forbear the exercise of *all* their functions and to suspend the execution of *all* Federal laws, when they would not be bound, if commanded, to forbear the execution of a *particular* obnoxious law, or how the State can be sovereign for one of these purposes and not for the other. The greater involves the less. Can it be, that a sovereign party must either acquiesce in having an attempted violation of the compact carried into effect within his own territory, or declare the compact at an end altogether?

Such are our views of our confederated system. The States constituted a confederacy before the formation of the Constitution; they form a confederacy still: they were sovereign before, and are so still. They have not, by adopting the Constitution, abandoned their separate and independent character and formed a consolidated empire. The people of each State, in their sovereign character, delegated powers for some purposes to the Federal, for other purposes to the State authorities; but within its territorial jurisdiction there is but one sovereign, and both Federal and State authorities, which are co-ordinate to each other, owe it obedience, and are subject to its control. The appeal to the people in their sovereign character is within the forms of the Constitution; it is provided for by the Constitution itself, and comes within the ordinary working of the government. It is not revolutionary; that

is, a revolution by which the obligation of law is thrown off, and the forms of the Constitution violated. The sovereignty of the people is not an unmeaning abstraction, but the living and active principle of our institutions. Though in its character of sovereign, the State has the *legal* right to secede from the compact, even without alleging any violation of it on the part of the other contracting parties, and both Federal and State authorities would be legally bound to submit if it should do so, yet it has not the *moral* right. Its faith is bound to adhere to the compact, so long as it remains unviolated on the other part. So its faith is bound to submit to any alteration of the compact that may be made with the concurrence of three-fourths of the members of the confederacy. We do not attribute to the three-fourths, as has been supposed by some, any constitutional power of *construing* the Constitution. They have the power of amendment, however—of making it what they please; and this, in effect, will amount to the same thing.

Confusion has often been occasioned by using the same word with different meanings attached to it, and such has arisen from the use of the word *right* in different senses. Thus we speak of the *right* of resistance. Man has a natural and moral right to resist oppression. But this is not a legal right. He is bound to obey the laws, and the government has the legal right to punish him, if his resistance should prove ineffectual. These senses have been confounded by many who speak of the right of a State to secede from the Union. If this be a legal, a constitutional right, then all constituted authorities, Federal and of the State, are bound to yield to it. It involves, *a fortiori*, the right of Nullification. If it be not, then it is no more than the right of rebellion, and the Federal authorities are bound to go on and execute the Federal laws, notwithstanding the act of secession, and to punish those who resist them.

I think we may fairly assume that the dispute is reduced to this—whether this be a consolidated government, in which the States are mere corporations, or a confederation in which the States are sovereign—that there is no middle ground between Nullification and consolidation. Those who suppose the government consolidated, and the Constitution a mockery, are, however slavish, at least consistent in their opinions. But it is impossible to comprehend those who speak of the rights of a State which are in direct conflict with other rights of the Federal Government; of legal or constitutional rights, which there are no means of legally or constitutionally enforcing; of the right of a State, by seceding, to arrest and restrain all the laws and tribunals of the Federal Government, on the ground of an alleged infraction of the constitutional compact, and not to arrest the operation of that very act which constitues the infraction; of sovereignties which are not sovereign.

Ours is merely a confederacy; but the Constitution has guarded it against the dangers which have proved fatal to confederacies heretofore. It is authorized to make its requisitions on individuals, and is not left dependant on the caprice, the indolence, or the selfishness of the contracting sovereigns to carry its regulations into effect. True, the parties may interfere to arrest its operations, but this interference is effected with infinite difficulty. It is not

as if sovereign monarchs were the contracting parties, and the caprice or rashness of a single individual could in a single moment destroy the whole system. The sovereignty is made up of hundreds of thousands of individuals, whose ignorance you must enlighten, whose understanding you must convince, whose selfishness you must overcome, whose sluggishness you must stimulate, before you can induce their interference. They must act according to prescribed forms. It is impossible they should act hastily, and time will be afforded to correct misconceptions.

The negative or nullifying power in a State is the true, the only principle of free government, and, without understanding it as a principle, every government that has pretended to freedom, has acted upon it instinctively. The principle is, that when there are great, distinct and conflicting interests in the State, each must have the means of protecting itself. The negative power is one of defence, and can never be turned to purposes of aggression. The Patricians and Plebeians of Rome were distinct and hostile races—these were the conflicting interests. Rome was weak and enslaved, until the *nullifying* power was granted to the Plebeians; then she rose to greatness and glory; which only began to decline, when this anomaly in her Constitution was removed by the power of the emperors. The Constitution of England is founded, in theory, upon this—that society naturally tends to divide itself into a minority of those who possess wealth or other distinctions, and a majority of those who do not possess these advantages, and that each of these classes, as represented in their two houses of legislature, is entitled to a negative on the acts of the other; the monarch holding the balance between them. The Constitution of the States of Holland was founded on the territorial check. This confederacy seemed far weaker and more distracted than even our old confederacy; yet it did so happen that under this distracted Constitution, Holland rose to unprecedented greatness and prosperity, until pressed by the arms of Louis XIV, she reformed this peculiarity of her government, by recalling the House of Orange; and whether it be regarded as coincidence or consequence, from that time began the decline of Dutch power and prosperity. In this country, we have no distinction of rank, or classes; we have little distinction of wealth; our conflicting and discordant interests arise out of the geographical position of the different portions of the country; if there be oppression, it must be the oppression of a geographical majority, and if we would have free government, we must have a geographical check in the minority to oppose to it.

To borrow the idea of a distinguished statesman to whom I am indebted for many ideas on this subject, the necessity for this negative power is founded on the selfish principle in man; a man loves himself better than his neighbour. Hence the necessity of government; without it, the strong would arrogate to themselves all advantages, at the expense of the weak. If power be committed to one or a few, they will gratify their ambition, their avarice or their sensuality, at the expense of the many. Hence the necessity of representative government, which gives the power, in effect, to the whole society, or to a majority of it. But thus far government is evidently imperfect, because a portion of the society—the major-

ity—may practice oppression upon another portion. Majority and minority are the conflicting interests, and if you would have a government free, you must give to each the power of self-protection. Every society, even the smallest, has a tendency to divide itself into parties geographically separated. This may easily be verified by regarding our State Governments. But in a representative government established over a very extensive country, it is absolutely impossible that there should not be a geographical majority and minority. This is the inherent vice of such government, against which you must guard if you hope to perpetuate it.

To say that a State has the right to secede or to resist, is not to say that the government is free. Turkish sultans have undergone the bow-string and a Paul of Russia has been strangled, but their governments are not on that account more free. The right of secession—what is that, but to say there is no means of resisting usurpation, but to dissolve the government. And can any one say that this will be a safer mode of redress? Will the majority be more likely to recognize this right than that of Nullification? Will they not have greater temptation to enforce their power? If we nullify merely, they may hope to have the disputed power granted by three-fourths of the States. The objectionable measures of the government will still be matter for discussion and compromise. But let the example of secession be once set, and the advantages which they derive from an union with us are gone forever! Let the Southern States once taste the advantages, so far as wealth is concerned, of a separate existence, and they are not likely to seek the Union again. If we have no right but that of resistance, the hopes of the Union are over. When resistance is threatened, the government must either yield to it or attempt to suppress it by force. If they attempt the latter course, then the civil strife which men now apprehend is sure to follow, and the government is scattered to the winds of heaven. Or is the government always to yield? What a weak and degraded government will that be? There is neither weakness nor degradation in submitting to an authority which is recognized as a lawful one. But it is impossible that that should answer the purposes of a government which is to yield to every threat of force. We may incur risk in the course we now propose to pursue; it may be that the authority we claim for the State will not be recognized, and that force will be resorted to. But certainly we have better hopes now, while there is still a feeling in every portion of the Union that we belong to a common country, than we can have in future, when there shall be wider alienation and deeper hostility. On the other side—without the check we contend for—there is no *risk*—there is the absolute *certainty* of all the evils and dangers which are threatened to our present course.

I cannot say that our principle, if it were generally recognized, would render our Union perpetual; but I can say, what it seems to me every reflecting person must perceive, that without it, its perpetuation is *impossible*. With it, I cannot see the chance of dissolution. I have heard it objected by some who thought the continuance of the Union, on any terms, incompatible with the interests of the Southern States, that such a power would render the Union too indestructible. The argument might be addressed

to the people of every State, who complained of the acts of the Federal Government—is not the redress in your own hands? I have attempted on a former occasion to shew that the exercise of this power by a State can never seriously embarrass the operations of the General Government, unless when applied to a law laying imposts and duties. Even in the case of war, if one or several States should fail to contribute to the general force, this would not materially weaken the rest, who must have calculated their strength before hand I have heard it said triumphantly—will you give to men the power of exempting themselves from taxation?—will you allow the people of a State to judge in a matter where their interests are so directly concerned? And why not? Our Anglo Saxon ancestors held it the very touchstone of liberty, that the people should have the power of granting their own money. Why is it that the people within a State, where their power in the matter is unlimited, do not exempt themselves from taxation? If a single individual in a State could exempt himself from taxation, while all the rest should continue to contribute, and the government go on as usual, you might find many individuals willing to avail themselves of this privilege. If the consequence of a single individual, thus exempting himself, were to be that all the rest of the society should do so too, and the government should be dissolved, you might still find, here and there, a reckless individual who would avail himself of the privilege even on these terms—but you would not find one in a hundred. Men are not unwilling to support government. The people hitherto have been attached to their Federal no less than their State Government. They will continue to be so, if you will allow them to consider it their own government, and not an extrinsic and antagonist power. To dissolve the government by withholding the necessary supplies, you must gain over, not one reckless individual in a hundred, but a majority, and more than a majority, of the whole people of the State. The fear is fantastical that the people of a State will arrest a law of taxation, unless they are satisfied of its inequality and injustice. The danger of their acting hastily, under ignorance or misconception of the true character of the law, is guarded against, so far as any danger in government can be guarded against, by the numbers that must concur, the discussion that must take place, the time that must be consumed, the forms that must be gone through, before they can be brought to act. This danger is as nothing, when compared to the opposite, appalling danger of giving to an interested and irresponsible majority the unlimited power of exaction.

Great as the stake is, which the Southern States have in the present protecting policy of the government: though their prosperity certainly—perhaps their existence as States, may depend upon it—yet I regard this as a trifle, compared with the establishment of the *great principle* in government for which we contend—the power of the weaker interest in the body politic to protect itself. It is salutary that weakness should be able to say to power, "thus far shalt thou go, and no farther." The United States have set to the world the example of popular, representative government. The spirit of reform is abroad, and our example is followed. It is incumbent on us to carry out the lesson we have taught, and, (what has not been done heretofore,) to show that such government may

be practicable, safe, and free. It is for want of such a principle, that the abuses of government in the old world have been vindicated. Monarchies and aristocracies have been submitted to, to save men from the more formidable tyrant of numbers. They have been taught that it is better to yield to one tyrant than to a million of tyrants. Thanks to the conservative principle which has been infused into our Constitution—whether by the design of wise and patriotic men, or the care of a protecting providence—we may hope to obtain all the good which has resulted from monarchies and aristocracies without any mixture of the evil.

POLITICAL TRACT NO. 4.

NOVEMBER 1831.

TAXES! TAXES! TAXES!

OR

TABLES, SHEWING THE FORM AND AMOUNT

OF THE

TRIBUTE MONEY,

LEVIED BY THE

FEDERAL GOVERNMENT;

ON

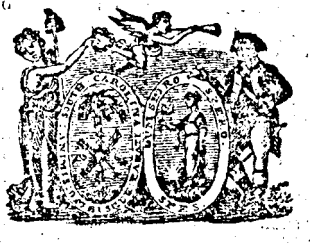
AGRICULTURE AND COMMERCE,

TO BE

TRANSFERRED INTO THE POCKETS

OF THE

MANUFACTURERS AND SUGAR PLANTERS.



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1831.

From "the Banner of the Constitution."

The City of Philadelphia has been of late years visited, during the warm season, by plentiful swarms of mosquitoes; and what, perhaps, will surprise many persons, is, that a great part of the torment we suffer from them is occasioned by the American System. What!—we hear it exclaimed—charge your mosquitoe bites to the American System? Yes, we do; and, if any body wants proof of it, we will give it to him.

The article called *leno*, which is made of cotton, is used, as every body knows, for mosquitoe curtains to beds The duty on this article is 8¾ cents per square yard, or about 10 cents per running yard of the usual width, which is about a yard and an eighth. It can be had, in England, as we are informed by an importing merchant, at one or two pence sterling, per yard—that is, at two to four cents—but its importation is *totally prohibited*, in order to enable the American manufacturer to make and sell the same thing, which he now does, at three or four times the price. The wholesale merchants of this city sell it, by the piece, at 12 cents per yard; and thus a mosquitoe curtain, containing 20 yards, costs $2 40, when one of equal quality could be imported, were it not for the American System, at 5 cents per yard, or $1 for a curtain. Now, every one can see, that, were it not for the enormous tax, many people could afford to protect themselves and their sleeping infants from these annoying insects, who cannot now do it; and it is, therefore, manifest, that a great portion of the bites which our population are compelled to endure at night is owing to the high duty on leno.

But, can we wonder that the blood-sucking tribe should play into each other's hands? The manufacturer may be considered as addressing the mosquitoes thus: "My little allies, I will adopt, with you, the system of *mutual protection*. Whenever you can find a person asleep, bite him; he will then want a mosquitoe curtain; this will encourage my industry—but, in order that you may also be protected in yours, I will raise the price of the curtain so high, that none but the rich can afford to buy them, and you shall have the whole market of the poor and middling classes to feed upon You will suck the blood of the public in small drops; I will do it in large drops" Now, can it be, that a whole nation has got such thick skins, or such thick heads, as not to feel or see that their nocturnal comfort is prodigiously interfered with by mosquitoes? For our parts, the very music of a mosquitoe has horrors associated with it, that render its presence so hideous, that we would not endure a night's torment from its buzz in order to please the biggest galinipper of the American System Party.

TAXES ! TAXES ! TAXES !

The following duties are now payable by the laws of the U. States upon the articles hereinafter enumerated:

Axes, 35 cents on every dollar of the first cost.

Alum, 2 cents a pound, ($2 50 for 112 lbs.)

Arms, side arms for militia officers, and others, 30 cents on every dollar of the first cost, that is, $3 on every sword that costs $10, which falls very heavily upon a country where every other public man is a General, Colonel, Major, Captain, Lieutenant, Ensign, or Cornet.

Awl-hafts for shoemakers, 30 cents on every dollar of the first cost.

Adzes for coopers, 35 cents on every dollar of the first

Bindings of worsted or wool, 35 cents oy every dollar of the first cost.

cost.

Black lead pencils, 4 cents on every one that costs ten cents.

Blank books, ciphering books, and copy books, 30 cents on every dollar ot the first cost.

Blankets, woollen, 35 cents on every dollar of the first cost.

Bolts of copper for ships, &c. 4 cents a pound.

Bombazines, 33 1-3 cents on every dollar of the first cost.

Bonnet wire, 30 cents on do.

Bonnets or hats, of chip, grass, Leghorn, and straw, 50 cents on every dollar of the first cost.

Braids, flats, and plats, for bonnets or hats, 50 cents on do. (If, however, the bonnets or hats be for poor people, for the wives and daughters of farmers, mechanics, and other working men, who cannot afford any but the cheapest kind, the American System favors them by charging an increased tax. Fifty cents is charged on each one, even though the foreign cost should be but fifty cents, which would be doubling the price.)

Boots, woollen, for children, 35 cents on every dollar's worth.

—— laced, 150 cents per pair.
—— leather, 150 cents per pair.
Bootees, do. 150 cents per pair.
Bottles, porter bottles, $2 per groce.
Braces of leather, 30 cents on every dollar of the cost.
Brandy, 1st and 2d proof, 53 cents per gallon.
Do. 3d 57 do.
Do. 4th 63 do.
Brass slide-rules, 30 cents on every dollar of the cost.
Bridles, 30 cents on do.
Bridle-bits, 35 cents on do.
Brushes, 30 cents on do.
Buttons, of worsted or wool, 33 1-3 cents on every dollar of the cost.
Cabinet ware, 30 cents on every dollar of the cost, or $3 on every table or cradle that cost $10.
Cables and cordage, tarred, four cents per pound.
Do. untarred, 5 cents per pound.
Do. of grass, or of the bark of a tree, 5 cents per pound.
Do. of iron chain, 3 cents per pound.
Camel's hair pencils, 30 cents on every dollar of the cost.
Canes or walking-sticks, 30 cents on do.
Canes for fishing, 30 cents on do.
Carpets, Brussels, Turkey, or Wilton, 70 cts per square yard.
Do. Ingrain, Kidderminster, or Venetian, 40 cents per square yard.
Do. all other kinds made of wool, flax, hemp, cotton, or rags, or parts of either, 32 cents per square yard.
Do. of oil-cloth, printed or painted, 50 cents per square yard.
Do. bindings, 35 cents on every dollar of the cost.
Carriages of all descriptions, and parts thereof, $30 on every $100 of the cost.
Carriage springs for do. 30 cents on every dollar of the cost.
Do laces for trimming, 35 cents on do.
Cases for liquor, without bottles, 30 cents on do.

Cases, dressing, of wood, 30 cents on do.
Cast steel, 150 cents for 112 pounds.
Castor oil, 40 cents per gallon, equal to 50 cents upon every dollar of the cost.
Chafing dishes, 35 cents on every dollar of the cost.
Chairs, fancy and others, 30 cents on do.
Chisel socket, 35 cents on every dollar of the cost.
Chocolate, 4 cents a pound.
Cigars, Spanish, 25 cents per hundred.
Cinnamon, 25 cents a pound, which is more than its first cost.
Ciphering slates for schools, 33 1-3 cents on every dollar of the cost.
Clothing, ready made, 50 cents on every dollar of the cost. A fine cloth coat in London costs from $12 60 to $16 80; here it costs from $25 to $40.
Coat bindings, 35 cents on every dollar of the cost.
Coffee, 2 cents a pound. To be reduced after the 31st Dec. 1831, to 1 cent.
Cocoa, 1 cent a pound.
Cologne water, 30 cents on every dollar of the cost.
Confectionary preserved in sugar or brandy, 30 cents on every dollar of the cost.
Copperas, near 2 cents per pound ($2 per cwt.,) which is equal to twice as much as its cost abroad.
Cordials of all kinds, 53 cents per gallon.
Cotton, 3 cents per pound; a mere dead letter in the law, and ought to be entirely abolished.
Cotton goods, whether plain or colored, such as cambrics, ginghams, checks, leno, book-muslin, stripes, chintzes, calicoes, jaconet, prints, sheetings, shirtings, &c., as follows:
If they are low priced, such as suit poor people, and cost from 5 to 10 cents per square yard, the tax is 87 cents to 175 cents on every dollar of the cost.
If they are of a middling quality, fit for people in middling circumstances, and cost from 11 cents to 25 cents per square yard, the tax is 35 to 79 cents on every dollar of the cost. But

If they are high priced, such as only the rich can afford to wear, and cost from 35 cents to a dollar and upwards per square yard, the tax is only 25 cents on each dollar of the cost ! ! !

Cotton bagging, 5 cents per square yard.

Currants, for mince pies, 3 cents a pound.

Cut glass, such as decanters, tumblers, wine-glasses, salt-cellars, dishes, bowls, pitchers, &c., $3 upon every $10 of the cost, besides 3 cents per pound weight.

Cutting-knives for farmers, 40 cents for every dollar of the cost.

Demijohns, 25 cents each.

Dolls for children, of leather or wood, 30 cents on every dollar of the cost.

Drawing-knives, for coopers, farmers, &c., 35 cents on do.

Duck, for sails, 10 1-2 cents per square yard.

Epaulets, of worstead, for non-commissioned officers, 33 1-3 cents on every dollar of the cost.

Epsom salts, 4 cents a pound.

Essences of all kinds, for perfumes, 30 cents on every dollar of the cost.

Fans, 30 cents on do.

Feathers, ornamental, 30 cents on do.

Figs, 3 cents per pound.

Fifes and drums, 30 cents on do.

Fish, dried, cod fish or herrings, $1 per 112 lbs.; herrings in barrels, $1 per barrel; mackerel, $1 50 per barrel; salmon, $2 per barrel.

Flasks for gunpowder, of leather, 30 cents on every dollar of the cost.

Flax, unmanufactured, $50 per ton.

Flowers, artificial, 30 cents on every dollar of the cost.

Flutes, flageolets, and clarionets, 30 cents on do.

Forte Pianos, $30 on every $100 of the cost.

Fur hats or caps, 30 cents on every dollar of the cost.

Gin cases, empty, 30 cents on ditto, and bottles $2 50 per groce.

Glass vials and bottles, not exceeding the capacity of 6

oz., 175 cents per groce of 144, exceeding 6 oz., and not exceeding 8 oz., 125 cents per groce.

Glass, window, 6 by 8, 7 by 9, 8 by 10, $3 per 100 square ft.; 10 by 12, $3 50; 10 by 14, $4; 11 by 17, to 14 by 22, and larger, $5 per 100 square feet. The price of the largest size here mentioned, is quoted in the New York price current, at $20, and the duty is of course *one fourth* of the price. That of the smallest size is quoted at $8 50, and the duty is of course more than *one-third* of the price; so that the light of the poor man's cottage is taxed more heavily than that of the rich man's palace.

Gloves, of leather and sheepskin, 30 cents on every dollar of the cost.

Ditto, of woollen and worsted, 35 cents on ditto.

Glue, 5 cents per pound.

Guernsey frocks, for sailors, 50 cents on every dollar of the cost.

Guns and fowling pieces, $3 on every $10 of the cost.

Hair cloth, for chairs and sofas, 30 cents on every dollar of the cost.

Hair, human. for wigs for old men, scratches for bald men, frizettes for matrons, and curls for young girls, 30 cents on every dollar of the cost.

Hair pencils, for drawing, 30 cents on ditto.

" powder, perfumed, 30 cents on ditto.

Hammers for blacksmiths, and sledges, 2 1-2 cents per lb., which is more than the first cost.

Hangings for papering houses, 40 cents on every dollar of the cost.

Harness, 30 cents on every dollar of the cost.

Harps, $30 on every $100 of the cost.

Hats, of wool, 30 cents on every dollar of the cost.

Hatters' skivers, 30 cents on ditto.

" worsted looping of wool, 33 1-3 cents on ditto.

Haversacks, of leather, 30 cents on ditto.

Head dresses, ornamental. 50 cents on ditto.

Hearth rugs pay as woollen goods, (see hereafter.)

Hemp, unmanufactured, $60 per ton.

Hobby horses, for children, $3 on every $10 of the cost.

Hooks, reaping, of iron or steel, 40 cents on every dollar of the cost.

Hose, woollen, worsted, or Angora, 35 cents on every dollar of the cost.

Indigo, 40 cents per pound, until 30th June, 1832, and after that, 50 cents per lb.

Inkstands, of wood, without bottles, 30 cents on every dollar of the cost.

Iron, band, 3 1-2 cents per lb.

" bars or bolts, not manufactured in whole or in part by rolling, 1 cent per lb., or $22 40 per ton.

" bars or bolts, when manufactured by rolling, $37 per ton: *Provided*, That all iron in slacks, blooms, loops, or other form, less finished than iron in bars or bolts, except pigs or cast iron, shall be rated as rolled iron in bars or bolts, and pay a duty accordingly.

" sheet, 3-12 cents per lb., which is equal to $78 40 per ton. The cost of this article abroad, double rolled, is £11 per ton, equal to $48 88, and the duty is, therefore, a great deal more than the first cost.

" hoop, 3 1-2 cents per lb. The cost abroad, is £8 per ton, equal to $35 55. The duty is, therefore, more than equal to twice the first cost.

What an immense increase to the comfort of families would result from having the price of stove-pipes and sheet-iron stoves reduced, and what an immense saving would result in water-casks, cider hogsheads, tubs, barrels, and kegs, if iron hoops were relieved from taxation.

" pigs, $12 50 per ton.

" scroll, 3 1-2 cents per lb.

Kettles, of copper, 35 cents on every dollar of the cost.

Laces, coach, of cotton, or other materials, 35 cents on every dollar of the cost.

" gowns or dresses, $5 on every $10 of the cost.

Lacquered ware, of wood, 30 cents on every dollar the cost.

Lead, manufactured into pipes, for hydrants, &c., 5 cents per lb.

" pigs, bars or sheets, 3 cents per pound.

" red or white, dry or ground in oil, 5 cents per lb., or $5 60 per keg of 112 lbs.

" shot, 4 cents per lb.

Leather, and all manufactures thereof, or of which it is the material of chief value, 30 cents on every dollar of the cost.

Linseed oil, 25 cents per gallon.

Litharge, 5 cents per lb.

Mace, one dollar per pound, or 6 1-4 cents per ounce.

Mahogany, all manufactures of, $3 on every $10 of the cost.

Manufactured tobacco, (snuff and cigars excepted,) 10 cents per pound.

Marble, and manufactures of, $3 on every $10 of the cost.

Mats of flags, straw, tow, or any other material, 30 cents on every dollar of the cost.

Matting for floors, 15 cents per square yard, which is more than its first cost abroad.

Military stocks, 50 cents on every dollar of the cost.

Millinery, of all sorts, 30 cents on ditto.

Mill cranks and irons, wrought, 4 cents per lb., or $89 60 per ton, which is more than the first cost.

Mill saws, one dollar each.

Mineral orange, 5 cents per pound.

Mittens, woollen or worsted, worn chiefly by working people, 35 cents on every dollar of the cost.

Molasses, 5 cents per gallon.

Morocco, and manufactures thereof, 30 cents on every dollar of the cost.

Musical instruments of wood, or of which wood is the material of chief value, $3 on every $10 of the cost.

Muskets, including bayonets, $1 50 cents per stand.

Mustard, ready made, or in flour, 30 cents on every dollar of the cost.

Nails, of iron, cut or wrought, 5 cents per lb.
Nankeens, ready made clothing of, 50 cents on every dollar of the cost.
Nutmegs, 60 cents per lb.

Ochre, dry, 1 cent per lb.
" ground in oil, 1 1-2 ditto.
Olive oil in bottles, 30 cents on every dollar of the cost; in casks and jars, 25 cents per gallon.
" spermaceti, 25 cents per gallon.
" whale, 15 do. do.
Oil cloth, other than that usually denominated patent floor cloth, (which pays 50 cents per square yard,) 25 cents per square yard.
" furniture, 15 cents per square yard.
Olives, 30 cents on every dollar of the cost.
Ornaments for women's head dresses, $3 on every 10 of the cost.
Otto of roses, 30 cents on every dollar of the cost.

Packthread, untarred, 5 cents per lb.
Paint brushes, 30 cents on every dollar of the cost.
Paper, post or letter paper of all kinds, 20 cents per lb.
" foolscap, or common writing, 17 cents per lb.
" sheathing, binders' and box boards, and wrapping paper of all kinds, 3 cents per lb.
Parasols, of whatever materials, frames and sticks for ditto, 30 cents on every dollar of the cost.
Parchment, 30 cents on ditto.
Pasteboard, 15 cents per lb.
Pencils, camels' hair, 30 cents on every dollar of the cost.
Pepper, black, 8 cents per lb.
Pimento, or allspice, 6 cents per lb.
Pistols, $3 on every $10 of the cost.
Planes, for carpenters, 30 cents on every dollar of the cost.
Playing cards, 30 cents per pack.
Pocket books of leather, 30 cents on every dollar of the cost.
Powder for guns, blasting rocks, &c., 8 cents per lb.

Powder, tooth, 30 cents on every dollar of the cost.
Preserves of every kind in sugar or brandy, 30 cents per ditto.
Prunelle shoes or slippers, 25 cents per pair.
Prunes, 4 cents per lb.
Purses of leather, 30 cents on every dollar of the cost.
Raisins, bloom, muscatel, and other, in boxes or jars, 4 cents per lb. ; other kinds, 3 cents.
Reaping hooks, 40 cents on every dollar of the cost.
Refined camphor, 12 cents a pound.
Rifles, $2 50 each.
Rugs, hearth, 33 1-3 cents on every dollar of the cost.
Rules, of wood, 30 cents on ditto.
Sabres, 3 dollars on every ten dollars of the cost.
Saddles and saddlery, 3 dollars on every ten dollars of the cost.
Sail duck, 10 1-2 cents per square yard until 30th June, 1832, and after that, half a cent additional every year, until the whole amounts to 12 1-2 cents per square yard.
Salt, 15 cents for every 56 lbs., to be reduced to 10 cents after the 31st of December, 1831. A bushel of some kinds of coarse salt weighs 80 pounds and upwards.
Salts, Glauber, 2 cents per lb.
Saltpetre, refined, 3 cents per lb.
Scale beams, 35 cents on every dollar of the cost.
Screws of iron, weighing 25 lbs., or upwards, 30 cents on every dollar of the cost.
Screws, small, called wood-screws, 40 cents on every dollar of the cost.
Seines, for fishing, 5 cents per lb.
Shot, 4 cents per lb.
Shovels and spades, 40 cents on every dollar of the cost.
Sickles, 40 cents on ditto.
Silk, all manufactures of, coming from beyond the Cape of Good Hope, 30 cents on every dollar of the cost.
Silk shoes and slippers, (except children's,) 30 cents per pair.

Slates, for the roofing of houses, from $4 to 10 dollars per ton according to size, amounting very nearly to prohibition.

Slates, for cyphering, 33 1-3 cents on every dollar of the cost, (tax on education.)

Sledges, blacksmiths' 2 1-2 cents per lb. or $56 20 per ton.

Soap, 4 cents a pound for castile and common, for Windsor and other scented, 30 cents on every dollar of the cost, (tax on cleanliness.)

Spades, of iron or steel, 40 cents on every dollar of the cost.

Spanish brown, 1 cent per lb. which is more than the first cost.

Ditto, ground in oil, 1 1-2 cents per lb.

Spermaceti candles, 8 cents per lb.

Spikes, copper, 4 cents per lb.

Spirits, distilled from grain, such as Holland gin,

57 cents per gallon, for 1st proof,
60 " " 2d "
63 " " 3d "
67 " " 4th "
75 " " 5th "
90 " " above 5th.

Ditto, distilled from other materials, such as brandy, rum, &c.

53 cents per gallon, for 1st proof,
53 " " 2d "
57 " " 3d "
63 " " 4th "
72 " " 5th "
85 " " above 5th.

Sprigs and tacks, not exceeding 16 oz. 5 cents per 1000
" exceeding " 5 cents per lb.

Squares, of iron or steel, 35 cents on every dollar of the cost.

Ditto, of wood, 30 cents on ditto.

Steel, 150 cents per 112 lbs.

Steelyards, 35 cents on every dollar of the cost.

Stills, of copper, $3 50 on every $10 of the cost.
Sugar, loaf, 12 cents per lb. (prohibition, except by smuggling.)
" lump, 10 cents per ditto.
" Muscovado, 3 cents per do.—Foreign cost 1 1-2 to 3 cents.
" white clayed or powdeeed, 4 cents per do.
Suspenders, leather, 30 cents on every dollar of the cost.
Sweetmeats, of all kinds, preserved in sugar or brandy, 30 cents on every dollar of the cost.
Swords and sword blades, $3 on every $10 of the cost.
Tallow candles, 5 cents per lb.
Teas, Bohea, 12 cents per lb. ; after 31st December 1831, 4 cents.

Souchong, 25	"	"	"	10 do.
Peco Souchong,	"	"	"	"
Other black,	"	"	"	"
Imperial, 50	"	"	"	25
Gunpowder,	"	"	"	"
Gorree,	"	"	"	"
Hyson, 40	"	"	"	18
Young Hyson,	"	"	"	"
Hyson Skin, 28	"	"	"	12
Other Green,	"	"	"	"

Tooth brushes and powder, 30 cents on every dollar of the cost.
Toys, of wood, 30 cents on every dollar of the cost, (tax on the amusements of children.)
Traces, leather, 30 cents on ditto.
Traps, of wood, 30 cents on ditto, (tax on catching rats and mice.)
Tubs, of wood, 30 cents on do.
Twine, 5 cents per lb.
Umbrellas, 30 cents on every dollar of the cost.
Vanilla beans, 30 cents on ditto.
Vessels of copper, 35 cents on ditto.
" of cast iron, not otherwise specified, 1 1-2 cents per lb.
Vices, for smiths and others, 35 cents on every dollar of the cost.
Vinegar, 8 cents per gallon.

Vitriol, blue, or Roman, 4 cents per lb.
" oil of, 3 cents per lb.
Wafers, 30 cents on every dollar of the cost.
Warming pans, copper, 35 cents on ditto, [tax on the comforts of the sick.]
Whips, 30 cents on every dollar of the cost.
White lead, dry or ground in oil, 5 cents per lb.
Whiting, 1 cent per lb.
Wigs, 30 cents on every dollar of the cost.
Window blinds, of reed or wood, 30 cents on ditto.
Wines, Burgundy, Champagne, Lisbon, Port, Sicily, Teneriffe, Tokay, 30 cents per gallon. Madeira and Sherry, 50 cents. Malaga, Marseilles, German, French, Spanish, and Mediterranean wines, 15 cts. except, French and Spanish red wines, which pay 10 cents.

N. B.—These rates of duties have only existed since January 1, 1829. Before that day, Burgundy, Champagne, and Madeira, paid 100 cents; Lisbon, Port, and Sicily, 50; Sherry, 60; and Teneriffe, 40.

Wire, for bonnets, 30 cents on every dollar of the cost.
" iron or steel, exceeding No. 14, 6 cents per pound.
" " not exceeding No. 14, 10 cents per lb.
Wood screws, 40 cents on every dollar of the cost.
Wood, all manufactures of, not specifically enumerated, 30 cents on ditto.
Wool, raw, 4 cents per pound, and an additional duty of fifty cents on every dollar of the cost.
" all manufactures of wool, *except flannels and baizes*, which cost 33 1-3 cents per square yard, or less, and which are worn chiefly by working people, 14 cents per square yard, which, upon the cheapest sort, such as costs, for instance, 10 cents, is 140 cents on every dollar of the cost.
" all manufactures of wool, or of which wool is a component part, (except blankets, hosiery, mits, gloves, and bindings, which pay 35 cents on every dollar of the cost, worsted stuff goods, which pay 25, bombazines, which pay 33 1-3, caps, which pay 30, and carpeting, which pays 70 cents per square

yard for Brussels, Turkey, and Wilton, 40 cents, for Venetian and Ingain, and 32 cents for all other kinds,) such as flannels, baizes, coatings, cloths, shawls, swansdown, and Valencia vestings, kerseymeres, habit cloths, &c. which cost above 33⅓ cents, and not exceeding 50 cents per square yard, and *all flannels and baizes* costing any price below 33 1-3 cents, 22 1-2 cents per square yard.

" on all manufactures, costing from 50 to 100 cts. per square yard, 45 cents per square yard.

" on all costing from 100 to 250 cents per square yard, 112 1-2 cents per square yard.

" on all costing from $2 50 to $4 per square yard, 180 cents per square yard.

These duties range from 45 cents on every dollar of the cost, to 225 cents, and fall heaviest on the cheapest goods, so that the labouring people are the most heavily taxed. Broadcloths and other articles, which cost upwards of 4$ per square yard, pay only 50 cents on every dollar of the cost.

ILLUSTRATIONS

Of the effects of the Tariff on the prices of Sugar, Iron, Woollens, and other articles.

Effects of the Tariff on Sugar and Iron.

REPORT *of the Committee, appointed at the Free Trade Meeting holden at Portland, Aug. 24, 1831, to prepare an Address on the subject of the Tariff Laws, and* FREE TRADE.

We will begin with the Sugar duty. Brown sugar enters more or less into the consumption of every family in the United States. The whole amount consumed yearly in this country is about *one hundred and forty million pounds.* There is a duty of three cents per pound levied upon every pound that is imported, which makes it cost three cents more per pound than it otherwise would, provided there was no duty. This duty, at three cents per pound, on the whole amount consumed, amounts to $4,200,000. Of the brown sugar yearly consumed 52,035,000 pounds are imported and the duty

paid on this quantity is $1,438,611, which sum goes into the United States treasury as *revenue.* But in the state of Louisiana there are about five hundred planters with their negro slaves who raise yearly 87,965,000 pounds. Now the effect of the three per cent duty on the imported sugar, as was before shewn in the example of coffee, is to raise every pound of the domestic sugar three cents, enabling these five hundred planters to sell every pound of their sugar for three cents more than it would bring in the market, provided the duty did not exist. Three cents per pound on 87,965,000 pounds, is $2,638,950 which sum is paid by the people as a bounty for the benefit of five hundred planters, residing in one state. Thus thirteen millions are taxed for the *protection* of five hundred planters. It is said that these few planters are accumulating princely fortunes. The *protection* thus afforded to a single individual, who owns several plantations and hundreds of slaves, exceeds thirty thousand dollars annually. This is one of the prime beauties of the American system. Shall this item of the tariff of 1828 be held inviolate? Ought not the sugar duty to be reduced immediately?

The duties on iron, constitute another part of the tariff of 1828, which we are far from thinking "*should be held inviolate.*" It is only necessary to look around to convince us how important it is that iron should be abundantly and cheaply furnished. How infinite the uses to which iron is applied! The forest is felled, the furrow turned, the seed planted, the crop reaped, all with iron tools. The saw mill, the grist mill, the paper mill, and, in fine, every manufactory has iron for its basis. Our garments are made, our houses covered, our carriages built, our vessels constructed, by the aid of iron. A material so universal in its use should be furnished as cheap as possible. Now look at the following table exhibiting the duties on iron.

	Price of English Iron at Liverpool.	American duty on do.	Price of the same at Philadelphia.
Sheet iron	$52 22 per ton	$78 40	$165 to 176
Iron hoops	42 22	78 40	120 to 140
Rod Iron	31 10	78 40	170 to 180

Bar iron	29 41	37 00	90 to 100
Rolled bar iron	44 44	37 00	100
Hammer'd bars	60 00	22 40	100 to 110
Boiler plates	43 33	78 40	100
Slit rods	31 14	72 40	120

Should a material of such universal use and indispensible necessity, and which, (if we except what is taken up in ship building) is principally used by the laboring classes, be so heavily taxed as to cost nearly double what it would cost were it not for these exorbitant duties?

INCREASE OF PRICES.

The *Tariff party* of this State, confidently predicted the last year that the protection which the tariff affords to American manufacturers, would enable them to furnish goods at a cheaper rate than they have ever yet been procured for. In reply to this prediction, we subjoin the following extract of a letter from a merchant of Columbia:—

NEW-YORK, Sept. 1831.

Dear Sir—I have forwarded you some New York papers, and now discharge what I feel to be a duty, in stating to you, the state of this market; this I could do with some accuracy, by saying at once that there is an advance of 20 per ct. in *all* descriptions of staple goods, such as are indispensible to planters. I will however go more into details. Since September 1830,

Nails have advanced	1 ct. per. lb.	20 pr. ct.
Bar Lead "	1 1-4 "	25 "
Bale Roping "	3 "	40 "
Anvils and Vices	2 to 3 "	25 "
White Lead [25 kegs]	31 cts. per keg	12 1-2"

Hardware has advanced in price, from 10 to 20 per ct.—all descriptions of domestic goods, such as brown and bleached homespuns, striped homespuns, checks, tickings, negro clothing, &c. &c. have advanced 20 per ct. in 12 months, and cotton yarns 25 per ct. Dufil blankets and coarse woollens about 20 per cent.

Our planters will do well to calculate in due season whether it is best to make all, or a part of their negro clothing; or to buy it at an *advance* on last fall's prices.

Every thing appears to be improving in this country, stocks, real estate, manufacturing establishments, all do well. Every one speaks with confidence of what is he to clear this week, or this month, the idea with *us* is, to hold on with *both* hands, to what little we may have made in the whole course of our lives, but the idea here is to hold on with one or two fingers, and gather with the other eight or nine.

Many of the jobbing merchants of New York, have become advocates for the Tariff. They must be influenced merely by dollars and cents—they find that of late, they make as much *money* on American goods, as on Foreign, and with much less *trouble*, and what they may import, is one half payable to the custom house.

I have been both amused and vexed, at the trimming of those Jobbers, while their "Southern *Friends*" are about. They will run with both hands open—"Oh! my dear friend I am glad to see you; why you look well, quite improved since I had the pleasure of seeing you last—well I am truly glad to see you, I hope you have had a pleasant time on't—I'll be much pleased to see you at No.——where you will see some Anti-Tariff papers—Oh! what a statesman Mr. Calhoun is, do you think he will be president? Hamilton is a great man too; is not Hayne a *nice* speaker? you have heard him I presume? What a talented man your Mr. M'-Duffie is?

"By the bye, when did you say you come to Town?" Answer.—Ten days since and I am now ready to start home—I will be off to-morrow.

"What you have not bought your goods, have you?" Oh yes, all bought, packed and shipped.—[*head down, looking at his watch.*]

"Ah-hem—good bye." Solus "well this is too bad; *twenty-five minutes* lost with that fellow and as like as not, he is a Nullifier."

BEWARE OF MAN TRAPS!.

We hear it every day said that now that the public debt is nearly paid off, the Tariff will be reduced, and we have lately been told "that the Manufacturers themselves are willing to reduce it." *This is true*, but what sort of reduction are they willing to make? Why they propose to take off the duties from all articles on which *they themselves now pay taxes*, and to keep them undiminished on all articles on which *they receive a bounty;* to take off the duties entirely from SILKS, and WINES and SPICES, &c. in which they pay taxes in common with the rest of the people of the U. S. and to keep them up on WOOLLENS, COTTON GOODS, IRON, &c.—on which they pay no taxes whatever; to relieve from taxation all the articles consumed by *the rich manufacturer*, and to levy the whole revenue of the country upon the articles consumed by the poor farmer and labouring man; to let "the Lords of the Spindle and the loom," (who like *Appleton*, the Boston Manufacturer receive their dividends of $100,000 a year] GO FREE from taxes, and to make the poor Planter of the South, pay from 50 to 100 per cent on every article of necessity, which he buys even for his slaves.

In plain terms, the Manufacturers have at their late public meetings, *magnanimously proclaimed their willingness*, TO REMOVE ALL THE BURTHENS OF THE GOVERNMENT FROM THEIR OWN SHOULDERS, AND TO LAY THEM ENTIRELY UPON OURS, and there are people among us silly or wicked enough, to cry aloud, "THE SYSTEM IS GIVING WAY—OUR WRONGS ARE ABOUT TO BE REDRESSED!!!" If the people of the South fall into THIS TRAP, they will deserve their fate. No! let the Tariff be reduced *equally* upon every article of our consumption, and if any distinction is to be made, let the taxes be highest upon articles of luxury, such as silks and wines consumed by the rich, and lowest, upon coarse woollens and cottons, and iron,—articles necessary to the poor. We invite attention to the following remarks on this subject from that able free trade paper, The New York Evening Post.

REPEAL OF DUTIES.

A new course has been adopted by the high tariff party. They are now for repealing all duties on such articles as are not the produce or manufacture of the country. The doctrine has been proclaimed at several public meetings of the friends of the American System, in various parts of the country, and incorporated with the resolutions adopted at those meetings. It received the assent of the meeting held in this city the other day to appoint delegates to the tariff convention. For some time back these people have set their faces against a revision of the tariff. The present scale of duties, they said, was not to be touched, a reduction of the duty on one article might lead to a reduction on others, and the whole system would be endangered. The plan of the free trade party, they said, was to destroy the tariff in detail, to get rid of it piecemeal, and the only chance of safety was to defend every part of it.

At present, they find themselves compelled to consent to a revision of the tariff. The extinction of the national debt is approaching—the duties collected will greatly exceed the public expenditure ; and they know very well that the people will not consent to be taxed heavily on every commodity they consume, when the public necessity does not require it. The friends of the Tariff, therefore, see the necessity of a modification of the scale of duties ; and they come forward with a proposal of their own to that effect. But what sort of modification do they propose ? A modification that favors the rich and luxurious, and leaves the burdens of the poor as great as ever. A modification which would draw the whole revenue of the country from the pockets of those who are least able to furnish it. A modification which would tax the labouring man in his clothing, in his kitchen utensils, in the implements of his occupation, in the few simple condiments of his food, and it would let the luxuries of the rich go free.

Let any person take the list of articles of which we produce or manufacture none in this country, and see of what they consist. He will then discover that this proposal to exempt them from duties on their importa-

tion into this country, is a proposal to take off the taxes from luxuries, and to leave them, as oppressive as they now are, on the necessaries of life. The rich man will then enjoy his Tokay, his Champagne, his Madeira, his Rhenish wines, free of duty. He will pay nothing to the revenue for the service of porcelain or fine china, from which he takes his luxurious repast. The West India sweetmeats on his table, the dates and dried fruits that form his desert, his West India cordials, will be brought to him charged with no impost. The girandoles and lustres that illuminate his drawing room, and the large looking-glass plates that reflect their rays, will pass the custom-house unquestioned. His gold watch will pay no duty. The pearls and rubies that blaze on the brows of his wife and daughters in the ball room, the glittering bracelets that bind their wrists, their cashmere and camel's hair shawls, their laces and lace veils, will be exempted from all charges, by this tender regard of government for the interests of the rich. The almond paste, the essences, the washes, the perfumes, the various cosmetics of the belle and the exquisite will be relieved from the payment of duties. There is no need of extending the list any further. Suffice it to say, that the modification of duties proposed by the friends of the tariff, would let in, duty free, an innumerable list of European articles consumed by the effeminate and luxurious.

Now look at the other side of the picture. The poor man will find himself TAXED from *the sole of his foot to the crown of his head*, taxed in every article of woollen or cotton on his person—taxed in his hat—taxed in his shoe—taxed in the calicoes worn by his wife and children—taxed on the very nail on which he hangs his coat —taxed in every article of iron or lead about his dwelling—taxed in his sugar—taxed in his salt—taxed, in short, and heavily too, in almost all the necessaries of life. Will the people of the United States consent to such a modification of the tariff as this?

We do not mean to say that no foreign luxuries are to be exempted from duty under any circumstances.—Public policy may require that some such articles should be admitted, duty free, in places where we can obtain

an equivalent. Suppose for example, we should make a treaty with Portugal, admitting her wines on a low duty or none at all, on condition of being allowed a free market in that kingdom, for the flour of this country—this arrangement would be decidedly a beneficial one. But the principle of exempting from duty the luxuries of the rich, and compelling the poor and middling classes to bear the whole burden of government, by heavy taxes upon articles of necessity, is monstrous, and will not, we are sure, be submitted to.

STATEMENT

of the *Duties or Federal Taxes*, imposed by the unjust Tariff Act of 1828, on a bale of woollens imported by Messrs. Holmes & Mazyck, on which the case lately tried in the Federal District Court at Charleston, is founded.

Cost of one bale blue Yorkshire Plains (29 inches wide) measuring 570½ yds. at 2s. 6d.	£61	16	1				
Charges in England, viz: commission, portering, shipping charges, &c.	3	5	2				
	£65	1	3	4-6	$298	16	
Exchange on England, 5 per cent prm.					14	46	
Interest on cost $1 34, freight $3,					4	34	
Cost in Charleston, exclusive of duty,					$307	96	
Duty, calculated on the cost at the port of exportation, viz: 50⅔ cts. per running yard, or 63 cents per square yard—but costing over 50 cents per square yard, it is reckoned, agreeably to the present Tariff. to have cost $1 per square yard and pays a duty of 45 per cent on this valuation—thus 570½ yards, 29 inches wide, equal to 459½ square yards, at $1 per yard, $459 50; 45 per ct. thereon,					206	78	
Total cost equal to about 90 cents per yard,					514	74	

Cost of running yard, exclusive of duty, about 54 cents; duty per running yard, 36 per cent, equal to 67 per cent on the cost, including all charges, or 71 per ct. on the cost at the port of exportation.		
The foregoing was sold in Charleston at its market value, viz: 570½ yards at 68 cents,	387	94
Loss sustained,	126	80
	$514	74
It appears that the cost of the above woollens, including all costs and charges except the Federal tax on them, was, *in Charleston*, 63 cents per square yard, the cost of the bale	$307	96
The duties on these woollens are *nominally* 45 per cent—but as the law provides that woollens which cost what these did in Liverpool, *shall be estimated to have cost, not* 63 *cents, their actual cost,* but *one dollar,* and that the duties are to be calculated on this *supposed cost*—these duties instead of being 45 per cent, are about 70 per cent per square yard—amounting to	206	78
Total cost, including duties	$514	74
The woollens were sold for their highest market value	387	94
And Messrs. Holmes & Mazyck suffered a loss of	$126	80
Again, The cost of the woollens, exclusive of the Federal tax or duties, was	307	96.
They sold for	387	94
But for the Federal Tax Messrs. Holmes & Mazyck, instead of losing $126 80, would have made on one bale of woollens a clear gain of	$79	98

Now reader mark the sequel, and say whether we can obtain relief from the *Federal Courts.* As it appears from the foregoing statement that Plains of a certain description cannot be imported into Charleston from England and sold without causing a loss to the im-

porter of about 22 cents for every yard imported; and that this is owing to the high duty; for if there were no duty, or a moderate one of 10 or 15 per cent on the cost of the goods in Liverpool they could be imported and sold at a profit, it is evident that this is exactly the same thing as if the importation of such plains were prohibited by a penalty of 22 cents on the Importer for every yard imported. It is true he may import them if he is willing to pay the Tax and suffer the loss; but it is equally true that he may break his neighbour's head or steal his cattle if he is willing to pay the fine or suffer the whipping and imprisonment which would follow those offences.

When a duty is laid on the importation of any thing so high that the Importer cannot sell it without loss, such a duty is called *prohibitory*, because people are prohibited by it from importing the thing on which it is laid just in the same manner as they are prohibited from doing unlawful acts by being made to suffer in various ways if they do them. The very name which is given to it by common consent shews that it is in fact *a Penalty intended to prevent the importation* of the thing on which it is laid, and *not a tax on the import intended to raise money*. The Government of the United States has *a right* under the Constitution *to lay duties on imports for the purpose of raising money to pay the debts of the Country and the expenses of the Government, and for no other purpose*. The Act of Congress imposing the duty above stated *professes* to be an act passed in pursuance of this power, and yet it prevents and was intended to prevent the importation of the article on which the duty is laid. Can any thing be more absurd than to prevent the importation of a thing in order to raise money by laying a duty or tax on it when imported? What would be said of our Legislature if they were to compel people to go a foot or ride mules under the pretext of raising money by a tax on horses. It is too absurd to be honestly meant. It must be and is most clearly a fraud. And yet when it was proposed in the late suit upon the Bond given for these duties to prove the fraud to a Jury of the Country who could and would have prevented it, the defendants were not permitted to shew what the Bond was given for.

From the "Address of the Free Trade Convention."

Who will affirm that such a system (the Tariff) can consist with the spirit of the Constitution? Its enactments may be so veiled as to elude the judicial power, and may, therefore, be obligatory on the other departments of the Government: But as between constituent and agent, between the *people* and their *rulers*, the charter will in such case, have been violated, and it will belong to them to correct the evil. Why should we fear to enunciate this principle? Is it because of the danger to those interests which have grown up under the system? A just consideration of the subject will lead to a directly opposite result. If it be conceded that the system is oppressive, unequal and unjust, can those who profit by it deceive themselves with the expectation of its permanency? Is it prudent to close their eyes to the consequences to which sooner or later this conviction must inevitably lead? Distinguished as *this system is* by every characteristic which may define *a tyranny the most odious*, why should WE, who are its *victims*, not *stand upon our chartered Rights.*"

Die Verbreitung

der

activen Menschenrasse

über

den Erdball.

Andeutungen

von

Dr. Gustav Klemm.

Auf Kosten des Verfassers.

Dresden,
Druck der Teubner'schen Officin.
1845.

Wenn wir die Völker der passiven Rasse an und für sich betrachten, wo sie rein und unvermischt mit denen der activen Rasse dastehen, so finden wir eine merkwürdige Uebereinstimmung in Knochenbau, Musculatur, Hautfarbe, vornämlich aber auch in ihren geistigen Anlagen und Neigungen. Die Buschmänner an der Südspitze von Africa, die Pescheräh, die Californier, die Australneger, die ältesten Formen der Neger, wie sie in den ägyptischen Denkmälern vorkommen, die Waldindier tragen, geringe durch das Klima hervorgebrachte Abschattungen hinweggerechnet, alle ein und dasselbe leibliche und geistige Gepräge an sich.*)

Selbst da noch, wo die passiven Völker schon längere Zeit mit den activen in Verkehr gestanden und sich theilweise mit denselben gemischt haben, finden wir an ihnen diese Grundzüge wieder. Die Lappländer, die Finnen, die Letten, die Litthauer, die Leibeigenen der slawischen Länder und die Abkömmlinge slawischer Leibeigenen in Deutschland, dann die Mongolen, die Tataren der Krimm, die Malayen, das gemeine Volk von China tragen die Spuren ihrer Abkunft deutlich und unverkennbar an sich. So haben z. B. die russischen Leibeigenen das mongolische Gesicht in Verbindung mit dem lichten Haar, eine Erscheinung, die auch bei den Finnen wiederkehrt; bei den Malayen finden wir die vorstehenden Backenknochen, die schiefgeschlitzten Augen mit dem langen Haar vereinigt, viele Nordamericaner haben neben den vorstehenden Backenknochen und geschlitzten Augen die Adlernase und die Mongolen gleichen in dem Bau des Schädels ganz den Negern und Hottentotten.**)

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*) S. Culturgeschichte Th. I. S. 195. 232. 284. 327. 334. 346. Th. II. S. 7. 197. Th. III. S. 9. 215. Dazu Th. IV. S. 1.

**) Eine merkwürdige Erscheinung ist, daß die weiße Hautfärbung bei den Negern eine Krankheitsform ist, eben so wie die dunkle Färbung

Wo nun die passiven Völker auch in dichter Bevölkerung auftreten, zeigen sie doch immer eine Gleichmäßigkeit der Bildung und der Anlagen, die sich in der Natur in den Gräsern und den Heerden der Wasservögel und Wolle tragenden Thiere wiederholt. Es treten weniger selbstständige, abweichende, vor den übrigen sich auszeichnende Individualitäten hervor. In geistiger Hinsicht hält das Streben nach Ruhe, das ein Grundzug in dem Wesen der passiven Volksstämme bildet, die Einzelnen auf der gleichen Stufe der Entwickelung zurück.

Wir finden ferner die passive Rasse gleichmäßig über die ganze Oberfläche der Erde verbreitet, an den äußersten Küsten der Continente, wie im unzugänglichen Innern derselben, in den entlegensten Inseln der See, in der Eiszone wie unterm Aequator; überall finden wir passive Völkerstämme als Urbewohner, die längst vor der Ankunft der Eroberer und Entdecker vorhanden gewesen und zum Theil als eine sehr zahlreiche, dichte Bevölkerung. Wir finden sie im Besitze des Feuers, versehen mit allerlei Waffen, wozu sie die sich darbietenden Naturproducte, Steine, Knochen, Hölzer, Rohre, ja zum Theil schon selbst das Eisen geschickt verwenden. Sie führen hier ein pflanzenartiges Stillleben, in Familien und Stämmen zusammenhaltend, meist zwar ohne feste Sitze, doch stets in dem ihnen von der Natur durch Gebürge oder Flüsse vorgezeichneten Gränzen.

Die passiven Völker finden wir vorzugsweise in den Ebenen, an den Ufern der Flüsse und Seen, in den Waldeländern beider Hemisphären heimisch — die activen dagegen sind vorzugsweise Insassen der Gebürge und zwar der Hochgebürge von Asien, von wo aus sie sich über alle Länder der Erde verbreitet haben, indem sie dem Zuge der Gebürge und der aus ihnen hervorströmenden Flüsse folgten. Die Sage, die Geschichte und die Völkerkunde bezeichnen die asiatischen Hochgebürge als die Heimath der activen Rasse; namentlich Kaschmir und den Kaukasus. Der Kaukasus, der Taurus, die Gebürge von Kurdistan, die im Süden der kaspischen See nach Osten hinstreichende Ketwer-Kette und das Himalayagebürge, die Gats der vorderindischen Halbinsel*) sind noch heute die Sitze von Völkern, welche sich durch Liebe zur Freiheit, durch hohe Tapferkeit, das Bewußtseyn ihrer Menschenwürde und Menschenrechte, poetischen Sinn und Streben nach Ruhm vor den passiven Völkern auszeich-

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der sogenannten Feuermahle, Leberflecken und Sommersprossen als eine Krankheit der lichten, activen Körper erscheint.

*) „Die Bergketten in Asien und Europa," 3. Abth. Geologie Nr. 2. von Berghaus physicalischen Atlas, sind vorzugsweise geeignet ein anschauliches Bild von der Wanderung und Verbreitung der Völker activer Rasse zu geben, wenn wir uns die einfach bezeichneten Bergzüge als die Straßen vorstellen, welche die Völker betreten und verfolgt haben.

nen, außerdem aber auch in ihrer Körperbildung wesentlich von denselben unterschieden sind. (S. Culturgesch. I. S. 196.)

Nächstdem unterscheiden sich die activen Völker von den passiven dadurch, daß unter den Individuen eine bei weitem größere Mannichfaltigkeit in körperlicher wie in geistiger Bildung herrscht und daß sie weit mehr Anlage und Neigung haben zu eigenthümlicher und selbstständiger Entwickelung. So beherbergt der Kaukasus eine Menge Völker, welche trotz ihrer Uebereinstimmung in Tracht, Sitte und Lebensweise die auffallendsten Unterschiede in Bezug auf Sprache und Körperbildung an sich tragen. Die Ossetinen sind blond und blauaugig, während die Tscherkessen braune oder schwarze Augen und dunkeles Haar haben. Unter ihnen herrschen die mannichfachsten Abstufungen. Auch unter den Kurden kommt dieselbe Erscheinung vor, eben so bei den Kaschmirern, welches große, breitschulterige, kräftige, trotzige, listige, streitsüchtige, lärmende Menschen sind, mit weißer Haut und heller Gesichtsfarbe, die jedoch vollkommen ohne Colorit ist; das Gesicht ist länglich mit hervorstehenden, fast jüdischen Zügen und dunkelbraunem oder schwarzem Haar und Bart. Das weibliche Geschlecht von Kaschmir zeichnet sich durch blendend weiße Haut und reizende Formen aus.*) Die Kafirmänner, welche Alex. Burnes**) sah, zeigten regelmäßige griechische Züge, blaue Augen und schöne Gesichtsfarbe und waren von großer Gestalt. Er sah aber auch Knaben von derselben Nation, die braune Augen und Haare hatten. Wenn wir die Gesichter der ägyptischen Könige auf den ältesten Denkmälern betrachten (z. B. bei Rosellini monumenti storici Taf. 1—20.), so bemerken wir unter denselben eine eben so große Mannichfaltigkeit der Bildung als unter den Mameluken und Arabern, welche Denon und die große Description de l'Egypte mittheilen. Dagegen herrscht eine um so größere Einförmigkeit und Gleichmäßigkeit in den Gesichtsbildungen der ägyptischen Denkmäler, je dunkelgefärbter die dargestellten Individuen sind, wie z. B. die Neger auch dort die ihnen eigenthümlichen stumpfen und flachen Formen zeigen.

Im Allgemeinen läßt sich wohl annehmen, daß die active Rasse, obschon sie in geringerer Anzahl als die passive auftritt, doch von Haus aus bei weitem mannichfaltiger gebildet ist, und daß namentlich zwei Hauptgeschlechter, ein dunkelhaariges mit schwarzen Augen und ein lichthaariges mit blauen Augen, neben einander bestanden haben. Wir finden schon in den ägyptischen Denkmälern eine große Mannichfaltigkeit in der Bildung und Hautfarbe der dargestellten Menschen activer Rasse; wir finden z. B. Männer von gedrängtem

*) S. Hügel Kaschmir I. 114. 146. 163.

**) Alexander Burnes Kabul; aus dem Engl. v. Th. Oelkers. Leipzig 1843. 8. S. 195.

vollen Körperbau mit blondem Haar und blauen, lichten Augen, dann Gestalten, die in Bildung, Farbe des Haars und der Haut den jetzigen Beduinen gleichkommen; wir finden ferner die jüdische, persische, indische, ja sogar die mongolische und tatarische Physiognomie wieder.*) Diese Mannichfaltigkeit der Bildung in so uralter Zeit deutet auf eine Verschiedenheit der activen Rasse hin, welche nicht allein durch Mischung derselben mit der passiven Urbevölkerung entstanden, sondern vielmehr in der activen Rasse selbst begründet ist. Noch jetzt beobachten wir dieselbe Erscheinung bei den Bewohnern von Europa. Der Süden ist im allgemeinen von Völkern besetzt, deren Haare und Augen schwarz oder dunkelbraun sind, während der germanische Norden blonde blauaugige Menschen beherbergt und diese Verschiedenheit läßt sich bis in die Anfänge christlicher Zeitrechnung hinauf nachweisen. Bemerkenswerth ist übrigens, daß die schwarzhaarigen Stämme allerdings die vorherrschenden und zahlreichern zu seyn scheinen, in der Urheimath sowohl als in den von ihnen eingenommenen Ländern. Bemerkenswerth ist ferner, daß diese germanischen Stämme, trotzdem daß die andern, die wir die romanischen nennen dürfen, ihnen an Anzahl überlegen sind, ihnen auch überall Bahn gebrochen, dennoch ein geistiges und sittliches Uebergewicht über jene gehabt haben und daß ihnen die Pflege des Fortschrittes der Menschheit vorzugsweise von der Vorsehung anvertraut zu seyn scheint, wie sie auch sämmtliche christliche Throne von Europa besetzt haben.

Es ist nun ferner zu beachten, daß die allmälige Verbreitung der activen Rasse über die Erde nicht einseitig und blos nach einer Richtung hin Statt gefunden hat. Die Verbreitung von Centralasien aus ist sowohl in östlicher, als in westlicher Richtung vor sich gegangen. Wir finden in Africa wie im westlichsten Europa die active Menschenrasse, ja es scheint, daß sie von hier aus sogar nach America gelangt sey; wir finden sie aber auch an dem äußersten Ostrande von Asien, wie in den fernsten Inseln der Südsee, wo wir unter einer schwarzen Urbevölkerung, den Papuas, Herrscher von hoher Gestalt, lichtgefärbter Haut und zum Theil mit blondem Haare antreffen. Dieser Urtypus hat sich erhalten, trotzdem daß ihre Haut dem Strahle der Sonne ausgesetzt ist. Dieß findet Statt in einer Entfernung von 100—140 Grad von ihrer alten asiatischen Heimath, deren Erinnerung ihnen bereits entschwunden ist.

Die Druſen des Libanon, die Kaukasier, die Kurden, die Afghanen, die Kafirs, die Kaschmirer, die Mahratten und die Bewohner der Gats in Vorderindien scheinen die Ueberreste der ursprünglichen, activen Rasse zu seyn, die sich von ihrer alten Heimath aus über die ganze Erde verbreitet hat und somit ihrer Bestimmung nach-

*) S. besonders Rosellini monum. storici. Taf. CLX. ff.

kommt, die passive Rasse ihrem Traumleben zu entreißen und mit ihr gemischt eine höhere Cultur hervorzubringen.

Es ist eine Eigenthümlichkeit der activen Menschenrasse, daß sie ihren ursprünglichen Sitz verläßt und auswandert. Dieser Wandertrieb findet sich bei den passiven Völkern gar nicht und Wanderungen passiver Völker finden nur dann Statt, wenn sie, wie die Mongolen des 4. und des 13. Jahrhunderts, von Führern veranlaßt und geleitet werden, welche der activen Rasse angehören. Die Geschichte kennt keine Wanderung, die z. B. von den Negern ausgegangen wäre, und obschon die Negervölker, soweit die Geschichte hinaufreicht, über alle Theile der Welt verbreitet wurden, so finden wir eben diese Verbreitung doch nie anders als durch die activen Volksstämme veranlaßt. Seit uralter Zeit haben diese den Negern nachgestrebt, sich ihrer bemächtigt, sie ihrer Heimath entführt und als Sclaven und Diener in entfernte Gegenden verhandelt. Dabei ist beachtenswerth, daß die Männer der activen Rasse sich wohl gern mit den Negerinnen paaren und eine kräftige, culturfähige Nachkommenschaft erzeugen, daß aber das Gegentheil, die Paarung von Negern mit weißen Frauen, nur sehr selten Statt findet, ein Umstand, der für den socialen Zustand der americanischen Staaten von der größten Bedeutung ist.

Eben so wenig haben die Eskimos, die Nordsibirier, die Lappländer, die Kalmyken, die Californier Wanderungen in ferne Gegenden unternommen. Sie verweilen Jahrtausende in demselben Zustande, innerhalb derselben Gränzen. Es finden sich auch im Allgemeinen bei den passiven Nationen, zumal wenn sie noch nicht von der activen Rasse berührt wurden, keine Sagen von Einwanderungen aus der Fremde. Die meisten glauben, daß sie dem Boden entstammen, der sie trägt und ernährt. Höchst merkwürdig sind in dieser Beziehung die Stammsagen der alten Germanen. Die eine, von Tuisco, dem erdentsprossenen Stammvater des Volkes, scheint der passiven Urbevölkerung anzugehören, welche Mitteleuropa wie jedes andere Land von Haus aus inne hatte, während die andern Sagen von den Einwanderungen reden, die sich auf die kaukasischen Stämme beziehen, welche sich zu Herren der Urbevölkerung gemacht hatten. Bei den Americanern ist der Glaube an die Aborigineität der Masse der Bevölkerung allgemein und die Sage berichtet nur von Einwanderung der Herrscher.

Wenden wir uns nun zu den Wanderungen der activen Stämme, so gilt es zunächst die Ursachen aufzusuchen, welche jene Wanderer von den Hochebenen Asiens bis in die Coralleninseln der Südsee und die Gebürge Norwegens über Berg und Thal, ja selbst über das große Weltmeer mit unwiderstehlicher Gewalt getrieben haben.

Auch hier finden wir eine Uebereinstimmung in den Erscheinungen des Lebens der Menschheit mit dem Leben der gesammten Na-

tur. Wie die starre Erdrinde und die todten Gesteinsmassen von Innen heraus durch vulcanische Kräfte vielfach durchbrochen und bewegt werden, wie sie ferner durch die unablässige Wirkung der Gewässer und der Atmosphäre von Außen in pflanzentragenden Fruchtboden verwandelt werden mußten, um den verschiedenen auf einander folgenden Geschlechtern der Pflanzen, Thiere und Menschen zur Heimath dienen zu können, eben so mußte auch die über die Erde verbreitete ruhige passive Urbevölkerung durch die kühn heranstürmenden Helden der activen Rasse aus ihrer träumerischen Ruhe aufgescheucht werden. Sie mußte geweckt werden, sie mußte ihre Kraft kennen und anwenden lernen und der activen Rasse das Material zu weiteren Unternehmungen liefern.

Die Atmosphäre und die Gewässer der Erde würden in Fäulniß übergehen, wenn nicht Luft- und Seeströmungen sie in fortwährender Bewegung erhielten und eben so würden auch die Anregungen, welche durch die Schaaren der activen Rasse bewirkt wurden, die über die Urbevölkerung herfielen, von der letztern allgemach gelähmt worden seyn, wenn sie nicht durch neue, darauffolgende von Zeit zu Zeit wiederholt und ermuntert würden. So wehen zu gewissen Zeiten des Jahres die Monsouns in den Wendekreisen, so erheben sich in gewissen Jahreszeiten Winde, welche gewaltigen Wolkenmassen ihren Weg anweisen und sie dahin führen, wo sie sich über den ausgetrockneten Boden ergießen sollen; so wird auch das Wasser des Weltmeers durch gewaltige von Ost nach Westen gehende Strömungen in steter Bewegung erhalten, während das Süßwasser des Festlandes ohne Unterbrechung von den Höhen der Gebürge herabrinnt.

Und so bewegte sich auch zu gewissen Zeiten die active Bevölkerung gleich den Süßwasserströmen von ihren Gebürgshöhen herab in die Ebene und erregte und belebte die passive Menschenrasse. Diese Wanderungen der Menschen kommen oft eben so unerwartet herein wie die Züge der Heuschrecken, der Raupen, der Landkrebse, der Fische, der Tauben, der Ratten und anderer Thiere, aber sie haben nachdauerndere Wirkungen und wiederholen sich regelmäßiger.

In ihren Erscheinungen wie in ihren Wirkungen gleichen diese Volkswanderungen denen der aus den Gebürgen hervorbrechenden Quellen. Der erste Durchbruch ist gewaltsam und zerstörend; das Wasser räumt schonungslos weg, was im Wege liegt, Gesteine und Pflanzen, und beseitigt, was sich ihm entgegenstellt oder reißt es auch mit sich fort. Diese Arbeit der Zerstörung dauert so lange bis sich ein Rinnsal gebildet, in welchem die Gewässer ungehemmt und gleichmäßig der Tiefe zufließen können, wo sie sich entweder mit größeren vorhandenen Wassermassen vereinigen, oder den Boden durchdringen und befruchten, den sie außerdem auch mit dem, was sie im Gebürge mit sich fortgenommen haben, bedecken und aufhöhen.

In ähnlicher Weise findet auch der Gang der Ereignisse Statt, wenn die activen Stämme aus den Gebürgen hervorbrechen und sich über die Niederungen verbreiten. Die ersten Anfänge solcher Wanderungen bestehen in Raubzügen der übermüthigen Jugend. Die friedlichen, ruhigen Bewohner der Niederung werden plötzlich überfallen, ihre Habe, ihre Heerden, ja sie selbst werden genommen und in die Gebürge entführt, wo sie die Beutegier der dort zurückgebliebenen Stammgenossen der Räuber erregen. Waren daher die ersten Schaaren gering an Anzahl, so kommen die nächstfolgenden in desto größerer Menge und die Verwüstung wird nun um so ärger, sie erstreckt sich auch noch in weitere Ferne, wenn diese reichere Beute verspricht. Es geschieht dann, daß die Räuberschaaren, an Statt in die heimathlichen Gebürge zurückzukehren, immer weiter vorwärts gehen und sich dort eine neue Heimath begründen. Die Zurückgebliebenen unternehmen dann wohl einen neuen Zug um das Schicksal der nicht Heimgekehrten zu erforschen oder auch das Loos derselben zu theilen, wenn sie vermuthen oder erfahren, daß jene sich einen reichlicheren Besitz und eine schönere Heimath errungen haben. So bildet sich allgemach eine Völkerstraße, die je länger sie betreten und benutzt wird, desto mehr Wanderer an sich zieht.

Auf diesen Straßen schreiten die Wanderer fort bis die See ihren Lauf hemmt und sie zum Rasten zwingt, wo sie dann als Herren der vorgefundenen passiven Urbevölkerung sitzen bleiben. Diese Urbevölkerung aber ist über die ganze Erdoberfläche ausgebreitet und es haben die europäischen Reisenden noch kein pflanzentragendes Land gefunden, wo sie nicht auch Spuren menschlicher Anwesenheit bemerkt hätten.

Von der Stelle aus, wo die activen Einwanderer eine bleibende Stätte gefunden haben, beginnt auch gemeiniglich eine Rückwirkung auf den Ausgangspunct der Wanderung. Einzelne oder auch mehrere kehren in die alte Heimath zurück, sich Freunde oder zurückgelassene Habseligkeiten oder auch Bedürfnisse, welche die neue Heimath nicht darbietet, aus der alten nachzuholen, Andere tragen erworbene Schätze oder Genüsse dorthin und es bildet sich allgemach ein fortgesetzter Verkehr, ein gemäßigter Völkerstrom, der aus einem Austausch gegenseitiger Bedürfnisse zu einem förmlichen Handel erwächst. So sehen wir z. B. an der Westküste des nördlichen Africa arabische Stämme als Herrscher über die schwarze Urbevölkerung, welche durch Karawanen in fortwährendem Verkehr mit den nordafricanischen Reichen, ja mit Aegypten und Arabien selbst stehen.

Wie nun die nordamericanischen Jägerstämme auf ihren Waldfahrten durch aufgesteckte und angeheftete Zeichen die Nachkommenden von ihrem Schicksal und der Richtung ihres Weges zu unterrichten pflegen (s. Culturgesch. Th. II. S. 187), so hinterlassen auch immer die activen Wanderer Spuren ihres Daseyns und Denkmäler

an den Stellen, welche ihnen auf ihren Zügen von Wichtigkeit gewesen sind. Es sind dieß zum Theil die Grabhügel derer, welche unterwegs ihrem Schicksale erlegen sind, vornämlich aber jene Felsinschriften und Bilder, die in allen Theilen der alten wie der neuen Welt vorkommen und die wir später näher betrachten werden.

Zunächst ist es nothwendig die Ursachen aufzusuchen, welche die Völker der Hochgebürge zu derartigen Bewegungen, Fahrten und Zügen veranlaßt haben, und wir finden sowohl innere, die aus der Eigenthümlichkeit jener Volksstämme hervorgingen und wodurch sie sich eben von der passiven Rasse wesentlich unterscheiden, als auch äußere Veranlassungen.

Das Streben der passiven Rasse ist auf möglichst ungestörte Ruhe gerichtet und auf Fernhaltung alles dessen, was sie in ihrem Traumleben beunruhigen könnte. Die Bosjesmänner fliehen deßhalb jeglichen Besitz, die nordamericanischen Jäger spotten über die rastlose Thätigkeit und Arbeitsamkeit und die Sorge für die Zukunft, welche europäische Colonisten offenbaren. Der Mensch activer Rasse hat zuvörderst das lebhafteste Streben nach dem Besitz in sich, den er stets zu sichern und zu mehren versucht. Hat der americanische Jäger oder der Australier seinen hungrigen Magen befriedigt, so schläft er, nachdem er den Vorrath möglichst rein aufgezehrt. Ganz anders ist der Mensch der activen Rasse. Der Tscherkesse und der Araber ist bei aller Gastfreundschaft und edlen Freigebigkeit gegen Freunde habsüchtig, er hat Freude am Erwerb und am Besitz. Es ist dieß ein Trieb, den die Vorsehung in ihn legte, um ihn zur Erfüllung seines Zweckes desto sicher anzutreiben. Die Habsucht zwingt den Araber sein Zelt zu verlassen und in der Wüste den fremden Wanderer anzufallen, den er, wenn er hülfsbedürftig und elend in sein Zelt träte, mit der uneigennützigsten Bruderliebe bei sich aufnehmen und pflegen würde; dieser Trieb bestimmt den Beduinen seinen eigenen Landsmann zu bestehlen, im Handel zu übervortheilen, durch falsche Versicherungen zu täuschen, während er sonst das gegebene Versprechen heilig hält. Dieser Trieb bewegt den Tscherkessen zu Raubzügen und kühnen Abenteuern, wobei er alle seine körperliche und geistige Kraft und Gewandtheit aufbieten muß. Derselbe Trieb führte die gallischen und germanischen Schaaren nach Griechenland und Italien, die alten Scandinavier in das Mittelmeer und in die Nordsee; die Portugiesen und die Spanier aber wurden dadurch die Entdecker des Seeweges nach Asien und der neuen Welt. Dieser Trieb führt, so lange er eben nur in der Begier nach Besitz besteht, die activen Völker in den Zustand des Räuberlebens, das ohngefähr dem Zustande des Fischer- und Jägerlebens entspricht, welchen wir als die erste Entwickelungsstufe der passiven Völkerschaften bezeichnen können.

Die nächstfolgende Culturstufe der activen Völker ist in der

Pflege des Verkehrs und des Handels begründet; der Tauschhandel mit seinen Karawanen, den Märkten (z. B. zu Dioskurias, Okkadh, Nischneinowgorod, Temboktu u. s. w) und den Wanderungen der Kaufleute entspricht den Erscheinungen des Hirtenlebens. Dieser Zustand tritt aber kaum eher ein, als bis sich die ersten gewaltigen Ausbrüche der Habsucht gesättigt und beruhigt haben, bis Massen geraubter und eroberter Schätze vorhanden sind, bis der Freude am Errungenen die Freude am Erwerb gewichen ist und bis der Besitz einen kräftigen dauernden Schutz nothwendig macht. So bemerken wir unter anderem, daß sich ein friedlicher Handelsverkehr in Griechenland wie in Scandinavien erst dann einstellte, nachdem in Delphi wie auf Seeland große Massen edlen Metalles und anderer Kostbarkeiten zusammengehäuft waren und sich feste, größere Orte gebildet hatten. So besteht noch jetzt zwischen den mauriſchen Beherrschern der Negervölker und den Raubstaaten am Mittelmeer ein lebhafter Verkehr, dessen Träger eine eigene Menschenclasse, die Saracolets, vielleicht seit Jahrtausenden schon besorgen (s. Culturgesch. Th. III. S. 317.). An den Endpuncten aber, wie auch an den Zwischenstationen entstehen allgemach feste Plätze aus den Niederlagen, Gast- und Vorrathshäusern, welche durch stillschweigende Uebereinkunft der betheiligten Stämme mit feindlichen Ueberfällen verschont werden. Die Kaufleute sichern sich durch Erlegung einer bestimmten Abgabe an die schwärmenden Feinde, durch Verträge oder Bündnisse der Gastfreundschaft vor den Angriffen derselben.

Nächst dem Streben nach Besitz ist das Streben nach Ruhm eine der Triebfedern, welche die activen Völker in Bewegung setzen, ein Streben, welches wir bei den passiven Völkern nur in geringem Grade finden; bei den Völkern aber fehlt es gänzlich, welche durch lang andauernde Sclaverei, wie die Neger und Kalmücken, vollkommen gleichgültig geworden sind*). Der Ehrgeiz erfüllt den Tscherkessen wie den Beduinen, den Mauren wie den Scandinavier, den Griechen wie den christlichen Ritter. Ihr höchstes Streben geht dahin, Thaten zu verrichten, welche von ihres Gleichen anerkannt, von schönen Frauen mit huldreicher Gesinnung belobt und von den Sängern der Mitwelt verkündigt, der Nachwelt aber im Liede überliefert würden. Daher finden wir diese Sänger stets im Gefolge der Helden bei allen den genannten Völkern und daraus entstanden die epischen Gedichte, die überall die Grundlage aller Literatur bilden.

Vixere fortes ante Agamemnona
multi: sed omnes illacrimabiles
urgentur ignotique longa
nocte, carent quia vate sacro.

*) S. Culturgeschichte Th. III. S. 177. u. 341.

Der Ehrgeiz, der die activen Völker antreibt die Heimath zu verlassen, die Nachbarn zu besiegen und sich zu Herren derselben zu machen, ist jedenfalls in der Urzeit bei weitem kräftiger aufgetreten und allgemeiner verbreitet gewesen, als später, wo die Menschen, nachdem sie mit der passiven Rasse gemischt waren, sich dem behaglichen Leben des Ackerbaues und des Handelsverkehres hingegeben hatten. Die einzelnen nach Ruhm strebenden Helden bringen leichter eine ehrgeizige Jugend zusammen, welche Beschäftigungen mit den Waffen für das ehrenvollste hält, als eine solche, welche nach ruhigem Besitz und den Mitteln strebt, die ihr ein reichliches, genußreiches Stillleben sichern. So finden wir in der Geschichte unseres Volkes gerade in den frühesten Zeiten die zahlreichsten Heerzüge der Markmannen, Gothen, Sueven, Alemannen, Sachsen, Franken u. s. w.; späterhin, als durch die Kreuzzüge und den Verkehr mit dem Orient feinere Lebensgenüsse und Luxus das streitbare Ritterthum gemildert, als die Städte und die Kaiser die Burgen des fehdelustigen Adels gebrochen, tritt an die Stelle der Raub- und Kriegszüge der bewaffnete Verkehr, es erhob sich die deutsche Hansa mit ihren Flotten, die den Ruhm nicht mehr in zerstörenden Angriffskriegen suchte, sondern sich darauf beschränkte, den errungenen Besitz standhaft zu vertheidigen und zu bewahren. Erst nachdem die seit Luther allgemein in Umschwung gekommenen Ideen von geistiger Freiheit die Nationen erfüllt hatten und der Widerstand der römischen Parthei die blutigsten Kämpfe hervorgerufen hatte, dadurch aber eine allgemeine Erschlaffung im Volksleben hervorgebracht war, tritt uns der Ehrgeiz als selbstständige Erscheinung in der Länder- und Ruhmsucht einzelner Fürsten entgegen, an deren Spitze Ludwig XIV. von Frankreich und Karl XII. von Schweden stehen.

Eine anderweite Ursache der Wanderungen ist das Streben in die Ferne, das allen activen Völkern gemeinsam ist, den passiven aber ganz abgeht. Es hat seinen Grund in der Begierde, die äußeren Erscheinungen festzuhalten, ihre Ursachen zu erforschen, sie sich deutlich zu machen und mit dem eignen Wesen in Einklang zu bringen. Die Abiponer betrachten die Pracht des gestirnten Himmels mit der vollkommensten Gleichgültigkeit*), die Lappländer und Neger lassen sich von ihren Zauberern mit den unsinnigsten Antworten abspeisen und werden durch Beschränkung und Begränzung befriedigt. Das Gebürge mit seinen wilden, fremdartigen Erscheinungen, die weite Oede der See erfüllt sie mit Bangen und Grauen; sie weichen davor zurück. Den activen Völkern wird dagegen Gebürge und See keineswegs zur Gränze, sondern es ist ihnen vielmehr ein Anreiz, die dahinter liegende Ferne zu erforschen. Die Züge der germanischen Nationen wurden weder durch die Alpen, noch durch

*) S. Culturgesch. Th. II. S. 152.

die Pyrenäen aufgehalten, ja gerade die rauheſten und wildeſten Gebürge, die Gebürge von Norwegen und Mitteldeutſchland, wurden ihnen zur lieben Heimath, wie es die Alpen, Apeninen und Pyrenäen ihren Vorgängern geweſen waren, die vielfache Anklänge an ihre kaukaſiſchen Urſitze darboten. Die Geſchichte der geographiſchen Entdeckungsreiſen ſeit Necho, Hanno und Alexander den Macedonier bietet die Beiſpiele dazu in größter Fülle dar. Der Trieb nach Erforſchung der Ferne überwiegt wohl den nach Beſitz, da der letztere weit eher zu befriedigen iſt, wenn das Erworbene großen Umfang erreicht hat. Der Trieb der Forſchung dagegen wächſt immer mehr, je mehr demſelben Nahrung geboten wird, die ſeine Kraft hinwiederum ſtärkt. Die Mannichfaltigkeit und der Wechſel der Erſcheinungen, die Gewinnung von Ergebniſſen, die durch neue Forſchung wieder abgeändert werden, der Zweifel, der mit der Maſſe des Stoffes wächſt, erhalten den forſchenden Geiſt in ſteter Spannung und beleben ihn aufs Neue, wenn er durch Beobachtungen ermüdet iſt, zu erhöheter Anſtrengung, daß er die Maſſe der Erſcheinungen ordne, zu einer Ueberſicht und Geſammtanſicht geſtalte. Die der Forſchung ſich entgegenſtellenden äußeren Hinderniſſe werden beſeitigt und in der Beſeitigung derſelben liegt eben der große Reiz. Die Schwierigkeit des Unternehmens giebt demſelben erſt ſeinen Werth. Die Vorſehung hat der Menſchheit die Erwerbung der höchſten Güter nicht leicht gemacht und der Menſch mußte ſeine Kräfte auf das Höchſte anſpannen, um nur die erſten Schwierigkeiten zu überwinden. Die wichtigſten Hülfsmittel hat die Vorſehung meiſt erſt dann geboten, nachdem bereits auf anderem Wege ſchon große Zwecke erreicht waren. Die alten Celten und Aegypter hatten bereits künſtliche Bahnen zu Ausführung ihrer coloſſalen Bauten, die Römer druckten bereits mit Stempeln auf Brot, Ziegel und Wachs und waren dennoch weit entfernt von den Eiſenbahnen und dem Buchdruck.

Der Trieb der Erforſchung der Ferne hat die Phöniker nach dem Norden von Europa, an die Bernſteinküſte und über die Säulen des Hercules hinausgeführt. Er leitete die Macedonier nach den indiſchen Meeren, die Normänner nach Island und America, die Portugieſen um das Vorgebürge der guten Hoffnung, die Spanier nach America, die Koſaken nach Sibirien und die Briten nach der Südſee und in die Polarzonen. Dieſer Trieb war es, der Mungopark und Caillié in das Innere von Africa und Alexander v. Humboldt in die Urgebürge von America führte.

Eigenthümlich iſt ferner den activen Völkern der Trieb der Mittheilung. Das Reſultat einer Forſchung, Etwas, das als Wahrheit erkannt worden, ſucht eben ſo kräftig aus dem engen Kreiſe, wo es erzeugt iſt herauszutreten, ſich weiter zu verbreiten und mit der allgemeinen Maſſe der Erfahrung oder der Ideen zu vereinigen, wie ein im Innern der Erdrinde entſtandenes Gas oder das aus der

Tiefe emporsteigende Wasser einen Ausgang an das Tageslicht und in die Atmosphäre sucht. Was die activen Nationen entdeckt und erfunden haben, das theilen sie auch den anderen mit. Der Lappländer verbirgt seinen Schatz, den er erworben oder gefunden, in den Schos der Erde und mit ihm wird auch das Geheimniß seines Besitzes begraben; er thut dieß aus Furcht, denselben zu verlieren, in dem Bewußtseyn, daß er zu schwach ist, den Besitz desselben zu vertheidigen. Dahin gehört nächstdem auch das geheimnißvolle Zauberwesen der Polarnomaden, das sich im Dunkel verbirgt. Bei den activen Nationen finden wir dagegen, daß sie ihren Glauben offen bekennen und ihr Wissen frei mittheilen. Die altgriechischen Philosophen, die Jünger Christi, die Schüler des Laotse wie des Mohamed, die Waldenser, Hussiten, Lutheraner und alle die mannichfaltigen Ausleger der Evangelien verkündigten ihre Ueberzeugung den andern, bildeten Kreise um sich, die sich allgemach erweiterten und in Kampf mit der entgegengesetzten Ansicht traten. Aehnliche Erscheinungen bieten die Geschichte der Astronomie, die geschichtlichen und physicalischen Wissenschaften dar und diese zeigen, daß die active Menschenrasse vorzugsweise den Beruf hat, das, was sie oft mit Hülfe der passiven als Wahrheit ergründet und entdeckt hat, allem Wiederstande zum Trotz zum Gemeingut der gesammten Menschheit zu machen. Die glänzendsten Belege für diesen Erfahrungssatz finden wir in der Geschichte der Religionen. Die Verkünder derselben erfüllen ihren Beruf mit Gefahr ihres Leibes und Lebens und setzen ihr Leben mit Begeisterung muthig ein und verschmähen es nicht, ihren Lehren mit Feuer und Schwert Nachdruck zu geben; ja es tritt dabei die merkwürdige Erscheinung ein, daß die Freude an Kampf und Sieg sich alsbald geltend macht und die Streiter den eigentlichen Zweck ganz aus den Augen verlieren, daß die Bekenner des Islam z. B., um den Völkern an den Freuden ihres Paradieses Antheil zu verschaffen, selbige martern und morden und daß z. B die Dominicaner die scheußlichsten Kerker und Marterkammern zu den Hörsälen der Lehre von der christlichen Liebe erhoben, während die Jesuiten mit wohlberechneter Feinheit auf die erfahrungsarme Jugend und weibliche Schwäche einzuwirken verstanden, wo sie mit offener Gewalt nicht durchkamen. Diese Verirrungen des Triebes der Mittheilung aber haben der Menschheit bei weitem tiefere Wunden geschlagen als die rohesten Ausbrüche der Habsucht und die leidenschaftlichsten Anstrengungen der Ruhmsucht ausgezeichneter, mit seltener Kraft begabter Individuen. Die Verirrungen dieser beiden Leidenschaften treten immer ungescheut und offen hervor, während die Sucht anderen seine Meinung aufzudringen dem verderblichsten aller Laster, dem der Heuchelei, eine glänzende Laufbahn eröffnet und die sanften Regungen der Menschenliebe im Keime erstickt.

Endlich ist noch unter den innern Ursachen der Völkerwan-

derungen das Streben nach Selbstständigkeit und Freiheit zu nennen. Wir sehen die Mitglieder der activen Rasse als eifersüchtige Bewahrer ihrer persönlichen Freiheit und Menschenwürde, als heldenmüthige Kämpfer für die Freiheit und Selbstständigkeit ihres Vaterlandes. Erliegen sie aber im Kampfe, werden sie besiegt und überwunden, dann verlassen sie das Vaterland und suchen sich eine neue Heimath auf und sie erscheinen dann in anderen Ländern als Eroberer und als Bezwinger der vorgefundenen Bevölkerung, der sie ihre Institutionen aufdringen, die sie aber auch der Cultur theilhaftig machen, die bei ihnen bereits heimisch war. Das Streben, sich in der Ferne eine neue Heimath zu suchen, hat gemeiniglich die Auswanderung der edelsten und beßten Kräfte zur Folge, welche durch ihre Niederlage den Muth zu erneuter Anstrengung nicht verloren haben. Die gemeineren Naturen, die den Verlust ihrer Freiheit ertragen, denen der bloße Besitz und das behagliche Daseyn mehr als Selbstständigkeit gilt, diese bleiben sitzen und fügen sich. Die Geschichte giebt uns für diesen Satz eine ansehnliche Menge Beispiele. Als die Hunnen das große gothische Reich zerstört hatten, wandten sich die kräftigeren Stämme nach Westen und erschienen als Westgothen; sie gründeten Reiche, welche das später entstandene ostgothische an Lebensdauer bei weitem übertrafen. Eben so gingen im 17. Jahrhundert die bedrängten Bekenner des protestantischen Glaubens aus Frankreich nach dem nördlichen Deutschland und verbreiteten hier eine Masse geistiger und gewerblicher Cultur, die noch heute ihre Rückwirkung äußert. So wanderte nach dem mißlungenen Versuche, dem Königreiche Polen aufs Neue eine selbstständige Stellung in der Reihe der europäischen Staaten anzuweisen, die Blüthe der Jugend in die Fremde aus.

Unter den mehr äußeren Ursachen der Wanderung der activen Völker in die Ferne steht oben an das übermäßige Anwachsen der Bevölkerung in einzelnen beschränkten Landstrichen. Wenn die Heimath nicht mehr die Mittel zum Erwerb der nöthigen Bedürfnisse darbietet, wenn der Boden nicht mehr ausreicht, dann wendet sich der rüstige und unternehmende Theil der Bevölkerung in andere Landstriche, — es beginnt sich dann eine Auswanderung zu bilden, wie sie seit dem 16. Jahrhundert von Europa nach America Statt findet und noch fortdauert. Wer in der alten Heimath durch Verhältnisse gedrückt wird, wer hier für seine Thatkraft und Arbeitslust keinen Wirkungskreis finden kann, der wendet sich dem neuen Lande zu und versucht dort sein Heil. Er bringt der neuen Heimath seine Kenntnisse, seine Bildung zu und entfaltet sie hier in eigenthümlicher Weise, nachdem er den Verhältnissen entflohen, die ihn beengten und hinderten. Es kann nicht fehlen, daß bei derartigen Auswanderungen auch eine namhafte Anzahl wirklicher Taugenichtse, ja entschiedener Verbrecher mit in die neue Heimath

kommen und neben dem Guten, was die Masse der Auswanderer zuführt, auch der Same des Bösen in die neue Pflanzung mit eingestreut wird; allein es ist ein Erfahrungssatz, daß diese Abentheurer alsbald von dem Kern der neuen Bevölkerung ausgestoßen und an die Gränzen getrieben werden, wo sie dann dennoch wider Willen Werkzeuge der fortschreitenden Cultur werden, etwa in der Art, wie man den todten Sand, der kein Getraide zu tragen vermag, mit Quecken und Sandgräsern besät, die man von gutem Boden sorgfältig ausjätet*).

Zu bemerken ist hierbei, daß es scheint, als ob die active Rasse sich im Wesentlichen bei weitem schneller und stärker vermehre, als die passive, bei der man, wo sie ungemischt lebt, im Allgemeinen weniger Kinder findet. Außerdem haben die passiven Völker die Sitte, einen großen Theil der Kinder, namentlich die weiblichen, gleich nach der Geburt zu tödten, eine Sitte, die bei den activen Völkern sich nur da findet, wo eine offenbare Uebervölkerung die Eltern zur Verzweiflung treibt. Die active Rasse muß übrigens schon um deswillen die passive an Fruchtbarkeit übertroffen haben, da sie von einem verhältnißmäßig kleinen Punkte der Erdoberfläche ausgehend sich über alle Zonen verbreitet hat. Zum Theil mag dieß darin begründet seyn, daß die Frauen der activen Rasse weniger schnell verblühen, was jedenfalls von dem bessern Looſe abhängt, das sie vor denen der passiven Rasse voraus haben.

Wenden wir uns nun zu der Verbreitung der activen Völker und ihren Wanderungen, wie sie allgemach Statt gefunden haben und zum Theil noch Statt finden, so bemerken wir, daß dieß nicht eher geschieht, als bis das Volk einen gewissen Grad der Cultur erreicht hat. So finden wir die wandernden Völker im Besitz der zum Ackerbau nothwendigen Kenntnisse, der Handwerke des Gärbens, Webens, vor allem aber der Schmiedekunst, die in den Hochgebürgen Asiens urheimisch zu seyn scheint. Die Metalle, namentlich Gold und Eisen, geben sich dem Menschen so bald als brauchbares Material kund, daß sie gewiß schon sehr früh benutzt worden sind; wir finden die Bearbeitung derselben schon auf sehr niedern Culturstufen, wie z. B. bei den Südafricanern**); ja es ist nicht unwahrscheinlich, daß die Eskimos das Eisen, das ihnen zufällig von der Natur dargeboten wird, schon zu kleineren Werkzeugen verwenden. Um so mehr muß das Metall, welches in den Ursitzen der activen Völker so häufig vorkommt, von diesen schon frühzeitig benutzt worden seyn, wie wir denn überall die activen Völker, wo wir deren antreffen, im Besitz der Schmiedekunst finden; nur in der

*) S. u. a. über das Vorwärtsschreiten der Cultur in dieser Weise: Die Lebensbilder aus beiden Hemisphären III. 224.

**) S. Culturgesch. III. 271. ff.

Südsee und in den canarischen Inseln, denen es von Haus aus an Metall fehlt, hat sich aus Mangel an Material die Schmiedekunst allgemach wieder verloren, dagegen sind der Kaukasus, das Himalayagebürge, so wie die Alpen und das norwegische Gebürge uralte Sitze der kunstreichsten Schmiede. Vor allem aber bemerkenswerth ist der Umstand, daß wir überall im Gefolge der ältesten activen Wanderer das Erz oder die Bronze finden, die wir sogar bis über den atlantischen Ocean, bis nach America verfolgen können und die überhaupt unter den Denkmälern der activen Rasse eine bedeutende Stelle einnimmt, wie wir später sehen werden.

Nach diesen vorläufigen Bemerkungen verfolgen wir nun die Spuren der Wanderungen der activen Rasse von ihrer mittelasiatischen Heimath aus. Nach welcher Richtung hin die früheste Wanderung Statt gefunden, ob sie vom Kaukasus oder vom Himalajagebürge ausgegangen, das sind Fragen, deren Beantwortung zur Zeit noch nicht möglich scheint. Das aber scheint sicher, daß sie gleichmäßig nach beiden Seiten hin Statt gefunden und Früchte getragen hat, die in beiderseitiger Richtung eine merkwürdige Uebereinstimmung zeigen.

In sehr früher Zeit hat eine Wanderung nach Africa Statt gefunden, deren äußersten Punct das wunderbare Volk der Guanchen auf den canarischen Inseln bildet. Es bestand aus wohlgebildeten und großen Leuten, die von edler und kriegerischer Gesinnung beseelt waren und die den Tod stets der Flucht vorzogen, ganz im Gegensatz zu ihren negerischen Nachbarn auf dem Festlande von Africa*). Wir finden bei ihnen, wie bei allen activen Nationen, die Frauen, deren der Mann mehrere haben konnte, unter dem Schutze der Gesetze, und grobe Beleidigungen derselben wurden wohl mit dem Tode bestraft. Die Guanchen hatten Neger als Sclaven. Sie lebten unter Königen, deren Gewalt sehr beschränkt war, obschon ihnen äußerlich große Ehrenbezeugungen erwiesen wurden. Ihre Sitze waren die Gebürge und von da aus trieben sie muthwillige und arge Räubereien. Ueber ihre Religion herrscht in den Nachrichten viel Widersprechendes; gewiß ist jedoch, daß sie ein höchstes Wesen anerkannten und verehrten, welches sie bei Regenmangel und anderen Unfällen zu versöhnen suchten. Sie glaubten, daß nach dem Tode die Seelen der Menschen belohnt oder bestraft würden und mit diesem Glauben hängt auch der seltsame Todtencultus zusammen, dem wir die wenigen noch übrigen Denkmale dieser interessanten Nation zu verdanken haben. Es gab unter den Guanchen einen Stamm, der die Leichen mumisirte, sie in Riemen von Ziegenfell einschnürte und sodann in großen Gebürgshöhlen aufbewahrte. Bei der Ankunft der Spanier bekannten sich bereits mehrere der Vornehmen zum Islam,

*) S. Culturgesch. III. 351.

ohne jedoch deſſen Vorſchriften gewiſſenhafter zu beobachten, wie etwa die Tſcherkeſſen, Druſen und Beduinen. Den Gebrauch der Metalle fanden die Spanier nicht bei ihnen; man benutzte an deren Stelle harte Lavaplatten, die man nur zu ſchleifen brauchte, um ein zweckmäßiges Geräth oder eine ſcharfe Waffe zu haben*). Sie verſtanden den Ackerbau, die Künſte des Webens und hatten namentlich große Fertigkeit in Töpferarbeiten.

Das Feſtland Africas finden wir an ſeinem nordweſtlichen und nördlichen Rande mit den Mauren, den unverkennbaren Abkömmlingen der Beduinen, beſetzt, die noch ganz die Sitten, Einrichtungen und die Sprache ihrer Urahnen beibehalten haben. Im Norden, wo ſie die paſſive ſchwarze Urbevölkerung ausgerottet haben, wurden ſie durch ſpätere phöniciſche, römiſche, germaniſche und mohamedaniſche Einwanderungen veranlaßt feſtere Staaten zu bilden und im Verkehr mit den europäiſchen und aſiatiſchen Nationen zu bleiben.

Die merkwürdigſte Erſcheinung bietet aber der Landſtrich Africas, der der aſiatiſchen Heimath am nächſten gelegen iſt, das am Nilſtrom gelegene Aegypten. Hier hatte vielleicht ſchon vor der Ankunft der activen Einwanderer, begünſtigt durch die wunderbare Fruchtbarkeit des Bodens und durch die übrigen climatiſchen Verhältniſſe überhaupt die paſſive Urbevölkerung zu einer ſelbſtſtändigeren Cultur ſich entfalten können, die den einwandernden activen Stämmen ſofort zu Gute kam und welche ſie gleich einer gereiften Frucht ohne vorhergegangene mühſame Pflege pflücken konnten. Es mag aber dieſe Einwanderung nicht nur ſehr früh begonnen haben, ſondern ſie wurde jedenfalls auch ſehr lange fortgeſetzt, ſo daß durch Miſchung der beiden Raſſen eine neue Bevölkerung ſich bildete, die gewiſſermaßen einen Mittelſtand zwiſchen ſchwarzen Stämmen und den eingewanderten weißen Eroberern darſtellte, jene rothbraune Raſſe, die in ihrem Körperbau wie in der Hautfarbe offenbare Uebergangsformen zeigt, die ſich ſogar noch in den Malereien erhalten haben, welche die äthiopiſchen Kirchenbücher verzieren**).

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*) Ueber dieſe Tabonas ſ. Bory de S. Vincent essais sur les isles fortunées et l'antique Atlantide. Par. an XI. S. 75. m. Abb.

) Wir verdanken genauere Einſicht in die Ethnographie des alten Aegyptens vorzüglich den trefflichen Abbildungen **Roſellini's in ſeinen monumenti dell' Egitto e della Nubia und ich nenne zuvörderſt die erſten zwanzig Tafeln der monumenti storici, welche die Portraits der Könige enthalten, die ſämmtlich kaukaſiſche Geſichtsformen zeigen, dann Taf. 160, welche die Geſichtsformen der Neger, ſo wie der anderen kaukaſiſchen Stämme giebt, mit denen die Aegypter in Verkehr ſtanden, unter denen ſich lichtfarbige, lichthaarige und Leute mit braunen und blauen Augen finden. Daß dieſe Portraits von den altägyptiſchen Künſtlern mit Bewußtſeyn gefertigt wurden, lehrt eine Vergleichung dieſer Zeichnungen mit den Münzen und übrigen Denkmalen der Ptolomäer. Vergl. damit **Morton's** ethnogr. Be-

Die Geschichte des alten Aegyptens zeigt uns, wie die activen Stämme zuerst in einzelnen, kleineren Parthien in das Nilgebiet kämen, wie sie dort kleinere Gemeinden und Staaten bildeten, wie sie dann, in ähnlicher Weise wie in den Südseeinseln die Eries, eine feudale Herrschaft gründeten, die alsbald, wie dort, zur Theokratie führte und wie dann daraus eine Monarchie entstand, welche, um sich gegen nachfolgende Angriffe der activen Nationen zu schützen, diese erst bekriegte, dann sich aber nach Außen abschloß und jeden Eintritt in das Land hartnäckig verweigerte.

Von Aegypten aus fand aber erstens ein Ausströmen der Cultur nach Westen und nach Süden, dann aber auch eine Rückwirkung nach Asien Statt, wie die ägyptischen Denkmäler auf arabischem Boden beweißen*). Es geschah dieß sowohl durch eigentliche Colonien, die gewissermaßen die Gränzwachten für das ägyptische Reich ausmachten, als auch durch Flüchtlinge, deren strebender Geist sich den im Vaterlande durch die strenggegliederte Hierarchie gebotenen Beschränkungen nicht zu unterwerfen vermochte, wie denn Kekrops und Kadmos ägyptische Cultur auf griechischen Boden verpflanzten.

Zunächst der asiatischen Heimath finden wir als das vorzüglichste Wandervolk in westlicher Richtung die Phöniker, die namentlich zur See wirksam waren. Was den Arabern die Wüste, das war den Phönikern die See; sie weckte die ganze Energie der Nation, die schon früh die äußersten Puncte des Mittelmeeres erreichte und sodann in Karthago und Massilien sich feste Orte errichtete, während parallel mit ihr die Beduinenstämme am innern Rande von Africa hinzogen. Von hier aus besuchten die Phöniker die Westküste von Africa, die britischen Inseln und die Küsten der Ostsee.

Dieß ist der von den Hochgebürgen nach Westen gerichtete Strom der activen Völker. In ähnlicher Weise fand vielleicht gleichzeitig, wenn nicht früher, eine Strömung der activen Rasse in östlicher Richtung Statt, als deren Endpuncte die Inseln der Südsee erscheinen und worunter namentlich die merkwürdigen Steincolosse der Osterinsel als überaus wichtige Denkmale zu bemerken sind. Die Inseln der Südsee zeigen eine schwarze Urbevölkerung mit lichten Herrschern, und alle Culturdenkmale gehören den letzteren an. Diese Culturdenkmale, namentlich die großen hölzernen Götterbilder, die Schnitzarbeiten mit den seltsamen grotesken Bildungen, die aus Steinen aufgesetzten flachen Tribunale, dann die Pfeilerreihen der Marianen, nächst der feudalischen und theokratischen Verfassung sehen wir auf den nach Indien zu liegenden Inseln, namentlich in Java weiter

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merkungen über Altägypten in den transactions of the American. Phil. Soc. vol. IX. und daraus im Ausland 1844. N. 307.

*) S. Niebuhr Reise nach Arabien I. 235. Delaborde Arabie petrée, S. 43. Rödiger zu Wellsteds Reisen in Arabien II. 15.

entwickelt, in höchſter Vollendung aber in Indien, China und Japan. In der Weiſe nun, wie die Cultur der Südſeeinſeln mit der übereinſtimmt, welche die Spanier bei den Guanchen der canariſchen Inſeln vorfanden, hat auch die ägyptiſche Cultur eine merkwürdige Uebereinſtimmung mit der indiſchen und chineſiſchen, die beide gleichmäßig an den Ufern der großen Ströme ihre Mittelpuncte haben, die beide in einer genauen Gliederung der Geſellſchaft nach Innen und im ſtrengen Abſchluß der Gränzen ihr Beſtehen zu ſichern ſuchten. Auch von dieſen öſtlichen Culturreihen breiteten ſich die Strahlen höherer Geſittung und tieferer Einſicht über die Nachbarſtaaten aus, wie die Colonien der Chineſen auf Java, den Philippinen, dann in Korea chineſiſche Cultur weiter trugen und wie von Indien aus die Buddahlehre den ganzen Oſten überſtrömte.

Mitten innen zwiſchen dieſen weſtlichen africaniſchen und dem öſtlichen aſiatiſchen Culturgebiete entwickelte ſich am Euphrat und Tigris in früher Zeit ſchon eine Cultur, die freiere Formen zeigt. Wenn wir in Aegypten wie in Indien vorzugsweiſe dem theokratiſchen Elemente begegnen, das in Tybet wie in Japan noch gegenwärtig das vorherrſchende, in China aber wenigſtens als Grundlage des Staatslebens erſcheint, ſo haben die alten Reiche der Babylonier, Aſſyrer, Meder, Perſer und Araber freiere Formen und es tritt hier das weltliche Element des Staates in den Vordergrund. Finden wir in Aegypten wie in Indien den Polytheismus vorherrſchend, ſo erſcheint bei den von Meſopotamien ausgehenden Völkern der Monotheismus ſeit uralter Zeit und von hier aus verbreitete ſich derſelbe nach allen Ländern der Erde. Selbſt als Moſes ſeine Hebräer, die durch lange Knechtſchaft unter den polytheiſtiſchen Aegyptern in Verwilderung verfallen waren, dieſem Zuſtande entreißen wollte, behielt er zwar die ägyptiſche, auf den Polytheismus begründete Prieſterverfaſſung bei, führte ſie aber dennoch dem Monotheismus wieder zu, der ihre urſprüngliche, bei allen Beduinen heimiſche Religion, geweſen war. Von hier aus verbreitete ſich der Islam bis Spanien hin.

Hierher aber nach dem Süden ſcheint in der Urzeit der ſtärkſte Strom der kaukaſiſchen Raſſe ſich ergoſſen zu haben, hier tritt ſie ſchon in der älteſten Zeit am dichteſten auf, von hier aus zogen dieſe Stämme weiter nach Südoſten und gelangten ſo bis in die fernſten Inſeln der Südſee. Hier finden ſich auch die älteſten Denkmale eines freieren Staatslebens und freierer Kunſt*).

Wie wir nun im Süden eine doppelte Strömung der activen Raſſe in die Ferne fanden, nämlich eine öſtliche und eine weſtliche, ſo iſt auch im Norden vom ſchwarzen und kaſpiſchen Meere eine ähnliche Strömung in zwiefacher Richtung nachweislich;

*) Vergleiche damit die Botta'ſchen Berichte über die Ausgrabungen von Ninive im Journal asiatique. 4me Série. Bd. II. ff.

hier scheint aber der nach Westen gehende Strom der stärkere, so wie überhaupt derjenige gewesen zu seyn, der den größten Einfluß auf die Gestaltung der menschlichen Gesellschaft und auf die Entwickelung derselben gehabt hat.

Als das älteste in Europa eingewanderte active Volk sind wohl die Pelasger zu betrachten, die erst in Griechenland, dann in Mittelitalien auftreten, nachdem sie von den neueinwandernden Helenen verdrängt worden waren. Nördlich von ihnen finden wir zunächst Iberer, von denen das wunderliche Gebürgsvolk der Basken sich noch bis jetzt erhalten hat, dann aber die Kelten, die in Oberitalien, Frankreich und den britischen Inseln ihre Heimath fanden. Auf die Kelten folgten die Germanen, die das Herz von Europa einnahmen. Zuletzt erfolgte die Einwanderung slavischer Stämme.

Alle diese Einwanderer nahmen vorzugsweise in den Gebürgen ihren Wohnsitz und das Gebürge war vornehmlich der Ort, wo sie sich am schönsten entwickelten und wo sie am treuesten ihre Eigenthümlichkeit bewahrten. Die Apenninen und die südlichen Alpen, die deutschen Alpen und der thüringer Wald wurden die Sitze romantischer Poesie und Ritterlichkeit, wie denn auch die Slawen nur in den Gegenden, wo sie als Gebürgsvölker erscheinen, wie z. B. in Serbien und in Montenegro, ihren kaukasischen Typus treu erhalten haben. Die Slawen erwuchsen in den Gebürgen zu kräftigen, freien und ritterlichen Volksstämmen, entwickelten eine edlere moralische und intellectuelle Cultur, während sie in den flachen und ebenen Landen die vorgefundene Urbevölkerung zwar vollständig unterjochten, allein keine selbstständige Cultur hervorbringen konnten.

Bemerkenswerth ist nun, daß fast gleichzeitig mit den Einwanderungen pelasgischer, keltischer und hellenischer Stämme einzelne Flüchtlinge aus Aegypten von einer andern Seite in Griechenland und Italien und aus Phönicien in Spanien und Gallien eintrafen, welche die Resultate einer Cultur mit sich führten, die bereis in ruhigeren Lebensformen gewonnen worden waren.

Als Denkmal dieser Nebenwanderungen kann das ägyptisirende Element gelten, welches in den ältesten etruskischen, griechischen und gallischen Kunstwerken erscheint und welches sich sogar im fernen Mexico wiederfindet, wohin es vielleicht durch keltische Flüchtlinge von Irland aus gebracht wurde. Aehnliche Denkmale im theokratischen Kunststyl finden wir in Neuseeland, in den Inseln der Südsee, in Java, wohin aus Indien und China die ersten Elemente dazu gebracht wurden. Nicht minder merkwürdig ist die Rückwirkung, welche die Helenen auf ihre asiatische Heimath übten, und wie sie ihre Cultur um den ganzen Küstenrand des Mittelmeeres und des damit zusammenhängenden Wassergebietes verbreiteten. Dieß war noch mehr der Fall, als in Italien die Römer ihre Herrschaft gründeten, als Rom der Centralpunct der gesammten cultivirten occidentalischen Welt

wurde und hier die bei den Aegyptern, Phönikern und Griechen erwachsene Cultur einen moralischen Haltpunct fand, den weder Memphis noch Karthago, weder Athen und Sparta noch Alexandrien in dieser Weise dargeboten hatte.

Gleichzeitig mit der Cultur der Griechen entwickelte sich in den Ländern nordwestlich der Alpen, in Gallien, Britanien und in den südlich der Donau gelegenen Keltenländern eine ganz eigenthümliche Cultur, die auf Herrschaft des Adels und der Priesterschaft gegründet war und die vereint mit der griechischen zu der römischen Cultur erwuchs. Das hieratische Element, welches im Staatsleben der Römer vorherrscht, das Pontificat, das Augurenwesen, die ganze Grundlage der römischen Staatsreligion stammt aus der altkeltischen Zeit, eben so wie die Kyklopenmauern von Fiesole und Cossa. Dieses theokratische Element aber war so mächtig und hatte die ganze Nation so durchdrungen, daß es sich abermals kräftig geltend machte, nachdem das Heldenthum, welches die hellenischen Einwanderer seit der Zeit der Trojanerkriege hinzugebracht hatten, durch Luxus und Verweichlichung wieder verschwunden war. Als die eindringenden germanischen Heldenschaaren die Gewalt des römischen Kriegsstaates gebrochen hatten, als die römischen Machthaber erkannten, daß die materielle Kraft, welche sie bisher getragen, erschöpft sey, bildeten sie sich eine neue Herrschaft, welche auf der Verschmelzung des keltisch-römischen Priesterthums mit der Lehre Christi beruhete, die doch von Haus aus gegen jegliche Priesterherrschaft gerichtet war. So erwarb sich die ewige Roma neue Kraft und daraus gestaltete sich jene bewunderungswürdige römische Kirche, die so langdauernden, tiefen Einfluß auf die Gestaltung Europas, auf die Entwickelung der ganzen Menschheit geübt hat.

Die vierte große Einwanderung in Europa ist die der germanischen Völker, die sich um die Küsten der Ostsee und Nordsee ansiedelten und von da aus an den hier ausmündenden Strömen hinaufstiegen. Der Rhein, die Weser, die Elbe, die Oder, die Weichsel, die Düna wurden den germanischen Völkern zu Wegweisern für das waldbedeckte innere Gebürgs- und Flachland. Diese Einwanderung scheint nicht auf einmal vor sich gegangen zu seyn, auch fand sie jedenfalls auf mehr als einem Wege Statt. Die Donau, der Bug, der Dniester und der Dneper, so wie die Wolga waren vielleicht die vorzüglichsten Wegweiser*) für die Auswanderer, an denen hin sie in die westlichen und nördlichen Länder gelangten, von wo aus sie dann bis an die Ostsee und hinüber nach Scandinavien vordrangen. Die Ostsee wurde für diese Völker dasselbe, was

*) Dieß wird ein Blick auf „Europa, zur Uebersicht der Flußgebiete und Hohenzüge von Stülpnagel" in Stielers Atlas, N. X. noch anschaulicher machen.

für die pelasgisch-hellenischen das Mittelmeer war, der Völkermarktplatz, und wie auf dem Mittelmeer erschienen auch hier die Phöniker und brachten die Resultate südlicher Cultur hierher. Die passive Urbevölkerung wurde in der Nähe der Gebürge wie an dem Seeufer am frühesten und am gründlichsten bezwungen. In Scandinavien wurde sie in den unwirthlichsten Theil des Landes zurückgedrängt, nach Lappland und Finnland, anderwärts mußten sie sich in die Urwälder, wie in Lithauen und Polen, zurückziehen.

Die gothischen, longobardischen, rugischen, burgundischen und suevischen Völker kamen sodann aus Scandinavien und von der Ostsee zurück und wendeten sich nach dem Süden und dem Keltenlande; die Franken hatten ihren Zug nach Westen und nahmen das nördliche Frankreich und den Niederrhein, während Friesen, Angeln, Sachsen, Jüten, Dänen und Normanen England, Schottland und Irland besuchten und dort eigene Herrschaften gründeten. Ja sie gingen von Irland aus sogar nach America, welches bereits vor ihnen keltische Flüchtlinge von Irland aus besucht zu haben scheinen.

War bei den Kelten das theokratische Element vorherrschend, so erscheinen die germanischen Stämme überall als Befreier vom Priesterjoch; sie zeigen nächst den Hellenen die meiste Aehnlichkeit in gesellschaftlicher Verfassung, wie in dem Staats- und Volksleben mit den kaukasischen Völkern. Sie stürzten das Priesterthum, wohin sie kamen, und wo sie dasselbe vorfanden, mußte es einer freiern Form weichen.

Gewiß ist, daß bereits vor Ankunft der germanischen Stämme im heutigen Frankreich, in den Niederlanden, am Rhein und an der Donau eine keltische Herrschaft bestanden hat, welche die vorgefundene passive Urbevölkerung bezwungen und sich dienstbar gemacht hatte. Zum großen Theile mögen hier auch die keltischen Herren sich mit derselben bereits vermischt gehabt haben; daraus war eine Art Mittelstand zwischen Beherrschten und Besiegten hervorgegangen, der die herankommenden Germanen als Befreier von der Herrschaft des Adels und der Priester empfing und sich um so freudiger an sie anschloß.

Dieß scheint namentlich am Niederrhein und in Westphalen der Fall gewesen zu seyn, wofür mehrere historische Facta sprechen. Wir finden hier noch heute das Land gleichmäßig unter lauter freie Männer vertheilt, deren jeder seinen eigenen Hof hat, nach dem er sich nennt. Wir finden hier keine Burgen, welche für Einzelne der Sitz der Herrschaft und für die andern der der Unterdrückung geworden. Die ursprünglichen keltischen Herrscher, die Priester, entwichen aus diesen Gegenden nach den britischen Inseln und die eigentliche Bevölkerung vermischte sich mit den Germanen zu einer einzigen Masse, welche von nun an gestärkt ihre Freiheit mit der größten Hartnäckigkeit gegen jeden fremden Angriff vertheidigte. Ich erinnere nur an

die hartnäckigen Kämpfe der Frieſen und Cherusker gegen die Römer, der Sachſen gegen die Franken, der Holländer gegen die Spanier. Die Nähe der See trug weſentlich dazu bei, den freiern Sinn dieſer Volksſtämme zu erhalten und ihre Kräfte zu wecken, daher wir hier die Urſitze der deutſchen Hanſa, dann aber den Heerd der großartigen holländiſchen Colonien finden, welche ſich über die ganze Erde verbreiteten. Die Gegenden um die Mündungen des Rheins, der Weſer und der Elbe ſind der Grund und Boden dieſer Erſcheinungen.

In Scandinavien, welches in Folge der Unfruchtbarkeit des Bodens und der Rauhheit ſeines Himmels wohl niemals ſehr dicht bevölkert war, fanden die eindringenden Germanen keine keltiſchen Vorfahren. Die Urbevölkerung entwich vor ihnen in den rauheſten, nördlichſten Theil des Landes und ſie konnten daher das Land ganz in Beſitz nehmen. Es geſtalteten ſich daher Verhältniſſe, wie ſie der Kaukaſus erzeugt hat. Es entſtanden wie dort in den Thälern Gemeinden, die ſich von Ackerbau und Viehzucht nährten, und es entwickelte ſich, ungehemmt von äußeren Angriffen, jene eigenthümliche Cultur, welche uns in der altnordiſchen Literatur, Religion und Verfaſſung entgegentritt. Die zahlreichen Buchten des Landes wurden die Heimath tüchtiger Schiffer, welche theils die übermüthige, kampfluſtige Jugend in ferne Lande führten, theils den friedlichen Handelsverkehr beſorgten. Die heimkehrende Jugend brachte reiche Schätze von ihren Kriegszügen heim, für welche dann die älteren und friedlich geſinnten Männer Lebensbedürfniſſe und Luxusartikel aus fernen Häfen in die nur ſtiefmütterlich gewährende Heimath einführten. Die Oſtſee wurde ſo der Markt eines großartigen Völkerverkehrs, an welchem die Phöniker, Kelten, Römer, ja ſelbſt Araber Antheil hatten, wie die an den Geſtaden derſelben gefundenen römiſchen und luſiſchen Münzen und Metallſachen beweiſen.

Eigenthümlich iſt den Kaukaſiern überhaupt, vornehmlich aber den Germanen das Inſtitut des Gefolges, das ſich bei ihnen beſonders ſeit dem cimbriſchen Kriege im großartigſten Maasſtabe geltend machte. Die überzählige junge germaniſche Mannſchaft, deren überſprudelnde Kraft den geordneten Rechtszuſtand des Landes beſchränkte und denen die Jagd nicht volle Befriedigung gewährte, ſtellte Heerfahrten und Eroberungszüge an, welche allgemach ganz Europa bis an den ſüdlichen Rand des Mittelmeeres unter germaniſche Herrſchaft brachten. Noch jetzt ſind alle Throne des chriſtlichen Europa mit Herrſchern deutſchen Stammes beſetzt und germaniſche Colonien über die ganze Erde verbreitet. Das Gefolge, welches im Kaukaſus und in der arabiſchen Wüſte als Raubzug, im deutſchen Mittelalter als Fahrt auf Abentheuer und als Kreuzzug erſcheint, hat in den bewaffneten Colonien der germaniſchen und der

von ihnen auf's Neue geweckten romanischen Nationen seine höchste Ausbildung aufzuweisen.

Die Länder zwischen der Weser, der Saale, den Alpen und dem Ural wurden seit früher Zeit von germanischen Heerhaufen und Gefolgeschaften durchzogen, die theils aus dem Kaukasus nach dem nordwestlichen Europa gingen, theils von dorther, namentlich aus Scandinavien zurückkamen. In dem Lande zwischen der Elbe und Weichsel finden wir Sueven, Hermunduren, Longobarden, Burgunden, Rugier, Heruler und andere größere und kleinere Heerhaufen umherziehen, längere oder kürzere Zeit in einer Gegend verweilen und so germanische Sprache, Sitte, Cultur und Religion ausbreiten. Sie üben großen Einfluß auf die schon vorhandene Urbevölkerung und bereiten diese zu höherer Cultur vor.

Fand nun auch hier der Kern der activen, germanischen Wanderer keine bleibende Ruhestätte, trieb sie auch das Streben nach Besitz, Ruhm und erhöhetem Lebensgenuß dem Süden und dem Westen zu, so blieben doch die Alten, die Müden und Wunden, die Bequemen und mit Reichthümern überlasteten Herren zurück und zwar um so zahlreicher je näher sie dem Westen waren und je mehr sie in der Natur des Landes Anklänge an ihre kaukasische oder scandinavische Heimath fanden. Daher finden wir in den deutschen Gebürgen auch die reinsten germanischen blondhaarigen Bewohner; daher zeigt der Osten Deutschlands die Uebergangsformen auch in der Bevölkerung.

Der alte Collectivname der Wanderstämme, Sueven, die eben die östliche Hälfte des alten Germaniens inne hatten, scheint mit diesen steten Zügen in Verbindung zu stehen, während der Kern der seßhaften, namentlich das nordwestliche Deutschland bewohnenden Volksstämme Sassen genannt wurde, wenn es galt das Verhältniß zu jenen auszudrücken.

In dem Gebiete, welches die suevischen Völkerschaften inne hatten, finden wir allerdings deutsche Gebürgs- und Flußnamen (wie z. B. Mirkwidu, Erzgebürge, Elbe, Sale, Elster u. s. w.), so wie zahlreiche Steindenkmale, Bronzen und gebrannte Erden, die denen in Westdeutschland gleich kommen, allein seit dem 6. Jahrhunderte unserer Zeitrechnung erscheint hier eine Bevölkerung, welche die freien Institutionen verloren hat, die in den reindeutschen Gegenden so allgemein sind. Die Masse der Nation ist in die Sclaverei zurückgesunken, sie ist in den Besitz weniger Herren gerathen. Diese haben die festen Orte, die Höhenpuncte des Landes inne und beherrschen von da aus die gesammte Bevölkerung, von der sie auch, wie in den slawischen Ländern, die Sprache angenommen haben. So war es auch in den deutschen Ländern suevischer Herrschaft, in Meklenburg und Pommern, in Hannover, Niedersachsen, Brandenburg, den Lausitzen und Schlesien, zum Theil auch in Franken und Thürin-

gen, wo nur ein kleiner Theil germanischer Herrscher zurückblieb, nachdem die rüstigsten und kräftigsten Männer nach Südwesten gewandert waren.

Je weiter nach Osten, desto geringer war die Anzahl der zurückgebliebenen germanischen und kaukasischen Herrschenden und jenseit der Weichsel gestaltete sich ein Verhältniß zwischen den Herrschenden und der dienenden Volksmasse, das dem Zustande der von Mauren beherrschten Neger nahe kommt. Die ältesten russischen Herrscher waren bekanntlich Normannen, der Adel der Polen und Russen besteht aus Abkömmlingen der Kaukasier, der auch in den dem Kaukasus näher gelegenen Landschaften massenhafter als das freie und ritterliche Volk der Kosaken erscheint, welches gegenwärtig freilich nur noch Spuren seiner alten Verfassung aufzuweisen hat.

Alle Reisende sind darin einstimmig, daß der von Osten kommende Wanderer, so wie er sich der Gränze des alten Königreichs Polen nähert, durch germanische Anklänge überrascht wird. Burgen, Steinhäuser, gothische Kirchen, Reinlichkeit und Wohlstand, ja sogar ansprechende kaukasische Gesichtsbildung treten allmälig und immer reichlicher hervor, je mehr man sich der deutschen Gränze nähert. Dieß ist namentlich in den Städten der Fall, welche gewissermaßen die Nachhuth deutscher Gesittung bilden. Der leibeigene Bauer trägt die Kennzeichen seines passiven Ursprungs in den breiten Backenknochen, den kleinen tiefliegenden zum Theil schief stehenden Augen, dem gewaltigen Untertheil des Gesichts, der breiten, grobgebildeten, abgestumpften Nase, so wie in der dunkelgefärbten oder fahlen Haut an sich. Man bemerkt offenbar, daß hier die Völkerzüge sich weniger verweilt haben, daß sie das flache Land durcheilten, um in den fernen Gebürgen eine feste Heimath zu erlangen.

So haben wir für Europa drei Culturperioden anzunehmen, welche auch die verschiedenen Einwanderungen hervorgebracht haben.

Die erste ist die der Iberer, Pelasger und Kelten, die zuerst mit der passiven Urbevölkerung zusammentraten, sie unterwarfen und eine theokratisch-aristokratische Staatsform hervorriefen, der die colossalen Grundlagen jeglicher Cultur verdankt werden. Die cyklopischen Mauern, Felsenbauten, die Unterdrückung und Beherrschung der Volksmasse, die blutigen Menschenopfer für die zürnenden, rächenden Götter sind vorzugsweise die charakteristischen Merkmale dieser Cultur.

Die zweite hellenische Culturperiode zeigt uns die kaukasischen Helden mit stürmischer Kraft im lebhaften Angriff auf die alten Theokratien, nachdem sie sich in Griechenland eine Staatsform gebildet, die mit der in ihrer kaukasischen Heimath übereinstimmt. Sie nehmen die massenhaften Vorarbeiten in Wissenschaft

und Kunst in sich auf, welche die vorhergehende Culturperiode erzeugt hat, und gestalten sie zu freiern Formen um; sie verbreiten diese Formen über die ihnen zugänglichen Länder; allein sie ermatten endlich, nachdem sie zwar die alten Theokratien aufgelöst hatten, in ihrem Wesen aber von jenen verändert worden waren. Die hellenischen Republiken lösten sich in die römische Monarchie und Hierarchie.

Die germanische Einwanderung aus den kaukasischen Ländern begann den Angriff auf die Staatsformen der vorhergehenden Periode, nicht allein mit weit zahlreichern Armen, sondern sie fand auch bald einen geistigen Bundesgenossen an den Grundlehren des Christenthums von der vollkommenen Gleichheit aller Menschen vor Gott, der mit ausdauernder, unwiderstehlicher Gewalt einwirkt. So entstand eine Cultur, welche der Hierarchie wie der Aristokratie gleich feindlich gesinnt ist und der constitutionellen Staatsform zustrebt, welche die freieste Entwickelung aller Lebensformen gestattet, daher aber auch in den mannichfaltigsten Nüancirungen erscheint. Die Herrschaft des Gesetzes und die Gleichheit Aller vor dem Gesetze, das ist was der Tscherkesse und der Araber erstrebt und was das Leben der Völker des neuen Europa bewegt.

Eine vierte Culturperiode hat Europa noch nicht begonnen, die beiden Extreme, Nordamerica nnd Rußland, sind in ihren Erscheinungen noch nicht vollständig entwickelt.

Bemerkenswerth aber ist, daß Europa und zwar Mitteleuropa mit seinem rauhen und wechselvollen Clima der Sitz der höheren Cultur geworden ist. Gerade aber die Unsicherheit dieses Climas hat den wesentlichsten Einfluß auf die höhere Entwickelung der hier lebenden Menschen gehabt. Es nöthigt den Landmann zu steter Aufmerksamkeit und Vorsicht, er muß stets auf die ungünstigsten Zwischenfälle bedacht seyn und kann mit Bestimmtheit durchaus nie auf eine dauernde Gunst der Witterung rechnen; ja die Flüsse, die z. B. in Aegypten seine sichern Mitarbeiter sind, die regelmäßig den Feldern Nahrung zuführen, sind in Mitteleuropa gerade zu der Zeit, wo ihr Wasser am nothwendigsten ist, durch die Hitze zusammengeschrumpft und an Statt, daß sie alljährlich den Feldern düngenden Schlamm absetzen, reißen sie im Frühjahre, die Thäler plötzlich überfluthend, das künstlich und mühsam herbeigeschaffte Land mit der Frucht, die darauf keimt, gewaltsam mit sich fort und bedecken, was sie nicht mit fortreißen, mit todtem Sand und Geschieben. In den Gebürgen muß der Landmann auf seinem Rücken die kahlen Felsplatten mit fruchttragender Erde bedecken, aber wie oft reißen Regengüsse die Erde mit der Ernte herab und wie oft tödtet nicht früher Frost die mühsam gepflegten Pflanzen.

Mitteleuropa bietet von Haus aus keine große Fülle genießbarer Früchte dar; die meisten unserer Gemüse, Getraide und Obstarten sind aus der Fremde eingeführt, der Wein rankt nicht wie in

Kaukasien freiwillig an den Bäumen empor, nur wenige Obstarten, meist Beeren, wachsen ungepflegt in unsern Waldungen.

Dennoch ist in Europa die Cultur der eßbaren Pflanzen wie der Blumen zur größten Vollkommenheit gediehen; der Apfel, die Birne, Pflaumen, Kirschen, der Wein sind aus der Fremde hereingebracht, heimisch gemacht und durch unablässige Pflege zu den mannichfaltigsten Formen entwickelt worden. Eben so ist es mit den Blumen, wo ich als Beispiel nur die Georgine erwähnen will, deren europäische Nachkömmlinge die Form der einfachen americanischen Urpflanze kaum ahnen lassen. Gleiche Erscheinungen bietet die Pflege der Thiere, namentlich der Rinder, Pferde und Hunde, so wie einiger Vögelarten dar. Nichts ist überhaupt geeigneter eine deutliche Anschauung der künstlichen, allen Hindernissen trotzenden und sie beseitigenden Richtung der europäischen Cultur zu geben, als die deutsche Landwirthschaft und das englische Maschinenwesen, welches die unsichtbaren Kräfte der Electricität, des Galvanismus und den flüchtigen Dampf zwingt sich dem menschlichen Willen und Bedürfniß zu fügen.

Das Clima von Mitteleuropa ist sehr anregend und kraftweckend, es gleicht einer launenhaften, schönen Dame, die durch den Wechsel von Gewähren und Versagen ihre Liebhaber in steter Spannung und Aufmerksamkeit zu erhalten versteht. Am deutlichsten zeigt sich dieser Wechsel in unsern Gebürgen, wenn der Frühling nach hartem Winter hereintritt und unter dem Schnee und Eis die grüne Vegetation sich erhebt und der Sommer kommt, der doch nie anhaltend die erschlaffende Hitze der Tropenländer mit sich führt, so wenig als unser Winter dem der Polarzone gleicht.

Nächst dem Clima hat aber auch vorzugsweise die Mischung der Rassen der Cultur von Europa jene ihr eigenthümliche Form gegeben, die sie von allen andern unterscheidet. Die pelasgisch-keltische Zeit brachte Formen, die wir auch anderwärts, namentlich in Aegypten und Mexico wiederfinden. Die hellenische Cultur steht schon selbstständiger da, obschon sie in ihrem Verfall an die asiatischen Despotien erinnert. Der erneuerte Zustrom der Germanen im Norden brachte ein neues Lebenselement, das moralische, das mit den Grundsätzen des Christenthums übereinstimmte. Dazu kommen dann die Ideen, welche der Verkehr mit dem Orient seit dem Einfall der Araber in Spanien, Sicilien und durch die Kreuzzüge in Umschwung brachte, welche namentlich in der pyrenäischen Halbinsel und in der Provence ein neues Leben in Kunst, Poesie und Gesittung hervorriefen, das sich bis an die Gestade der See und an die Ostgränzen Deutschlands verbreitete, während der deutsche Norden, wo die germanische Bevölkerung minder gemischt war, in steter Opposition gegen das eindringende Fremde sich erhielt; daher ging auch von hier aus die Reformation über Europa, zu einer

Zeit, wo die südeuropäischen Völker, die in der Heimath von dem hierarchischen Element beengt waren, in die weite Ferne strebten. Dieses Streben in die Ferne, vereint mit dem Streben nach freiern Formen in der Heimath, trug sodann in Holland wie in England die reichsten Früchte und die Rückwirkung desselben auf den Continent hatte die Stürme zu Folge, aus denen das constitutionelle monarchische Princip auch hier siegreich als glänzendes Resultat hervortrat.

Endlich fand noch eine vierte Einwanderung aus Asien und vom Kaukasus Statt, die slawische, die jedoch keine so großartigen Resultate gebracht hat, da sich die Einwanderer im Norden zersplitterten und nur im Süden, namentlich in Serbien und Montenegro, eine hervorragendere Erscheinung darbieten. Der alte Adel von Polen und Rußland wurde erst in neuerer Zeit von der in Europa sich entfaltenden Cultur berührt, außerdem aber im Kampfe mit den aus Asien durch einzelne kaukasische Heerführer hereingeleiteten mongolischen und tatarischen Schaaren so beschäftigt, daß er nur mittelbare Einwirkung auf die europäische Cultur üben konnte, indem er die abwehrende Vormauer gegen diese Flugschaaren bildete. Eben so hatten die heldenmüthigen Serbier und Vlachen im Süden alle ihre Kraft aufzubieten, um sich im Kampfe mit den hereindringenden Türken Selbstständigkeit und Freiheit zu erhalten und dem türkischen Joche nicht unterthan zu werden.

Nachdem wir nun die Auswanderung der activen Gebürgsvölker Hochasiens nach Westen, nach Südosten und Nordwesten betrachtet, gedenken wir endlich noch der Wanderung, die sie in nordöstlicher Richtung vorgenommen haben. Der Norden des Kaukasus verläuft sich in endlose Ebenen, auf denen nordwestlich die Germanen ihrer neuen Heimath zuschritten, während sie nordöstlich einem Volke zur Laufbahn wurden, das wir vielleicht mit dem Collectivnamen der Tschuden bezeichnen können, ein Name, womit man in Sibirien diejenigen Denkmale bezeichnet, welche die Ueberreste einer alten, nicht mehr vorhandenen kriegerischen Nation beherbergen. Bis zu Anfang des vorigen Jahrhunderts waren in der Krimm Tscherkessenstämme heimisch, an die sich nordöstlich die Schaaren der Kosaken anschlossen; diese aber bestanden ursprünglich in der Weise der germanischen Geleite aus einzelnen kühnen Räuberbanden, welche die Nachbarn, Tataren, Russen, Mongolen, Genuesen ausbeuteten und in Tscherkask sich einen Mittelpunct gegründet hatten, dessen Name nicht minder auf ihre kaukasische Herkunft deutet als ihre Körperbeschaffenheit, ihr Charakter und ihre Verfassung.*) Sie schlossen sich als Christen nach dem Verfall des Mongolenreiches den Russen an, eroberten Sibirien und wurden seit dem Anfang des vori-

*) S. Köch Reise durch Rußland I. 94.

gen Jahrhunderts dem Heere derselben einverleibt. Dennoch haben sich bei den Kosaken bis heute die deutlichsten Spuren ihrer Abstammung erhalten, obschon sie die russische Sprache angenommen haben.*)

Der Ostrand des kaspischen Meeres und die dahin mündenden Flußgebiete wurden schon früh namentlich vom Süden her durch Gebürgsvölker überschwemmt und hier eine Mischung der activen und passiven Rasse hergestellt, welche wir mit dem Namen der Tataren zu bezeichnen pflegen, und die, von da herausbrechend nach Westen als Türken erscheinen und als solche arabische Cultur in sich aufnahmen. Oestlich vom Altai bis in die Mandschurei finden wir einzelne tatarische Völkerschaften, zum Theil noch von passiven Völkern umgeben, dann aber auch in größerer Masse als Mongolen im Norden von China. Wenn bei den tatarischen Völkern das active Element das überwiegende ist, so ist es bei den Mongolen das passive, was sich in Körperbildung wie in der Verfassung deutlich ausspricht. Die Mongolen sind eifrige Anhänger der ceremoniösen Buddahlehre, während die Tataren den freiern Formen des Islam zugethan sind.

Der Endpunct dieser nordöstlichen Wanderung ist die Mandschurei, ein Land, das auf allen Seiten von Gebürgen umschlossen, einer selbstständigern Volksentwickelung nicht ungünstig erscheint, zumal sein Clima (40 — 56° N. Br.)**), anregend wie das aller Gebürgsländer, den hereinwandernden activen Schaaren alle Lebensbedürfnisse reichlich darbietet. Namentlich bringt der südliche Theil des Landes Waizen, Hirse, Hülsenfrüchte, Baumwolle, Obstarten hervor und nährt zahlreiche Heerden von Rindern und Schafen, während der nördliche reich ist an jagdbaren Thieren, wie Tiger, Leoparden, Bären, Wölfe, Hirsche, wilde Pferde und Esel.

Hierher strömten, wie etwa in die Alpen und in die scandinavischen Gebürge, active Stämme und ließen sich hier nieder, von hier aus wandten sie sich zur See, vielleicht auch nach Japan, wo allgemach eine Cultur erwuchs, die den europäischen Völkern erst später bekannt wurde. Von hier aus zogen einzelne Schaaren erobernd und umgestaltend nach China, zum letzten male 1644, wo sie die noch jetzt bestehende Kaiserdynastie und den Kriegerstand des Reiches begründeten. Von der Mandschurei aus zogen einzelne Schaaren südwestlich zu den Horden der Mongolen und führten sie bis nach Europa, wo die Züge der Hunnen, Avaren, Tataren die emporblühende Cultur mehrmals gewaltsam unterbrochen haben.

Auf solche Art nun wurde in allen Richtungen von den asiatischen Hochlanden aus die active Menschenrasse über den ganzen

*) S. „Das enthüllte Rußland" II. 135 ff.
**) Plath die Völker der Mandschurey I. 3. und 10.

Erdboden verbreitet und die passive Urbevölkerung durch sie mannichfach durchdrungen und zu neuen Lebensformen geweckt.

Es bleibt uns nun noch übrig die Denkmale dieser Wanderungen ins Auge zu fassen, wobei sich zunächst die Bemerkung aufdrängt, daß die rein passiven Völker gar keine und die activen deren um so weniger hinterlassen, je einzelner und verstreut unter passive Stämme sie vorkommen; die Buschmänner, Californier, Pescheräh und Botocuden hinterlassen nur flüchtige Spuren ihres Daseyns in den Feuerstätten, bei denen sie etwa ihre Reibsteine oder andere Trümmer ihres dürftigen Geräthes vergessen haben. Die Denkmäler sind in Bezug auf eine Nation das, was der Besitz hinsichtlich der Einzelwesen ist und ihr Vorhandenseyn schreitet mit der Cultur fort; die Jägervölker und Fischer sind am ärmsten daran, die Nomaden hinterlassen deren schon mehr; mit dem Ackerbau und den festen Sitzen entstehen auch dauerndere Denkmäler. So sind in Europa die Slawen am ärmsten an Denkmalen, deren Kelten und Germanen, Etrusker und Griechen in großer Fülle hinterließen.

Unter diesen Denkmälern stehen oben an die Grabhügel mit deren Inhalt! So sind namentlich für die Geschichte der Einwanderung activer Völker die Grabhügel von Bedeutung, welche am dichtesten an den Küsten der Ost- und Nordsee und an den größern Strömen diejenigen Puncte bezeichnen, wo die Germanen am längsten und am dichtesten gesessen haben. In ähnlicher Weise ziehen sich vom Dnieper, nördlich vom schwarzen und kaspischen Meere nach dem Altai und der Mandschurei Grabhügel — die Tschudengräber, welche Waffen und Bronzeornamente enthalten, die mit den bei den mohamedanischen Nationen Vorderasiens noch jetzt üblichen übereinstimmen und die gewissermaßen die Wegweiser für die nachziehenden activen Schaaren wurden. Nicht mindere Aufmerksamkeit verdienen die Grabhügel, die in Nordamerica, namentlich in Virginien entdeckt wurden (Ausland 1843. N. 342.). Vorzugsweise ist das in diesen Hügeln vorkommende Bronzegeräth zu beachten, indem dasselbe überall im Gefolge der activen Wanderer zu seyn scheint. Wir finden dasselbe nicht allein in den Gräbern der Griechen, Römer, Germanen und Kelten, sondern auch in den tschudischen Grabhügeln Asiens, so wie es auch in Virginien und bei den Caraiben als Caracoli (s. Culturgesch. II. 53.) vorkommt. Da nun die Bronze ein künstliches Product ist,*) dessen Herstellung bei weitem schwieri-

*) Hrn. Berghauptmann Freiesleben verdanke ich nachfolgende gütige Belehrung: „So häufig sich auch Kupfer-Erze unmittelbar neben und mit Zink- und Zinn-Erzen zusammen finden, so ist doch noch kein natürliches Vorkommen einer bronzeähnlichen Mischung bekannt. Man hat zwar von natürlichem Messing gesprochen, aber nie haben sich dergleichen Gerüchte bestätigt. Jede Bronze ist eine künstliche Composition bereits künstlich darge-

ger ist als die Bearbeitung des Eisens, so deutet das Vorkommen bronzener Gegenstände auch immer auf eine höhere Cultur, eine Bemerkung, die auch durch eine Vergleichung z. B. der bronzenen Dolche aus germanischen Grabhügeln mit den eisernen Dolchen und Lanzenspitzen der Kaffern und Neger bestätigt wird. Die Bronzewaffen zeigen stets eine überaus sorgfältige, reichverzierte Arbeit, in der sich ein ausgebildeter Formensinn ausspricht, während jene afrikanischen Waffen überaus roh gearbeitet erscheinen.

Die Ornamente der alten nordeuropäischen Bronzen*) kehren auf der Nordwestküste Asiens, an den Gränzen der Mandschurei, in Neuseeland und auf den architectonischen Sculpturen von Java und Mexico wieder. Sie erscheinen in den Eisen- und Wollgeweben von Turkestan, in den Ornamenten chinesischer Gefäße gewissermaßen in höchster Ausbildung und es ist wohl in sofern dieser Ornamentalstyl einer sorgfältigern Beobachtung nicht unwerth.

Einen anderweiten Fingerzeug für die Wanderungen der activen Rasse geben ferner die Steinbauten, die bei den Eries der Südsee als Tribünen für Volksversammlungen und Opfer erschienen, in Java, Mexico und Aegypten aber zu Pyramiden erwachsen sind. Im Norden von Europa finden sich ferner die großen Säulenstellungen aus rohen Felspfeilern; die Bautasteine Scandinaviens, die Minhirs der Bretagne, die Pfeiler von Tinian, die Steinpfeiler der südrussischen Steppen, die Colosse der Osterinsel, die Obelisken der Aegypter und die Prachtsäulen der Römer und des Mittelalters sind eine weitere Ausbildung derselben, so wie die hölzernen Göttersäulen der Nordamericaner**) ein schwacher Nachhall zu seyn scheinen.

Die eigentlichen Steingebäude gehören ebenfalls der activen Rasse eigenthümlich zu, da sie nur in den Hochgebürgen entstehen konnten; die wunderbaren colossalen Steinkammern des nördlichen Europa, die Dreideckſteine, Dolmens, wie die Hünenbetten sind sämmtlich Denkmäler der kaukasischen Rasse, welche in den nordeuropäischen Ebenen, wo sich keine anstehenden Felsen finden, die zerstreut umherliegenden colossalen Geschiebe mit ungeheuerem Aufwande von Kraft dazu verwenden. Die cyklopischen Mauern in

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stellter Metalle (Kupfer, Zink, Zinn, nach Befinden Spiesglas, Blei u. s. w.), daher ist sie überaus verschieden, je nachdem die Zusammensetzungs-Verhältnisse beliebt wurden, die an kein bestimmtes Gesetz gebunden sind. Es ist auch kaum denkbar, daß aus gleichzeitiger Verschmelzung von miteinander brechenden Kupfer-, Zinn- und Zinkerzen ein bronzeähnliches metallisches Product, das sich zu weiterer Benutzung eignete, hervorgehen sollte."

*) Vergl. Worsaae Dänemarks Vorzeit durch Alterthümer und Grabhügel beleuchtet. Copenh. 1844. S. 25. 26. 33., wo die spiralförmigen Ornamente abgebildet.

**) S. Culturgeschichte Th. II. S. 174 und Taf. XV. und XVI.

Italien (z. B. von Cossa, Fiesole) und in Griechenland sind eine weitere Ausbildung dieser Steinbaukunst, aus welcher dann allmälig die griechische und deutsche Architectur erwachsen konnte.

Besondere Beachtung verdienen nächstdem die Felseninschriften, welche in den von der activen Rasse betretenen Ländern vorkommen. In Europa haben sich nur in England (die Portsmouths Rocks und Tiverton Rocks) und in Scandinavien (Foxen, Oester, Götlan und Tanum in Bohuslän) wirkliche Felsinschriften erhalten. Die ältesten dieser Denkmale sind wohl diejenigen, welche bildliche Darstellungen zeigen, wie z. B. die Bilderfelsen in den Bassins des Corentyn, Essequibo und Orinoko*) in America, womit die Zeichnungen des Fetisch-Felsens am Zaire in Africa (Tuckey narrative S. 380.) und die von Neuholland übereinkommen. Sie ähneln sehr den Zeichnungen der Zaubertrommeln von Lappland und Guiana. Die Zeichnungen, welche Strahlenberg und Pallas von sibirischen Felsbildern geben, zeigen geübtere Hände und sichere Formen.**) Weitere Fortbildung dieser Felsschrift ist die eigentliche Bilderschrift der Aegyptier, aus der sich dann das ägyptische und mexicanische Hieroglyphensystem entwickelt hat. Späterer Zeit gehören die eigentlichen Felsinschriften mit Charakteren, wie z. B. die semitischen Inschriften im peträischen Arabien (s. Wellsted Reise in Arabien mit den reichen Nachweisungen von Rödiger und Beer, Th. I. S. 20.).

Es sind ferner als Denkmale der activen Rasse diejenigen religiösen und politischen Institutionen zu betrachten, welche sie von ihrer Heimath aus der Fremde zugebracht haben, namentlich das Heerwesen, Geleite und Heerbann, die Feudalverfassung und die würdigere Stellung der Frauen in der Gesellschaft; Institutionen, die wir bei den passiven Völkern vergebens suchen.

Endlich sind die Menschen selbst als Denkmale jener Wanderungen zu nennen, wo sie sich durch Körperbildung wie durch geistige Richtung als Nachkommen der activen Völker beurkunden. Die edlere Bildung unterscheidet die Neuseeländer, die Eries der Südseeinseln, die Inkas der Americaner, die Mauren von West- und Nordafrica wesentlich von der dunkelgefärbten Urbevölkerung.

Eine genaue und sorgfältige Erforschung aller dieser Denkmale und eine Vergleichung derselben mit den Sagen und den historischen Nachrichten der verschiedenen Nationen wird uns endlich dahin bringen, eine lichtvolle Uebersicht über die Culturzustände der verschiedenen Völker der Erde zu besitzen. Es ist aber in der That seltsam, daß der Mensch, der die Producte des Mineralreichs von dem selbst atomistisch vorkommenden Metalle bis zu den Granit- und Ur-

*) S. Schomburgk Reise in Guiana S. 212.

**) Pallas Reise im russ. Reich III. 359. P. J. v. Strahlenberg der nördl. und östl. Theil von Europa und Asia. Stockh. 1730. 4. S. 336.

kalkmassen, von den Schimmeln und Pilzen bis zu den fossilen Baumcolossen, von den Infusorien bis zum Missurium betrachtet, der die Gase wiegt und das Licht mißt, gerade sich selbst und der Classe der Geschöpfe, welcher er anzugehören die Ehre hat, verhältnißmäßig doch nur eine sehr geringe und in der That am wenigsten gründliche Aufmerksamkeit zugewendet hat. Es ist dieß um so seltsamer, als der Mensch sich doch überall als das erste Wesen, als die Krone der Schöpfung ansieht, der sich für das einzige Wesen hält, das der Schöpfer der Unsterblichkeit für würdig erachtet.

EULOGY ON JOHN MARSHALL.

AN

EULOGY

ON THE

LIFE AND CHARACTER

OF

JOHN MARSHALL,

Chief Justice of the Supreme Court

OF THE

UNITED STATES.

DELIVERED AT THE REQUEST OF THE COUNCILS OF PHILADELPHIA,
ON THE 24TH SEPTEMBER, 1835.

BY HORACE BINNEY.

PHILADELPHIA:

PRINTED BY J. CRISSY AND G. GOODMAN, 4 MINOR STREET.

1835.

IN SELECT COUNCIL,
July 9, 1835.

WHEREAS means have been already taken to express the public sense of the loss which the country has sustained, by the death of the late Chief Justice of the Supreme Court of the United States, and the profound grief which has affected the community: And whereas, it is fit that the actions, character and services of the illustrious dead should be adequately pourtrayed and commemorated: Therefore,

Resolved, by the Select and Common Councils, that HORACE BINNEY, Esq. be invited to deliver an Eulogium on the life of JOHN MARSHALL.

Common Council concurred.

From the Minutes.

JOS. G. CLARKSON,
Clerk S. C.

IN COMMON COUNCIL,
September 24, 1835.

Resolved, That the thanks of the Select and Common Councils, be presented to the Hon. HORACE BINNEY, for his appropriate and eloquent Eulogy on the life and character of the late CHIEF JUSTICE MARSHALL, and that a copy be requested for publication.

Resolved, That the thanks of the Select and Common Councils, be presented to the Right Rev. WILLIAM WHITE, D. D. for the gratifying part which he bore in the solemnities of the occasion, and that he be requested to furnish a copy of his prayer, to be published with the proceedings of the day.

Select Council concurred.

From the Minutes.

ROBERT HARE, Jr.
Clerk C. C.

SEPTEMBER 26, 1835.

RT. REV. SIR,

We have been directed to communicate to you the annexed resolution, unanimously adopted by the Select and Common Councils, testifying their deep sense of their obligation for the part you bore in the solemnities of the 24th inst., and requesting you would favour them with a copy for publication, of the appropriate and eloquent prayer by which the address of Mr. Binney was preceded.

We congratulate ourselves, Right Rev. Sir, that in paying this tribute to the memory of Chief Justice Marshall, we were honoured with the aid of one of his contemporaries, like himself distinguished by the talents that adorn, and the virtues that dignify our nature.

With the highest respect,
We remain your
Obt. Serv'ts.

JOS. R. CHANDLER,
HENRY J. WILLIAMS,
LEMUEL LAMB,
DENNIS M'CREDY,
JOSHUA LIPPINCOTT,
JOHN P. WETHERILL,
} COMMITTEE.

To the Rt. Rev. William White, D. D.
Bishop of the Diocese of Pennsylvania.

TO MESSRS. JOSEPH R. CHANDLER, HENRY J. WILLIAMS, LEMUEL LAMB, DENNIS M'CREDY, JOSHUA LIPPINCOTT, AND JOHN P. WETHERILL.

GENTLEMEN,

I enclose to you the document, which the Select and Common Councils of the City have done me the honour to desire.

And I am, very respectfully, gentlemen,

Your very humble Servant,

WM. WHITE.

SEPTEMBER 26, 1835.

SIR,

We have the honour to enclose a resolution, unanimously adopted by the Select and Common Councils, expressing their thanks for your admirable Eulogy on the late Chief Justice Marshall, and requesting a copy for publication.

The personal history of such a man, always highly interesting and instructive, is at the present moment most peculiarly so; and you, sir, have rendered the lessons it affords still more effective, by the force and beauty with which they are illustrated.

We have the honour to be,
With the greatest respect,
Your obt. Serv'ts.

JOS. R. CHANDLER,
HENRY J. WILLIAMS,
LEMUEL LAMB,
DENNIS M'CREDY,
JOSHUA LIPPINCOTT,
JOHN P. WETHERILL,
} COMMITTEE.

TO H. BINNEY, ESQ.

PHILADELPHIA, SEPT. 29, 1835.

GENTLEMEN,

I have the pleasure to send you the Eulogy upon Chief Justice Marshall, agreeably to the resolution of the Councils, and to return my unfeigned thanks for the honour which those bodies and their committee have done me, by all their proceedings and expressions in relation to the subject.

I have the honour to be,
With sincere respect,
Your obt. serv't.

HOR. BINNEY.

TO
JOSEPH R. CHANDLER,
HENRY J. WILLIAMS,
LEMUEL LAMB,
DENNIS M'CREDY,
JOSHUA LIPPINCOTT,
JOHN P. WETHERILL,
} ESQUIRES.

AN ADDRESS

AND A FORM OF PRAYER,

ON THE OCCASION OF THE DECEASE OF THE HON. JOHN MARSHALL, ESQ. LATE CHIEF JUSTICE OF THE UNITED STATES, DELIVERED ON THE 24TH DAY OF SEPTEMBER, AND PRECEDING THE DELIVERY OF AN EULOGIUM BY HORACE BINNEY, ESQ.

Brethren,

Forasmuch as it hath pleased Almighty God, in his wise Providence, to take out of this world the Hon. John Marshall, Esq. late Chief Justice of the United States, let us bow in lowly submission under this afflictive dispensation. Let us offer up our thanksgivings, for the good example, and for the signal services of the eminent deceased. And let us pray, that through Divine Grace, we may make a religious improvement of the mournful event commemorated; so that after this transitory life shall be ended, we may rest with the Spirits of just men made perfect; and finally may attain to the resurrection of the righteous, at the second coming of our Lord and Saviour Jesus Christ, in glorious majesty, to judge the world.

Almighty God, with whom do live the Spirits of them who depart hence, in the Lord, and with whom the souls of the faithful, after they are delivered from the burthen of

the flesh, are in joy and felicity; we give thee thanks for all those thy servants, who having finished their course in faith, do now rest from their labours. Especially we adore thy name, for the eminent virtues and for the illustrious actions of the late Chief Justice of the United States. While we acknowledge thy undeserved mercies in having given him, in times of difficulty and danger, to the counsels and to the administration of justice in this land, we pray that the present remembrance of him may impress us with due gratitude for the benefits, which through his agency, have been extended to us by thee, the Supreme Author of all good. May his memory be an incentive to all who shall come after him in our Courts of Justice, and in all the employments of the state. And may posterity, while they shall inherit the lustre of his name, enjoy the benefit of his life, in a continuance of the happy consequences of his labours, and in a succession of great and good men, to the glory of thy name, and to the prosperity of thy people, to the end of time. We pray also that we, with all thy servants who have departed this life in the faith and the fear of thy holy name, may rest in thee, and have at last our perfect consummation of bliss in body and in soul in thy eternal kingdom, through Jesus Christ our Lord. Amen.

O God, whose days are without end, make us, we beseech thee, sensible of the shortness and of the uncertainty of this mortal life; and may we be resigned to thy will in

every event of life and of death; and especially in the loss which we now deplore. The same we ask for thy servants the family of the deceased, and for all allied to him in kindred or in friendship: beseeching thee that they may be comforted under their afflictions by the promises of thy word, so as not to sorrow as those who have no hope. We pray for them and for ourselves, that thy Holy Spirit may lead us through this vale of misery, in righteousness and holiness, before thee all our days; so that when we shall have served thee in our generation, we may be gathered to our fathers, having the testimony of a good conscience, in the communion of the Catholic Church, in the confidence of a sure faith, in the comfort of a reasonable, religious and holy hope, in the favour of thee our God, and in charity with all mankind. These things we ask through the merits of Jesus Christ, thy son, our Lord. Amen.

O God, who hast instructed us in thy holy word, to render honour to whom it is due, we implore thy blessing on the celebration which is to follow. Support, in the discharge of this duty, thy servant to whom it is committed. May this tribute of gratitude be worthy of the name which it commemorates. May the inhabitants of this land, while they join in or approve of our present celebration, feel it a call to a due reverence of the laws, and of submission to the administration of them; and may all, who like the venerable deceased, have been eminent benefactors to mankind, like

him, also find grateful fellow citizens, honouring them in their lives and in their deaths, which we ask through Jesus Christ our Lord. Amen.

"Now the God of Peace, who brought again from the dead our Lord Jesus Christ, that great shepherd of the sheep, through the blood of the everlasting covenant, make you perfect in every good work, to do his will; working in you that which is well pleasing in his sight, through Jesus Christ our Lord, to whom be glory for ever and ever. Amen.* HEB. XIII. 20, 21.

*The above (mutatis mutandis) is the same with that used above thirty-five years ago, on the occasion of the commemoration of President Washington, in presence of the then President and Congress, and before an Eulogy by General Henry Lee.

EULOGY ON

JOHN MARSHALL.

Fellow Citizens,

The Providence of God is shown most beneficently to the world, in raising up from time to time, and in crowning with length of days, men of pre-eminent goodness and wisdom. Many of the undoubted blessings of life, which minister, and were designed to minister, to the elevation of man, tend, nevertheless, by developing the inferior qualities of his mixed nature, to impair the authority and to deaden the aspirations of his immortal spirit. The unnumbered contributions to the sum of physical enjoyment, which a bountiful Creator has spread around us, afford such a prodigal repast to the senses, that if man were not sometimes allured from the banquet by the example of wisdom, or driven from it by the voice of conscience or of inspiration, he would "decline so low from virtue" as to become incapable of discerning its beauty, or of rising to its delights. If there was not something within or without, to remind him that these pleasures of sense were designed to alleviate the labours of virtue in her arduous career, and not to seduce her from it, it might raise the irreverent question, whether the frame of man was adequately devised to contend with the temptations which surround him. But the wisdom of the Creator is justified in all his works. It is a provision in

the moral government of the world, to hold out constantly to mankind, both the example of virtue for imitation, and its precepts for obedience; and the moral constitution of man is never so depraved, as to be totally insensible to either. Sometimes the inducement to virtue is derived from the catastrophe which closes the career of vice; sometimes from that internal monitor, which however oppressed by a load of crimes, has always sufficient remains of life to breathe its complaints into the hearts of the guilty. To the sensual it often comes in the pains and disgusts of satiety, and occasionally to the most hardened in the awakening denunciations of future responsibility. The good find it in the pleasures of beneficence, and the wise in the enjoyments of wisdom. It is addressed severally to each, and with endless variety corresponding to his personal case and condition. But it comes to all, and at all times, and with most persuasive influence, in the beautiful example of a long career of public and private virtue, of wisdom never surprised, of goodness never intermitted, of benignity, simplicity, and gentleness, finally ending in that hoary head which "is a crown of glory, if it be found in the way of righteousness." To this example all men of all descriptions, pay voluntary, or involuntary homage. There is no one from whom the impress of the Deity is so wholly effaced, as to be insensible to its beauty. The very circumstance of its duration affects all hearts with the conviction, that it has the characters of that excellence which is eternal, and it is thus sanctified while it still lives and is seen of men. When death has set his seal upon such an example, the universal voice proclaims it as one of the appointed sanctions of virtue, and if great public services are blended with it, communities of men come as with one heart to pay it the tribute of their praise, and to pass it to succeeding generations, with the attestation of their personal recognition and regard.

It is such an example and such a motive, my fellow citizens, that have led the Councils of this city to commit to my hands the duty of expressing your admiration and gratitude for the illustrious virtues, talents, and services of JOHN MARSHALL. His last hours were numbered within your city. His unfading example here received its last finish. You were the first to mourn by the side of his venerable remains, after the spirit which enlightened him had gone to its reward; and you now claim to record your reverence for a name which after first coming to distinction in its native state, and then for a long course of years shedding lustre upon the whole country, has finally ceased to be mortal upon this spot.

If its defective commemoration by me, could mar the beauty of this example, I should shrink from it, as from a profanation: but it is the consolation of the humblest, as it ought to be of the most gifted, of his eulogists, that the case of this illustrious man is one, in which to give with simplicity, the record of his life, is to come nearest to a resemblance of the great original; and to attempt to go beyond it, is

——————— with taper light
To seek the beauteous eye of Heaven to garnish.

JOHN MARSHALL was born at a place called Germantown, in Fauquier county, Virginia, on the 24th of September, 1755, eighty years ago this day. It was a little more than two months after the memorable defeat of Braddock had brought to the notice of the British empire the name of George Washington, then a youth of twenty-three, whose courage and conduct in that disastrous surprise, were afterwards to be the grateful theme of his faithful historian and friend.

His grandfather, of the same name, was a native of Wales, who settled in Westmoreland county about the year 1730, where he married Elizabeth Markham, a native of England. Of four sons and five daughters of this marriage, Thomas, the father of the Chief Justice, was the oldest, and inherited the family estate called "Forest," consisting of a few hundred acres of poor land in Westmoreland. He removed from this county to Fauquier soon after he attained manhood, and having intermarried with Mary Keith, by which he became connected with the Randolphs, he sat down upon a small farm at the place where John Marshall, his oldest son, was afterwards born. The great proprietor of the Northern Neck of Virginia, including Fauquier, was at that time Lord Fairfax, who gave to George Washington the appointment of Surveyor in the western part of his territory, and Washington employed Thomas Marshall in the same business. They had been near neighbours from birth, associates from boyhood, and were always friends.

Thomas Marshall was a man of extraordinary vigour of mind, and of undaunted courage. When his associate and friend received the command of the American armies in the war of the Revolution, he left his estate and his large family, then or soon after comprising fifteen children, and embarked in the same cause. Filial respect and affection, have recorded of him, that he commanded the third Virginia Regiment upon the continental establishment, and performed with it the severe duty of the campaign of 1776. On the 26th of December in that year, he shared the peril as well as the glory of that enterprise, not surpassed in vigour or brilliancy by any thing in the Revolution, in which the Hessian regiments at Trenton were surprised and captured, by troops who had passed the previous night in contending with the snow and hail and the driving ice of the Delaware.

He was afterwards, on the 11th September, 1777, placed with his regiment on the right of the American army at Brandywine, and received the assault of the column led by Lord Cornwallis. "Though attacked by much superior numbers, the regiment maintained its position without losing an inch of ground, until both its flanks were turned, its ammunition nearly expended, and more than one half of the officers and one third of the soldiers were killed or wounded. Colonel Marshall, whose horse had received two balls, then retired in good order to resume his position on the right of his division, but it had already retreated."* We may believe that from such a father, the son would derive the best preparation for a career that was to exemplify the virtues of fortitude, patriotism, and invincible constancy in the maintenance of what he deemed to be right.

After residing a few years at Germantown, the father removed with his family about thirty miles farther west, and settled in the midst of the mountains east of the Blue Ridge, at a place called "The Hollow," in a country thinly peopled and destitute of schools, but remarkable for the salubrity of its atmosphere, and the picturesque beauty of its mountain scenery. It was a place altogether admirable for the formation of a physical constitution, and for the development of its powers by athletic exercises and sports: and it was here that the son remained until his fourteenth year, laying the foundation of that vigorous health which attended him through life, and deriving from his father all the training in letters, which a then frontier county of Virginia, or the moderate resources of a farmer, could afford. At the age of fourteen he was sent for instruction in Latin to a Clergyman named Campbell, who resided in Westmoreland, with whom

*1 Marshall's Washington, 158.

he remained about a year, having for one of his fellow students James Monroe, afterwards President of the United States; he then returned to his father, who about that time removed to the place called Oak Hill, which still remains in the family. He here received for the term of another year, some further instruction in Latin from a Scotch gentleman named Thomson, who was the clergyman of the parish and lived in his father's family; and this was the whole of the classical tuition he ever obtained. But his father, though he had not himself enjoyed the benefit of an early education, was devoted to the cultivation of his children, and sought by personal instruction to supply to them what he had not the means of deriving from seminaries of learning. He was a practical surveyor, adequately acquainted with the Mathematics and Astronomy, and familiarly conversant with History, Poetry, and general literature, of which he possessed most of the standard works in our language; and these were the means, which, under his fostering attention, seconded by extraordinary facility in his pupil, and by a sweetness of temper which was his characteristic from birth, completed all the education the son received. It is the praise and the evidence of the native powers of his mind, that by domestic instruction, and two years of grammatical and classical tuition obtained from other sources, Mr. Marshall wrought out in after life a comprehensive mass of learning both useful and elegant, which accomplished him for every station that he filled, and he filled the highest of more than one description.

The war of the revolution is known to have been in preparation for some years before the first blow was struck. In all the colonies, the topics of controversy were familiar to the youth, and in none more than in Virginia. The most temperate spirits in the land looked to arms as the inevitable recourse; and by their writings, their speeches,

their daily and familiar conversation, spread the preparatory temper around them. It was the retired soldier of Mount Vernon, who in April 1769, thus wrote to his friend George Mason, who afterwards drafted the first constitution of Virginia: "At a time when our lordly masters in Great Britain will be satisfied with nothing less than a deprivation of American freedom, it seems highly necessary that something should be done to avert the stroke, and maintain the liberty which we have derived from our ancestors. But the manner of doing it, *to answer the purpose effectually*, is the point in question. That no man should scruple or hesitate a moment to use arms in defence of so valuable a blessing, is clearly my opinion."

This sentiment and others of the like strain, universally diffused, led to military training in many parts of the country. It was to furnish the only effectual answer to the purpose of oppression; and as the heart of John Marshall was from his birth riveted to the cause of freedom, he devoted himself from 1773, when he was in his eighteenth year, to acquire the elements of military knowledge in a volunteer corps, with a comparative disregard of the further pursuit of his civil education, and of the study of the law, which he had commenced.

The battle of Lexington, on the 19th of April, 1775, brought to a crisis the protracted efforts of the colonies, to obtain the blessings of political liberty by appeals to justice, and to the principles of the British constitution.

At this date, Mr. Marshall resided in the paternal mansion at Oak Hill, and his first appearance after intelligence of the event, was as an officer of a militia company in Fauquier, which had been ordered to assemble about ten miles from his

residence. A kinsman and cotemporary, who was an eye witness of this scene, has thus described it to me.

"It was in May, 1775. He was then a youth of nineteen. The muster field was some twenty miles distant from the Court House, and in a section of country peopled by tillers of the earth. Rumours of the occurrences near Boston, had circulated with the effect of alarm and agitation, but without the means of ascertaining the truth, for not a newspaper was printed nearer than Williamsburg, nor was one taken within the bounds of the militia company, though large. The Captain had called the company together, and was expected to attend, but did not. John Marshall had been appointed Lieutenant to it. His father had formerly commanded it. Soon after Lieutenant Marshall's appearance on the ground, those who knew him clustered about him to greet him, others from curiosity and to hear the news.

"He proceeded to inform the company that the Captain would not be there, and that he had been appointed Lieutenant instead of a better:—that he had come to meet them as fellow soldiers, who were likely to be called on to defend their country, and their own rights and liberties invaded by the British:—that there had been a battle at Lexington in Massachusetts, between the British and Americans, in which the Americans were victorious, but that more fighting was expected:—that soldiers were called for, and that it was time to brighten their fire arms, and learn to use them in the field;—and that if they would fall into a single line, he would show them the new manual exercise, for which purpose he had brought his gun,—bringing it up to his shoulder.—The sergeants put the men in line, and their fugleman presented himself in front to the right. His figure, says his venerable kinsman, I have now before me. He was about six feet high, straight and rather slender, of dark com-

plexion—showing little if any rosy red, yet good health, the outline of the face nearly a circle, and within that, eyes dark to blackness, strong and penetrating, beaming with intelligence and good nature; an upright forehead, rather low, was terminated in a horizontal line by a mass of raven-black hair of unusual thickness and strength—the features of the face were in harmony with this outline, and the temples fully developed.—The result of this combination was interesting and very agreeable. The body and limbs indicated agility, rather than strength, in which, however, he was by no means deficient. He wore a purple or pale-blue hunting-shirt, and trousers of the same material fringed with white. A round black hat, mounted with the bucks-tail for a cockade, crowned the figure and the man.

"He went through the manual exercise by word and motion deliberately pronounced and performed, in the presence of the company, before he required the men to imitate him; and then proceeded to exercise them, with the most perfect temper. Never did man possess a temper more happy, or if otherwise, more subdued or better disciplined.

"After a few lessons, the company were dismissed, and informed that if they wished to hear more about the war, and would form a circle around him, he would tell them what he understood about it. The circle was formed, and he addressed the company for something like an hour. I remember, for I was near him, that he spoke at the close of his speech of the Minute Battalion, about to be raised, and said he was going into it, and expected to be joined by many of his hearers. He then challenged an acquaintance to a game of quoits, and they closed the day with foot races, and other athletic exercises, at which there was no betting. He had walked ten miles to the muster field, and returned the

same distance on foot to his father's house at Oak Hill, where he arrived a little after sunset."

This is a portrait, my fellow citizens, to which in simplicity, gaiety of heart, and manliness of spirit, in every thing but the symbols of the youthful soldier, and one or two of those lineaments, which the hand of time, however gentle, changes and perhaps improves, he never lost his resemblance. All who knew him well, will recognize its truth to nature.

In the summer of 1775, he was appointed first Lieutenant of a company in that Minute Battalion, of which he had spoken,—was ordered in the autumn of that year to the defence of the inhabitants adjacent to Norfolk, then menaced by a predatory force under Lord Dunmore, the Royal Governor of the colony; and on the 9th of December he had a part in the gallant and successful action at the Great Bridge, where Lord Dunmore attempted to arrest their further progress to Norfolk, but was compelled by defeat to take refuge in his vessels, and to leave to the inhabitants the succour which had been sent them. Thus, at an age when the law regarded him as still in a state of pupilage to be defended by others, he was facing the fire of the enemy in the defence of his country.

In July, 1776, he was commissioned a Lieutenant in the 11th Virginia Regiment in the continental service, with which he marched to the northward, where in May, 1777, he was appointed a Captain; and from this time till February, 1781, with the exception of a part of the year 1779–80, he was constantly at the post of danger, and had before the age of twenty-six, given one third of his life either to pre-

paration for duty, or to the full and effective services of a patriot soldier.

The principal events of his military life, have a peculiar interest for you, my fellow citizens, since the protection or the rescue of this city from the grasp of the enemy, was connected with most of them. His regiment belonged to the brigade of General Woodford, which formed part of the American right at the battle of Brandywine, in front of which was placed the third regiment, commanded by his gallant father.

On the fourth of October following, he was in the battle of Germantown, and in that part of the American army, which after attacking the light infantry posted in front of the British right wing, and driving it from its ground, was detained, while pursuing the flying enemy, by the fire of the 40th British regiment in Chew's house.

He was one of that body of men, never surpassed in the history of the world, who, unpaid, unclothed, unfed, tracked the snows of Valley Forge with the blood of their footsteps in the rigorous winter of 1778, and yet turned not their faces from their country in resentment, nor from their enemies in fear.

He was again in battle at Monmouth on the 28th June, 1778, upon the retreat of the British army from this city to New York; and thus in the course of less than a year, he was three times in battle under the immortal father of his country, and twice, in the fields of Brandywine and Monmouth, with the heroic La Fayette. *Washington—La Fayette—Marshall*—what names now more sacred to the lovers of constitutional freedom throughout this land! *Bran-*

dywine—Germantown—Monmouth—What battles could have equalled the disaster of these, if their rolls had returned such names among the dead!

On the night of the 15th June, 1779, he was in the covering party at the assault of Stony Point; and was subsequently an officer of the detachment ordered by Lord Sterling to cover the retreat of Major Lee, after his brilliant surprise, and capture of the British garrison at Powles' Hook, on the night of the 18th August. He continued on the Hudson until the close of that year, when not being in that part of the Virginia line which was ordered to South Carolina, and the enlistment of the rest of the Virginia troops having expired, he returned to his native state, and until October, 1780, prosecuted the study, and took a license for the practice of the law.

In October, 1780, when the man who was the only stain upon the fidelity of the American army, invaded the state of Virginia with a British force, Captain Marshall again joined the army under the command of Baron Steuben, and on the 10th of January, 1781, was with it near Hoods, when the British troops, on their retiring to Portsmouth, sustained, in an ambuscade by the Americans, the only loss which on their part attended that incursion. Before the renewed invasion of Virginia in the spring of 1781, there being more officers than the state of the Virginia line required, he resigned his commission, and in the succeeding autumn commenced the business of his profession.

And now, my fellow citizens, if in the heat and conflict of political parties, it sometimes happens, as happen it does, that the principles and motives of the best among us, are calumniated by imputed disaffection to freedom, to republi-

canism, and to the good of the people, what more triumphant refutation of the slander, if it were uttered against John Marshall, than to hold up this brief sketch of the first twenty-five years of his life! A man of the people, deriving his existence from a cultivator of the earth: a stranger during youth to all the indulgences which nourish a sense of superiority to others, or deaden a sympathy with the humble:—imbibing his knowledge, his tastes, his morality, his estimate of mankind, from a brave and virtuous yeoman:—and at the age of nineteen, seizing a sword from the armory of his country, and without the thirst of military glory or the love of command, carrying it for six years unsheathed, in the cause of equal rights!—Such a man at the age of twenty-five, must have turned out his father's blood from his veins, and have dug up from the native soil of his heart, every seed and plant of his youth, or he could have no choice but to live and to die a republican.

But a short time elapsed after Mr. Marshall's appearance at the bar of Virginia, before he attracted the notice of the public. His placidity, moderation, and calmness, irresistibly won the esteem of men, and invited them to intercourse with him;—his benevolent heart, and his serene and at times joyous temper, made him the cherished companion of his friends;—his candour and integrity attracted the confidence of the bar;—and that extraordinary comprehension and grasp of mind, by which difficulties were seized and overcome without effort or parade, commanded the attention and respect of the Courts of Justice. This is the traditionary account of the first professional years of John Marshall. He accordingly rose rapidly to distinction, and to a distinction which nobody envied, because he seemed neither to wish it, nor to be conscious of it himself.

He was chosen a representative to the Legislature, and then a member of the Executive Council, in the course of the year 1782; but after his marriage in January, 1783, with Mary Willis Ambler, a daughter of Jacqueline Ambler, of York, in Virginia, he was desirous of leaving public life, that he might devote himself more closely to his profession, and to that domestic felicity which was promised by his union with a lady who for nearly fifty years enjoyed his unceasing affection and tenderness, and whom he describes in his will as a Sainted Spirit that had fled from the sufferings of life. He accordingly, in the year 1784, resigned his seat in the Executive Council; but although he was an inhabitant of Richmond, his friends in Fauquier, who had known and loved him from his birth, and took a most natural pride in connecting his rising name with their county, spontaneously elected him to the Legislature; and in the year 1787, he was chosen a representative to the same body for the city of Richmond.

A day had now approached, when questions of momentous national concern were to display more extensively the powers of this eminent man, and to give to the whole American people an interest in his services and fame.

Whoever speaks of the confederation under which these states achieved their separation from Great Britain, may safely do it in the language, and with the feelings of the Historian of Washington. "Like many other human institutions," he says, "it was productive neither in war nor in peace, of all the benefits which its sanguine advocates had expected. Had peace been made before any agreement for a permanent union was formed, it is far from being improbable, that the different parts might have fallen asunder, and a dismemberment have taken place. If the confederation

really preserved the idea of union, until the good sense of the nation adopted a more efficient system, this service alone entitles that instrument to the respectful recollection of the American people, and its framers to their gratitude."* With this just testimonial to a merit sufficient of itself to consecrate it in the affections of the country, it must at the same time be conceded, that the confederation was no more than the limited representative of other governments, and not a government itself. It was a league of Sovereigns, but not a Sovereign, nor had its mandates the sanctions, nor consequently the efficacy, of a supreme law. With power to contract debts, and to pledge the public faith for their payment, it had no power to levy taxes, or to impose duties for the redemption of the pledge. It was competent to declare war, but not to raise armies to carry it on. It was authorized to receive Ambassadors and to make treaties, but not to regulate commerce, their most frequent and most salutary object. It stipulated for the free and equal trade and intercourse of the citizens of all the states, but was without judicial authority to decide upon the violation of the compact, or to declare the nullity of the violating law. It was in fine the organ of communication between the states, and with foreign powers, and was entrusted in certain cases to declare their respective relations, and to assess the proportions in which the members of the confederacy were to discharge their common duty, but it could effectuate nothing, until the separate consent and act of the states had supplied it with the means. Every case of non-compliance with the requisitions of Congress, and they were frequent and fearful, was consequently either a case of rupture and dissolution of the union, or of general paralysis. When the excitement of war had subsided, and a diversity of local interests had

*1 Marsh. Life of Washington, 429.

produced the inevitable birth of opposing wishes and opinions, "a government depending upon thirteen distinct sovereignties for the preservation of the public faith, could not be rescued from ignominy and contempt, but by finding those sovereignties administered by men exempt from the passions incident to human nature."*

The years of peace which immediately ensued this glorious war, attested but too faithfully the entire inefficiency of this system for the maintenance of the character as well as of the interests of the American people. The debts of the nation were unpaid, even to "that illustrious and patriotic band of fellow citizens, whose blood and whose bravery had defended the liberties of their country."† The men whom we now seek for in every nook and corner of this extended land, to clothe them with the mantle of unsparing bounty, in gratitude for the smallest contribution of military service, are the survivors of those, who, having borne the burden of the whole war, were then suffered to perish in their rags for want of justice. Some of the stipulations of the treaty of peace with Great Britain, were confessedly violated by us, through the inability of Congress to enforce their performance by the states; and the nation from whom we had wrung our freedom, in a struggle not more illustrated by courage, than by that virtue which justified the appeal "to the Supreme Judge of the world for the rectitude of our intentions," could cite our defaults in peace, as the cause and excuse of her own. Public credit was annihilated:—Private engagements were disregarded:—State laws, instead of correcting the evil, in many instances increased it, by relaxing the administration of Justice; and the fruit of the

*2 Marsh. Life of Washington, 75.
† Address of Congress to the States.

whole was the prodigious birth of parties, in whose conflict the common mother that bore them was threatened with dishonour and death.

These parties, in both of which there were many who looked with agony upon the state of the country, and at the crisis, which the unremedied mischiefs of the time must soon have brought on, were in all that regards our national union, discriminated by a broad and never to be forgotten distinction. On the one side, regarding the people as one, by their common sufferings, triumphs and interests, and dreading the catastrophe which they feared was at hand, they laboured to unite them in an indissoluble union, under one Federal head, having supreme power to regulate and govern the general concerns of the whole. On the other, regarding the states with partial affection, and jealous of every measure which tended to deprive them of any portion of the ultimate control, they magnified the danger, and decried the uses, and resisted the grant, of efficient powers, even to the confederation.

It is known on which side of this great question was the immortal father of his country. "I do not conceive," he said in the year 1786, "that we can exist long as a nation, without lodging somewhere a power which will pervade the whole union in as energetic a manner, as the authority of the state governments extends over the several states." Being called upon to use his personal influence, to bring to order a body of insurgents, whom the disordered state of the times permitted to grow into flagrant rebellion against the laws, he replied, "I know not where that influence is to be found, nor, if attainable, that it would be a proper remedy for these disorders. *Influence* is not *Government*. Let us have a government by which our lives,

liberties and properties, will be secured, or let us know the worst at once." On the same side, then and ever after, was JOHN MARSHALL; and when the extremity of public distress had wrung from twelve of the states their consent to a convention for the revision of the Federal System, and that body had submitted for the approbation of the people of the several states the present Constitution, he was a delegate to the convention of Virginia, which met on the second of June, 1788, to take it into consideration.

Virginia was divided with remarkable equality in regard to this instrument, for which there is now among us a profession of universal admiration; and she sent the flower of her people to the convention at which it was to be considered. Intelligence, talents, patriotism, and undoubted integrity of purpose, did not distinguish the parties in that body from each other; but they were irreconcileably opposed in opinion, and respectively assailed and defended the fundamental principles of the constitution with the ardour of equal conviction. The fire of PATRICK HENRY kindled in many of his hearers the most vivid apprehensions for the fate of the states, and of freedom itself, under the influence of a constitution, in the first words of which, "We the people," he saw the portent of consolidation, and in the title and office of President, "the likeness of a kingly crown." He alarmed them by the declaration, that by the power of taxation, by that of raising an army, and by their control over the militia, Congress would have the sword in one hand and the purse in the other, "and that unless a miracle in human affairs interposed," the nation could not retain its liberty: that the treaty making power would place the territory and commerce of the states in the hands of the President and two thirds of a quorum of the Senate; and that by its power to make all laws which should be necessary and proper to

carry its express powers into effect, "the government would operate like an ambuscade, and would destroy the state governments, and swallow the liberties of the people, without giving them previous notice." Other delegates of great name and influence, the Masons and the Graysons, men at that time and afterwards most dear to Virginia, assisted to rivet these fears upon the public mind, by every variety of argument drawn from almost every provision in the Constitution, those especially to which there must be immediate resort, in the very first steps of its administration.

Of the delegates who resisted these assaults, there were two whom subsequent events have distinguished from the rest by their long continued and elevated career. JAMES MADISON, who had been a distinguished member of the convention which formed the constitution, and had afterwards devoted his consummate powers with HAMILTON and JAY, to the explanation and defence of the whole instrument, —this now most venerable and venerated man, the beautiful evening of whose illustrious life, is, to the delight of a grateful people, still unspent,—gave to it again the full vigor of his philosophical mind, and the copious resources of his mature and disciplined wisdom; and by his side stood the man we are assembled to honour, who turning from what was incidental or subordinate to the more important topics of debate, and shedding upon them the light of an intellect, in whose rays nothing was obscure, dispelled the shadows which had been thrown around them, and in sustaining the Constitution, unconsciously prepared for his own glory, the imperishable connection which his name now has with its principles. Fortunately for him, as for us all, the convention of Virginia adopted the Constitution; but the small majority of ten by which it was carried, and this brief notice of the objections to it, may show that the seeds of

party division were sown, before the formation of the present union, and that if the spirit of the confederation was not likely to misinterpret the administration of the Constitution, it was as little likely to regard it with favour.

The sentiments of Mr. Marshall upon the best general structure of government, declared in this memorable convention, were those in which he afterwards lived and died. He was the friend of a government of sufficient strength to protect those rights in whose behalf government is instituted; but he was also, and therefore, the friend of the people, and of the principle of representation, by which rulers are kept in harmony with the people; and he gave his cordial preference to the scheme of regulated liberty, proposed in the Constitution, over every other form of government upon earth. In his first reply to Mr. Henry, he said, "I conceive that the object of the discussion now before us is "whether democracy or despotism be most eligible. Those "who framed the system submitted to our investigation, and "those who now support it, intend the establishment and "security of the former. The supporters of the Constitution "claim the title of being firm friends of liberty and the "rights of mankind. They consider it the best means of "protecting liberty. We, sir, idolize democracy. Those "who oppose it, have bestowed eulogiums on monarchy. "We prefer this system to any monarchy, because we are "convinced that it has a greater tendency to secure our "liberty, and promote our happiness. We admire it, be-"cause we think it a well regulated democracy." "The "honourable gentleman said, that a government should de-"pend upon the affections of the people. It must be so. It "is the best support it can have." "We are threatened "with the loss of our liberties by the possible abuse of "power, notwithstanding the maxim that those who give

"may take away. It is the people that give power and can "take it back. What shall restrain them? They are the "masters who gave it, and of whom their servants hold it." "The worthy member has concluded his observations by "many eulogiums on the British Constitution. It matters "not to us, whether it be a wise one or not. I think that, "for America at least, the government on your table, is "very much superior to it. I ask you, if your house of "representatives would be better than this, if the hundredth "part of the people were to elect a majority of them? If "your Senators were for life, would they be more agreeable "to you? If your President were not accountable to you for "his conduct,—if it were a constitutional maxim that he "could do no wrong,—would you be safer than you are now? "If you can answer *yes* to these questions, then adopt the "British constitution. If not, then, good as that government "may be, this is better."

It was the admirable temper in which these remarks were made, and the spirit of sincerity and personal conviction which breathed in them, that drew from Patrick Henry, his short but comprehensive eulogium. "I have the highest respect and veneration for the honourable gentleman. I have experienced his candour upon all occasions."

We are now, fellow citizens, at the distance of nearly half a century from the first movements of the government established by the Constitution thus adopted, and it is not possible to give an intelligible narrative of the life of John Marshall, without a glance at them during the administration of the first President. The principal actors in them have passed away. Their conflicts of opinion,—their struggles for personal triumph, or for public favour,—have ceased to divide or to excite us, while the memory of their talents

and of their devotion to the public welfare, is perpetually coming up to us with fresh and renewed fragrance, as our senses take in the scene of universal happiness which has crowned their labours. In referring to that day, it is our duty and delight, not only to remember this, but especially that we are speaking of one, whose heart was a fountain of good will to all, and who in the sharpest encounters of party, was a stranger to every feeling that embitters or degrades it. No man of truth or candour ever imputed to him a motive that was false to his country. His venerable form would almost rise to the rebuke of one, who should endeavour to heighten his praise by imputing such a motive to those who were his political opponents.

The friends of the Constitution, with whom the name of John Marshall will ever stand the first and most illustrious, were classed before and after its adoption, under the title of federalists, from their preference and support of the federal union, which it was designed to create. During the administrations which ensued, the apprehension of its alleged tendency to overthrow the states, and to destroy American liberty, as it had not been entertained by them at any time, did not induce them to adopt a jealous construction of its powers. They acted upon the principle, that it was their duty to give this instrument a fair interpretation, and fairly to exercise its powers in furtherance of its declared design, "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." As the sovereign people of the states had substituted the Constitution for the confederation, they believed that it consisted as little with their engagement of fidelity, as with the general welfare, to make it a confederation in effect, either by the rules by which it was ex-

pounded, or by the spirit in which it was administered. They regarded the states as strong by the ten thousand bonds of property and local association, and by the great basis of internal power which had been reserved to them by the people. The union they considered as destined to contempt and speedy extinction, unless the powers given to it should be used in the spirit of the gift, to make it in its own sphere, what the states were in theirs. It was a time, however, when to practise upon these principles, now almost universally professed, was to encounter the fears and honest prejudices of a large portion of the people, to a greater degree than we may at present be aware of. The people had been reared at the bosom of their respective states, with little experience of any but domestic authority, except that which was really foreign, and at the same time hostile; and they were not unsusceptible of alarm from preparations for a government which in some aspects appeared to be external, though it was truly and essentially an emanation from themselves. The system was untried. What it certainly would be, was not known. What it might prove to be, was sincerely feared. The exercise of power under political constitutions of very different character, being in many instances discriminated in degree, rather than in kind, its application in the mildest form becoming despotic if pressed to an extreme, it was not difficult in the obscure light of our just dawning government, to raise to an excited imagination a phantom of terrific threatenings, from the first acts of power, however mild and benign.

In this state of the public mind, the first office under the Constitution was held by Washington, to whom, if to any man upon earth, universal confidence was due, for the qualities material to the prosperous issue of the new government. Nevertheless, his incomparable moderation, his self-abandon-

ment upon all occasions, in furtherance of the public weal, his repeated rejection of power, trust and emolument, his known reluctance to accept the station, even at the unanimous call of his country, none of these could relieve his administration from the fears which the Constitution had engendered.

The funding of the debts of the union, and the assumption of the state debts contracted in the war—a proposed duty upon distilled spirits—the establishment of a national bank —an increase of the army to protect the western frontier from Indian aggression—and an enlargement of the duties on impost and tonnage, with a view to a permanent provision for the discharge of the public debt, instead of leaving it to annual appropriations, were the principal transactions which marked the first official term of the first President of the union; and we may ponder them as constituting an instructive chapter in the history of the human mind, when acts like these could before the year 1793, organize this nation into parties, who continued their struggle till the authors of this legislation ceased as a party to exist, and the fear of their prevailing policy ceased to exist with them.

It can excite no surprise in those who are familiar with that day, that in the intermediate period, between the proclamation of neutrality in 1793, and the ratification of the British treaty in 1795, an endeavour to provide an armament of six frigates for naval protection, had to contend with the same apprehension of federal power; and that it was necessary to palliate this first effort towards the foundation of our immortal navy, with a clause which suspended further proceedings, if peace should take place with the regency of Algiers.—It should allay the bitterness of parties that are,

and are to come, to cast their eyes back to the still visible distance of our first administrations, and to see how little of that which once divided the country, now remains to discriminate us.

No state in the union took an earlier or more decided lead upon the questions supposed to affect the power of the states, than Virginia. Her talents, her love of liberty, her love of fame,

> ——— the spur that the clear spirit doth raise,
> (That last infirmity of noble mind,)

continued to make her voice earnest, clear, and determined, in asserting the dangers of the federal administration, as it had been, in opposing the Constitution. At the first meeting of the state legislature after it had been adopted, the political sentiments of that body were such as to send the opponents of the Constitution to the Senate of the United States, in exclusion of Mr. Madison; and they adopted by a majority of two to one, resolutions enjoining Congress to call a convention, for proposing amendments to it, to the effect, if successful, of throwing again open the whole subject of union.

Of this legislative body, Mr. Marshall was a member, representing the city of Richmond, as he continued to do until the spring of 1791.

He had attained a high professional reputation, offering every thing that great learning, extraordinary vigour of mind, and the purest integrity, can place within the reach of an eminent lawyer. He was a favourite with the people of Virginia; and in a professional career, undisturbed by poli-

tical connexion, there was nothing to obstruct his progress to universal regard and preference. But although no man, from the gentleness of his nature and the perfect balance of his mind and affections, could be freer from party excitement than he was, the success of the new government was near to his heart. He had laboured strenuously to endue it with the powers it possessed. He had studied its principles, with as little disturbance from passion or prejudice as our nature permits, and thoroughly approved them. He was moreover devotedly, and by hereditary regard, attached to the man, to whom the people had confided the exalted trust of first administering the Constitution, knew and appreciated his wisdom, his moderation, the equipoise of his passions, his exemption from the stain of selfish ambition, his fear of God, and his love of country. The united influence of these causes, together with the urgent instances of his friends, compelled him at the outset of the government to disregard personal inconvenience, in coming to its support; and accordingly for successive years, on the theatre of his native state, where the sincerest admiration of Washington, did not prevent, nor scarcely mitigate the freest strictures upon his administration, Mr. Marshall gave the full powers of his intellect to the explanation and defence of its measures.

He was perhaps the fittest of his cotemporaries for the performance of this office. It was impossible to charge his life with a reproach. If a measure was condemned for its tendency to produce corruption, from whom could its defence come with more effect, than from one who was known to be incorruptible? If it was assailed for perniciously increasing the lustre or the influence of office, who could confront the charge with more grace, than one whose simplicity rejected all the artifices by which weakness is disguised, or strength made more imposing to the prejudices of men? If it was

denounced as a dangerous excess of power, whose denial could be more accredited, than that of a lover and defender of freedom from his youth, and one who in his intercourse with the world, disclaimed the distinction and authority even of his own talents? And above all, if the objection challenged the act as an usurpation upon the Constitution, who was there then, and who has there been since, that could surpass, or in all respects equal him, in touching the springs by which the inmost sense of the instrument is unlocked, and displayed to view? The application of his powers in this cause, was an admirable exercise for himself, enlarging and fortifying his mind for the great duties he was destined to perform. It preserved the warmth of his heart, and the genial flow of his affections towards his country, and its institutions, and if success and conviction did not follow his exertions, they did not inflame opposition, nor provoke resentments. His manner of debating then and ever after in representative bodies, was as grave as truth and reason could make it. He trusted to these alone for effect. He resorted to none of those arts of oratory which so often disturb their influence; and if he failed to win over his opponents, he did not alienate their respect and good will.

He declined a re-election in 1792, and from this time until 1795, continued in the practice of his profession.

In the last of these years the country was agitated to a degree transcending all former experience, by the ratification of the treaty with Great Britain. Scarcely any public measure which in the sequel has done so much good and so little injury to the nation, has been in the outset the occasion of more general and intense dissatisfaction. While the Constitution was in the hands of the people for rejection or adoption, the power by treaty, to regulate our relations with

the world, and to affect the commerce of the country with the obligatory force of a supreme law, without the intervention of Congress, was an undisputed construction of its language, and was regarded in some of the conventions, as one of its most dangerous provisions. In the excitement occasioned by the treaty with Great Britain, this construction was rejected. The authority of Congress to regulate commerce, was inferred to be exclusive from the general grant of the power to that department, or to imply a final control over a treaty having this aspect; and even the pledge of the public faith for the execution of a treaty, was asserted to be incomplete, while Congress withheld the appropriations which it made necessary. We may perceive in our existing relations with a foreign government, how remarkably the opinions of the people upon this point, have in the course of forty years converged to unanimity! The question was then new and of infinite moment. It was the first great occasion for discussing the limits of the treaty making power, for it was the first treaty upon which a large portion of the people, with whom the representative branch was likely to sympathize, had differed from the executive; and it was a crisis moreover in which war with England, or discord equivalent to war with France, was the apparent alternative of a decision either way.

It was at this time that Mr. Marshall again held a seat in the Legislature of Virginia, to which the sagacity of his friends had elected him against his consent. The Senators of Virginia had refused to concur in the ratification of the treaty. An opinion of great influence was afterwards expressed in that state, impeaching the treaty as one in which "the rights, the interest, the honour and the faith of the nation were grossly sacrificed." It was here of course that the constitutional defect as well as every other objec-

tion that could encourage the House of Representatives to defeat the treaty by refusing the appropriations, was urged with all the ardour of excited feelings, and with the energy of sincere belief. But upon a question of constitutional law, no feelings and no conviction that were not in harmony with the truth, could resist the powers of John Marshall. The memory of the surviving witnesses of his memorable effort upon that occasion, is believed to be the only record of it which exists. It is remembered as an admirable display of the finest powers of reasoning, accompanied with an exhibition of the fullest knowledge and comprehension of the history and scope of the Constitution, and of the public interests affected by the treaty; and its effect will forever be seen in the resolution which the house adopted. It did not touch the constitutional objection in any of its forms, nor directly question the expediency of the treaty; but it expressed the highest sense of the integrity, patriotism and wisdom of the President of the United States, and declared that in approving the votes of the senators of that state relative to the treaty, the assembly did in no wise mean to censure the motives which influenced him to the ratification.

This period of the life of Chief Justice Marshall, taken in connection with that which preceded, and contemplated in reference to what finally proved to be his great duty, and the crown of his public services, cannot be regarded without emotion, by any one who acknowledges a providence in the affairs of men.

The day was to come, and was not distant, when laws enacted by the representatives of a free and sovereign people, were to be submitted to a comparison with the Constitution of the nation, and to stand or fall by the decrees of a court destitute of the smallest portion of political power, and

having no independent authority but that of reason. The passions of the people, the interests of the states, and the power of both, were to be controlled and overruled in this name; or if it should be despised and rejected, the only bond of the union that would remain, was to be that which alone remains to nations after reason and law have departed from the earth.

The mind of man cannot conceive of a finer contrivance than the judicial power of the union to give regularity and harmony to a system, the parts of which acknowledge independent laws, and gravitate as it were towards different suns, while the whole move in one common orbit, and are bound to obey a central attraction for the maintenance of internal order, and of their relations to the external world. But the essence of this attraction is reason rather than force, and the great fountain which supplies it, is in this supreme and central court; and we might tremble to ask, where would the greater disturbances of the system look for their corrective, if the supply of this celestial influence should fail, if her bosom should cease to be the seat of the law, and her voice the harmony of the union.

For the first of the offices in this august court, what virtues then, what intellectual powers, what training could have more the cast of apparent destination, than those of this eminent man. To the eye of the world, his connection with the war, with the confederacy, with the adoption of the Constitution, with the conflicts of opinion it excited, and the contests which its first operations produced, may have appeared casual. His consent to serve in legislative assemblies was often reluctant and sometimes withheld. Office, power and public honours, he never sought. They sought him, and never found him prepared to welcome them, except as

a sense of duty commanded. The last thing to which his eye was directed, was probably the office which he finally held. But we can now look back, and see with certainty, that it was this very combination of patriot soldier, lawyer, and statesman, and strenuous defender and expounder of the Constitution, united with his republican simplicity of manners, the amenity of his temper, and his total exemption from that stain by which the angels fell, that was filling the measure of his accomplishments for it, and preparing the whole country to acknowledge that no one could fill it so well.

After the argument upon the British treaty, which made him universally known, Mr. Marshall was regarded as belonging to the nation. The President offered to his acceptance the office of Attorney General of the United States, which he felt himself at liberty to decline. Upon the recall of Mr. Monroe from France in the year 1796, he was invited to take the appointment of minister to that nation, but he again declined. He continued in the Legislature of Virginia, and prosecuted his profession with assiduity and still increasing reputation. It was in this year, and at the bar of the Supreme Court of the United States, in this city, that he justified his professional fame by his argument in the great cause of the Virginia debts. In the following year when under peculiar circumstances it was deemed proper to make a last effort to avert hostilities with France by a special mission, his sense of patriotic duty overcame his reluctance, and he accepted the appointment offered to him, in conjunction with General Pinckney and Mr. Gerry, by Mr. Adams then President of the United States.

No man in the nation was fitter for the office by firmness, by moderation, by true American spirit, extensive know-

ledge of political events, and thorough competency to justify the course of Washington's administration towards France. It was at the same time a post of great difficulty and responsibility. From the first outbreaking of that revolution which he has described as "the admiration, the wonder, and the terror of the civilized world," the gratitude of this people for aid in the revolutionary war, and their sympathy with the cause of freedom, gave them the strongest interest in the establishment of a free government in France. They felt it universally, and they expressed it in every form that grateful hearts could suggest. The affection was deep, sincere, and enthusiastic. The first excesses of the revolution did not arrest, nor to any great degree abate, the force of this generous current. They were attributed to the strength of the bondage by which the people of France had been chained to the earth, and which nothing but convulsions could shatter to pieces. But as from day to day they became more frightful in that career which was to cover France with blood and horror, many of her sincerest friends, more than doubted whether these were the lineaments of true liberty, and whether it was the duty of gratitude to admire and to praise them. Upon this point, and possibly because we were so upon others, we became a divided people; and when the declaration of war by France against Great Britain, made it her interest as it was her undisguised purpose to draw us into an alliance with her, it required all the firmness and personal influence of that immortal man, who was then at the head of our government, to hold our nation to the safe and middle path of neutrality. Our treaty with Great Britain, increased the division among ourselves, aggravated the complaints of France, and at length led to a scene of unparalleled outrage upon our property, our peace, and our independence. Pursuing that policy which from the outset marked her course towards those who either op-

posed or stood aloof from her, France openly attempted to separate this people from those whom they had selected to administer their government. In November, 1796, the French minister to this country, in announcing to the Secretary of State by order of the directory, the suspension of his functions, concluded his letter by an inflammatory apostrophe to the American people, calling upon them to remember that this government had made a treaty of amity with the tyrant of the seas, who had declared a war of death to the French nation for having cemented with its blood the independence of the United States. "Let your government return to itself," was its concluding sentence, "and you will find in Frenchmen faithful friends and generous allies."

In the same spirit the Directory refused to receive General Pinckney, the minister appointed to succeed Mr. Monroe, and compelled him to leave the territories of the Republic; and its President, in his formal address at the audience of leave given to Mr. Monroe, declared that France would not "degrade herself by calculating the consequences of the condescendence of the American government to the suggestions of her former tyrants;" but the American minister was requested to assure the "good American people, that like them France adored Liberty, that *they* would always have her esteem, and that *they* would find in the French people that republican generosity, which knows how to grant peace, as it does to cause its sovereignty to be respected."

What, my fellow citizens, would be the effect of an appeal in the same spirit to the American people, at the present hour? What would be the response at this day, to such an invasion of American independence? One universal cry of disdain and defiance from the farthest extremity of Maine to the Gulf of Mexico. In party divisions still continuing, and

never to cease, the inseparable attendant of all the free states that have ever existed, the mingled good and evil of the best governments that man has ever formed, we strive for the power to order and appoint our own house as we deem best; but the very struggle has bound us the more to our country, and would indignantly throw off from the contest the intrusion of aliens, as an imputation and stain upon our filial love.

It was at a special session of Congress, convened upon the receipt of the despatches of General Pinckney, that the President of the United States, on the 31st May, 1797, nominated that gentleman, together with Francis Dana, chief justice of the state of Massachusetts, and General John Marshall, to be Ministers to the French Republic. Mr. Gerry was subsequently nominated upon Mr. Dana's declining to accept the appointment. In the message to the Senate which made this nomination, the President stated, that in the then critical and singular circumstances, it was of great importance to engage the confidence of the great portions of the Union in the character of the persons employed, and the measures which ought to be adopted; and he had therefore thought it expedient to nominate persons of talents and integrity, long known and intrusted in the three great divisions of the Union; and in his message to the House of Representatives, with a spirit and fearlessness in the cause of his country, in which Mr. Adams was second to no man that ever lived, he said, "such attempts to separate the people from their government, to persuade them that they had different affections, principles and interests, from those of their fellow citizens, whom they had themselves chosen to manage their common concerns, and thus to produce divisions fatal to our peace, ought to be repelled with a decision which should convince France and the world,

that we were not a degraded people, humiliated under a colonial spirit of fear, and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of honour, character and interest." Immortal sentiments, worthy of a founder of the republic, and worthy to unite with the blood of her own citizens, in cementing her independence!

It was reserved for such a revolution as that of France, to add the page to history which records the course and termination of this celebrated mission. The ministers were surrounded in Paris by the apparatus of a revolutionary power, the terrors of which were only alleviated by comparison with some of its preceding forms. They were unaccredited, unrespected, unprotected, and were daily suffering in their persons both contumely and insult. They were assailed informally, but at the undoubted instigation of the minister of foreign affairs, with the flagitious demand of money for official use and distribution, as the conditional price of the liberty to negotiate for an adjustment of differences; and they were menaced, if they should refuse to pay the bribe, that party in their own country, would and should renounce them as corrupted by British influence to rupture the negotiation.

Nothing however could shake the constant minds of the American ministers. No unworthy fear could make them abate one jot or tittle of their whole duty to their country. They silenced the panders to this infamous venality with the answer of "no, no, not a sixpence;" and though denied the privilege of negotiation, they gained the whole merit, and perhaps more than the whole benefit of it, by forcing upon the minister of foreign affairs, before they received their passports, a defence of their country, and a bill of

accusations against France, so full, so clear, so profound in its arguments, and withal so dignified and moderate in its tone, so truly and thoroughly American in its whole spirit, that it did not admit of refutation, nor of any limitation or qualification of praise.

The letters of the 17th January and 3d April, 1798, to Talleyrand the minister of foreign relations, will reward perusal at all times as admirable specimens of diplomacy. They have always been attributed to the pen of Mr. Marshall. They bear internal marks of it. We have since become familiar with his simple and masculine style,—his direct, connected, and demonstrative reasoning—the infrequency of his resort to illustrations, and the pertinency and truth of the few which he uses—the absence of all violent assertion—the impersonal form of his positions, and especially with the candour, as much the character of the man as of his writings, with which he allows to the opposing argument its fair strength, without attempting to elude it, or escape from it, by a subtlety. Every line that he has written bears the stamp of sincerity; and if his arguments fail to produce conviction, they never raise a doubt, nor the shadow of a doubt, that they proceed from it.

The impression made by the despatches of the American ministers was immediate and extensive. Mr. Marshall arrived in New York on the 17th of June, 1798. His entrance into this city on the 19th, had the eclat of a triumph. The military corps escorted him from Frankford to the city, where the citizens crowded his lodgings to testify their veneration and gratitude. Public addresses were made to him, breathing sentiments of the liveliest affection and respect. A public dinner was given to him by members of both houses of Congress "as an evidence of affection for

"his person, and of their grateful approbation of the patriotic "firmness, with which he sustained the dignity of his "country during his important mission;" and the country at large responded with one voice to the sentiment pronounced at this celebration, "Millions for defence, but not "a cent for tribute."

Mr. Marshall immediately after this returned to Virginia, and renewed his professional practice with a determination to be no further connected with political life; and nothing perhaps would have shaken his purpose, but an appeal which no determination could resist. We are indebted for the fact to a memoir of the Chief Justice which claims to have derived it from an authentic source.* General Washington, who had been appointed to the command of the armies raised by Congress for the expected hostilities with France, and who was afflicted by the spectacle of parties which still continued to cloud the country, invited Mr. Marshall to visit him at Mount Vernon. He there explained to him his views of the perilous crisis, pressed upon him with peculiar solemnity the duty which such men upon such occasions owe to their country in disregard of their private interests, and urged him to become a candidate for Congress. The more than sufficient motives for this request, were doubtless the commanding talents of Mr. Marshall, his familiarity with every branch of our foreign relations, the high reputation which he had acquired in the recent mission, and especially the rare union of gentleness and firmness for which he was universally known, and which made him as incapable of party excess, as he was of retreating before party opposition. But his reluctance was great, and he yielded it only to wishes, which upon a question of patriotic duty had the

* National Gallery of Portraits, Part III.

authority of law. He accordingly became a candidate, and was elected in the spring of 1799.

It was a rare fortune, and the highest possible praise, to be thought worthy of this solicitation by that extraordinary person, who was surpassed by no one in his judgment of men, or in his love of virtue or of country;—and it was a striking vicissitude, which, as the first act of Mr. Marshall in the succeeding Congress, imposed upon him the afflictive duty of announcing on the 18th of December the death of "the hero, the patriot, and the sage of America." Those who were present on the occasion, can never forget the suppressed voice, and deep emotion, with which he introduced the subject on the following day; or the thrill which pervaded the house at the concluding resolution, which ascribed to Washington the transcendent praise and merit of being "first in war, first in peace, and first in the hearts of his countrymen." The biography of Washington attributes to General Lee of Virginia the merit of this inimitable description, and modestly withholds the name of the member, whose introductory remarks were in all respects worthy of such a termination.

The house of representatives in which Mr. Marshall had a seat, was perhaps never exceeded, in the number of its accomplished debaters, or in the spirit with which they contended for the prize of public approbation. It was the last which convened in this city, and furnished a continual banquet to such as had the taste to relish the encounter of minds of the first order, stimulated to their highest efforts, and sustained by the mutual consciousness of patriotic motives. The course of this eminent man, as a member of it, was such as all impartial persons must review without a censure. His principles of government were fixed, his con-

fidence in the administration was great, his apprehensions of public mischief from a radical change of its measures was sincere, and he neither deviated from the path which these sentiments prescribed, nor faltered in it. But there was that about him which defended him from the assaults of party, and raised him above its suspicions. If he was a party man, he was so by position, and not from temper, or partial views. The homage which is paid to sincerity, even by those who do not practise it, was uniformly accorded to him; and the self-balanced mind which appeared in all he said and did, was an admitted proof that he drew from his own convictions, even that which went to sustain the efforts and to augment the resources of party.

In a certain description of cases, those of which the law or the Constitution formed the main part, he was confessedly the first man in the house. When he discussed them, he exhausted them; nothing more remained to be said, and the impression of his argument effaced that of every one else. Of this class, was the resolution of Mr. Livingston, impeaching an order of the executive, under a clause of the treaty with Great Britain, to surrender the person of Jonathan Robbins upon a charge of murder committed on board a British frigate. It was a question involving many of the greatest subjects that can be presented for debate, the construction of the treaty, the principles of the law of nations, the constitutional powers of the executive, and those also of the judicial department. Upon such topics, however dark to others, his mind could by its own clear light

> —— sit in the centre, and enjoy bright day.

The speech which he delivered upon this question is believed to be the only one that he ever revised, and it was worthy of the care. It has all the merits, and nearly all the

weight of a judicial sentence. It is throughout inspired by the purest reason, and the most copious and accurate learning. It separates the executive from the judicial power by a line so distinct, and a discrimination so wise, that all can perceive and approve it. It demonstrated that the surrender was an act of political power which belonged to the executive; and by excluding all such power from the grant of the Constitution to the judiciary, it prepared a pillow of repose for that department, where the success of the opposite argument would have planted thorns.

It has been said that his course in Congress was governed by his own convictions of right. No act of Congress during that administration was more thoroughly associated with party, than one of the previous session, commonly known, from its second section, by the name of the *Sedition Law*. He had not voted for it. He was not in Congress at the time of its enactment; but he voted for the repeal of the obnoxious section. Upon the introduction of a resolution to that effect, the journal of the house records his vote in the affirmative, while the names of all those with whom he generally concurred, are to be found on the other side.

There were measures of a different description which he promoted with the fondest zeal, and in conformity with the nearly universal wishes of the country. His personal veneration for Washington was the fruit of long observation and intercourse. It heightened his sense of the immeasurable debt, which in common with all, he believed was due to the father of his country; and not satisfied with that cheap discharge of it, which is found in the cold apothegm, "that the best monument of a patriot and hero, is in the bosoms of his countrymen," he deemed it the sacred duty of Congress to erect one, which should represent to the senses the

kindred image of the heart, and point the world and posterity, to all that was mortal of the founder of the republic. He submitted the resolution which invited the people to an universal commemoration of their grief for his death, on the anniversary of Washington's birth. He submitted that also which asked and obtained for the nation the precious deposit of his remains; and he reported the bill which passed the house of representatives for erecting a Mausoleum in the city of Washington: but the Senate postponed it to the next session, and he had then ceased to be a representative in Congress.

His connection with the house of representatives was terminated by his appointment at the close of the session, as secretary of war. He was soon after appointed secretary of state, and continued in this office the remainder of the year.

Although he held the latter office but a few months, the department contains the proof of his great abilities and patriotic spirit. It was his duty to correspond with the American Minister in England, upon the interrupted execution of the 6th article of the British treaty, in regard to compensation to British creditors, and upon the questions of contraband, blockade, and impressment, which threatened to destroy the peace of the two countries; and it is impossible to imagine a finer spirit, more fearless, more dignified, more conciliatory, or more true to his country, than animates his instructions to Mr. King. Our relations with England were now supposed to be in danger from a pending negotiation with France, and thus in some respects the language which he held to France in 1798, became necessary towards England. It was adopted without hesitation. "The United States," he said, "do not hold themselves in any degree

"responsible to France or to Great Britain for their nego-
"tiations with the one or the other of those powers, but
"they are ready to make amicable and reasonable explana-
"tions with either. The aggressions sometimes of one and
"sometimes of another belligerent power, have forced us to
"contemplate and prepare for war as a probable event. We
"have repelled, and we will continue to repel, injuries not
"doubtful in their nature, and hostilities not to be misunder-
"stood. But this is a situation of necessity, not of choice.
"It is one in which we are placed not by our own acts, but
"by the acts of others, and which we change as soon as
"the conduct of others will permit us to change it."—
This is the spirit, this is the temper, that gives dignity and security to peace, and carries into war the hearts of an united people! His despatch of the 20th September, 1800, is a noble specimen of the first order of state papers, and shows the most finished adaptation of parts for the station of an American Secretary of State.

I have now, my fellow citizens, defectively traced the life of this eminent man to the age of forty-five; and you have seen him from his youth upward, engaged in various stations and offices, tending successively to corroborate his health, to expand his affections, to develop his mind, to enrich it with the stores of legal science, to familiarize him with public affairs, and with the principles of the Constitution, and before little more than half his life had run out, producing from the materials supplied by a most bountiful nature, a consummate work, pre-eminently fitted for the judicial department of the Federal Government. To the first office of this department he was appointed on the 31st of January, 1801.

At the date of this appointment, the Constitution had been

more frequently discussed in deliberative assemblies, than in the Supreme Court of the United States. Circumstances had not yet called for the intervention of that court upon questions opening the whole scheme of the Constitution, and thereby determining the rules for its interpretation; nor had any thing of previous occurrence established the meaning of some of the most important provisions which restrain the powers of the states. The Constitution is undoubtedly clear in most of its clauses. In all its parts it is perhaps as free from doubt or obscurity, as the general language of a Constitution permits. But a Constitution has necessarily some complication in its structure, and language itself is not a finished work. The Constitution of the United States has been truly called an enumeration of powers, and not a definition of them. It cannot therefore surprise us, nor does it take from its merit, that the language of the Constitution required interpretation. It is true of the time when this appointment was made, that in many parts of the greatest difficulty and delicacy, it had not then received a judicial interpretation.

It was obvious moreover at that time, that the rapidly augmenting transactions and legislation of the states, and their increasing numbers also, must within the compass of a few years, present cases of interference between the laws of the states and the Constitution, and bring up for discussion those embarrassing questions from which the earlier days of the Union had been exempt.

For the duty of leading the highest court in the country in the adjudication of questions of such magnitude, as well as of controversies determinable by the laws of all the states, and by the code of public law, including a range of inquiries exceeding that of any other judicial tribunal that is known

to us, was this illustrious person set apart; and when we now look back upon the thirty-four years of unimpaired vigour that he gave to the work, the extent to which the court has explained the Constitution, and sustained its supremacy, the principles of interpretation it has established for the decision of future controversy, and the confirmation it has given to all the blessings of life, by asserting and upholding the majesty of the law, we are lost in admiration of the man, and in gratitude to heaven for his beneficent life.

Rare indeed were the qualifications which he brought to the station, and which continued to be more and more developed the longer he held it.

He was endued by nature with a patience that was never surpassed;—patience to hear that which he knew already, that which he disapproved, that which questioned himself.—When he ceased to hear, it was not because his patience was exhausted, but because it ceased to be a virtue.

His carriage in the discharge of his judicial business, was faultless. Whether the argument was animated or dull, instructive or superficial, the regard of his expressive eye was an assurance that nothing that ought to affect the cause, was lost by inattention or indifference, and the courtesy of his general manner was only so far restrained on the Bench, as was necessary for the dignity of office, and for the suppression of familiarity.

His industry and powers of labour, when contemplated in connection with his social temper, show a facility that does not generally belong to parts of such strength. There remain behind him nearly thirty volumes of copiously reasoned decisions, greater in difficulty and labour, than probably

have been made in any other court during the life of a single judge! yet he participated in them all, and in those of greatest difficulty, his pen has most frequently drawn up the judgment; and in the midst of his judicial duties, he composed and published in the year 1804, a copious biography of Washington, surpassing in authenticity and minute accuracy, any public history with which we are acquainted. He found time also to revise it, and to publish a second edition, separating the History of the American Colonies from the Biography, and to prepare with his own pen an edition of the latter for the use of schools. Every part of it is marked with the scrupulous veracity of a judicial exposition; and it shows moreover, how deeply the writer was imbued with that spirit which will live after all the compositions of men shall be forgotten,—the spirit of charity, which could indite a history of the Revolution and of parties, in which he was a conspicuous actor, without discolouring his pages with the slightest infusion of gall. It could not be written with more candour an hundred years hence. It has not been challenged for the want of it, but in a single instance, and that has been refuted by himself with irresistible force of argument, as well as with unexhausted benignity of temper.

To qualities such as these, he joined an immoveable firmness befitting the office of presiding judge, in the highest tribunal of the country. It was not the result of excited feeling, and consequently never rose or fell with the emotions of the day. It was the constitution of his nature, and sprung from the composure of a mind undisturbed by doubt, and of a heart unsusceptible of fear. He thought not of the fleeting judgments and commentaries of men; and although he was not indifferent to their approbation, it was not the compass by which he was directed, nor the haven in which he looked for safety.

His learning was great, and his faculty of applying it of the very first order.

But it is not by these qualities that he is so much distinguished from the judges of his time. In learning and industry, in patience, firmness, and fidelity, he has had his equals. But there is no judge, living or dead, whose claims are disparaged by assigning the first place in the department of constitutional law to Chief Justice Marshall.

He looked through the Constitution with the glance of intuition. He had been with it at its creation, and had been in communion with it from that hour. As the fundamental law, instituted by the people, for the concerns of a rising nation, he revolted at the theory that seeks for possible meanings of its language, that will leave it the smallest possible power. Both his judgment and affections bound him to it as a government supreme in its delegated powers, and supreme in the authority to expound and enforce them, proceeding from the people, designed for their welfare, accountable to them, possessing their confidence, representing their sovereignty, and no more to be restrained in the spirit of jealousy, within less than the fair dimensions of its authority, than to be extended beyond them in the spirit of usurpation. These were his constitutional principles, and he interpreted the Constitution by their light. If it is said that they are the same which he held as a follower of Washington, a member of the legislature of Virginia, and of the Congress of the United States, when party divided the country, it is most true. He was sincere, constant and consistent from the beginning to the end of his life. If to others it appeared that his principles were meant for party, he knew that they were devoted to the whole people, and he received his earthly reward in their ultimate general

adoption, as the only security of the union, and of the public welfare.

To these principles he joined the most admirable powers of reasoning. When he came to his high office, hardly any interpretation of the Constitution could be assumed as true by force of authority. The Constitution is not a subject upon which mere authority is likely at any time to sustain a judicial construction with general consent. Reason is the great authority upon constitutional questions, and the faculty of reasoning is the only instrument by which it can be exercised. In him it was perfect, and its work was perfect,—in simplicity, perspicuity, connection and strength. It is commonly as direct as possible, rarely resorting to analogy, and never making it the basis or principal support of the argument. Of all descriptions of reasoning, this when sound is most authoritative, and such therefore are the judgments upon the Constitution to which it has been applied.

This is not the place for a particular reference to these judgments. During the time that he has been upon the bench, the court have explored almost every question in regard to the Constitution that can assume a judicial form. The obligation of contracts, and that which constitutes its essence,—the restraint upon the issue of paper currency by the states,—the authority of Congress to regulate trade, navigation, and intercourse among the states,—those principles and provisions in the Constitution which were intended to secure the rights of property in each of the states, and their enjoyment by intercourse among them all,—have been investigated, and settled upon a basis not to be shaken so long as the law shall retain any portion of our regard.

If I were to select any in particular from the mass of its

judgments, for the purpose of showing what we derive from the Constitution, and from the noble faculties which have been applied to its interpretation, it would be that in which the protection of chartered rights has been deduced from its provisions. The case of Dartmouth College is the bulwark of our incorporated institutions for public education, and of those chartered endowments for diffusive public charity, which are not only the ornaments but among the strongest defences of a nation. It raises them above the reach of party and occasional prejudice, and gives assurance to the hope, that the men who now live, may be associated with the men who are to live hereafter, by works consecrated to exalt and refine the people, and destined if they endure, to unite successive generations by the elevating sentiment of high national character.

In a thousand ways the decisions of this court, have given stability to the union, by showing its inseparable connection with the security and happiness of the people of the United States.

While we think with just affection, my fellow citizens, of that state at whose bosom we have been nurtured, whose soil contains the bones of our fathers, and is to receive our own, and reverence her for those institutions and laws, by which life is ennobled, and its enjoyments enlarged, far from us be that purblind vision, which can see nothing of our country beyond the narrow circle in which we stand. The union is our country. The government of the union is our own. It breathes our breath. Our blood flows in its veins. It is animated with the spirit and it speaks the voice of the whole people. We have made it the depository of a part of that liberty with which the valour of the revolution made us free; and we can never review the works of

this illustrious tribunal, since Chief Justice Marshall has been at its head, without gratitude to heaven, that it is the guardian of that part, which alone could enable us in our separate communities to destroy the value of the rest.

What were the states before the union? The hope of their enemies, the fear of their friends, and arrested only by the Constitution, from becoming the shame of the world. To what will they return when the union shall be dissolved? To no better than that from which the Constitution saved them, and probably to much worse. They will return to it with vastly augmented power, and lust of domination, in some of the states, and irremediable disparity in others, leading to aggression, to war, and to conquest. They will return to it, not as strangers who have never been allied, but as brethren alienated, embittered, inflamed and irreconcileably hostile. In brief time their hands may be red with each others blood, and horror and shame together may then bury liberty in the same grave with the Constitution. The dissolution of the union will not remedy a single evil, and may cause ten thousand. It is the highest imprudence to threaten it,—it is madness to intend it. If the union we have cannot endure, the dream of the revolution is over, and we must wake to the certainty that a truly free government is too good for mankind.

The decisions of the Supreme Court of the United States, have raised the renown of the country, not less than they have confirmed the Constitution. In all parts of the world, its judgments are spoken of with respect. Its adjudications of prize law, are a code for all future time. Upon commercial law it has brought us nearly to one system, befitting the probity and interests of a great commercial nation. Over its whole path, learning and intelligence and integrity have

shed their combined lustre. But its chief glory does and ever will eradiate from those records, in which it has explained, defended and enforced the Constitution. These are a great national monument so complete, so ample, and so harmonious in its parts, that if all preceding debates and commentaries upon the Constitution were lost, the union would still have in the arguments of that court, sufficient to elucidate its principles and limits, and to explain nearly all that is doubtful in it.

The day of Chief Justice Marshall's appointment will ever be regarded as an epoch in the history of the Constitution. The rules of its interpretation were still to be settled, and the meaning of its doubtful clauses to be fixed, by that authority which under the Constitution is final, and some of them regarded nothing less than the action of states, and the government of a nation. To have erred, would have been to throw into disorder and convulsion the movements of the entire system. To have been suspected of incompetency, would have been to strike out the department from the hearts of the people, and to have left the union without a judiciary. What greater responsibility ever rested upon the judgments of a court? What greater triumph to human intellect and virtue, than effectually to accomplish so great a work? What nobler destiny than to be qualified and appointed for the service? What eulogy is equal to so great a name, as that of the man, who gave the last sands of life to his eightieth year in completing so much of it, and in tracing the plan of all that is to be done hereafter? Let it not be supposed that I claim for him the exclusive merit. His modesty would reject it. Justice withholds it. He has had by his side men now resting from their labours like himself, and men still living to continue them, who have contributed by their talents and learning to all that has been done, and will ever be honoured

for it by their country. But it is both their praise and his, that they have improved their own powers by the inspiration of his wisdom, and have been raised to their eminence, in part, by the attraction of his example. In him his country have seen that triple union of lawyer, statesman, and patriot, which completes the frame of a great constitutional judge; and if we add to it "the heart of the wise man," inspired with the love of God, of country, and of mankind, and showing it in the walks of private life, as well as on the judgment seat, while we have that which the course of the world very rarely exhibits, we have no more than, for the example of the world, has been bestowed upon our country.

When the venerable life of the Chief Justice was near its close, he was called in the 75th year of his age, to give, his parting counsel to his native state in the revision of her Constitution. A spectacle of greater dignity than the Convention of Virginia in the year 1829, has been rarely exhibited. At its head was James Monroe, conducted to the chair by James Madison and John Marshall, and surrounded by the strength of Virginia, including many of the greatest names of the union. The questions to be agitated were of the last importance to the people of that state, and divided them, as they were never before divided in any period of their history. The basis of representation, and the tenure of judicial office, the former in by far the greater degree, were the occasion of fearful collisions in the convention, threatening to break up the body into irreconcileable parties, and to spread the flames of civil discord through the state. It cannot be doubted that the presence and wisdom of these venerable persons, assuaged the violence of the contest, and contributed to reduce the general temper to that tone of compromise and mutual concession in which the tranquillity of a diversified people can alone be found. The reverence manifested for

Chief Justice Marshall, was one of the most beautiful features of the scene. The gentleness of his temper, the purity of his motives, the sincerity of his convictions, and his wisdom, were confessed by all. This was indeed a homage worthy of his virtue, and of the eminent men who paid it. He stood in the centre of his native state, in his very home of fifty years, surrounded by men who had known him as long as they had known any thing, and there was no one to rise up, even to question his opinions, without a tribute to his personal excellence. He spoke upon both the great questions, with brevity, and with no less than his usual power, consistently maintaining opinions which he had cherished from the outset of his life; but he was the counsellor of peace, and in the spirit of religious charity, regarded with catholic good will those who differed from him. Upon one occasion he said—"after the warm language (to use the mildest phrase) which has been mingled with argument on both sides, I heard with inexpressible satisfaction, propositions for compromise proposed by both parties in the language of conciliation. I hailed these auspicious appearances with as much joy, as the inhabitant of the polar regions hails the re-appearance of the sun after his long absence of six tedious months."—This was the affection of his heart; but the spirit of his understanding still divided truth from error, by a line as bright and distinct, as in the clearest hour of his meridian day. It was particularly on the question of judicial tenure, the subject upon which he could speak after probably more personal reflection and observation than any man living, that he poured out his heart-felt convictions with an energy that belongs to nothing but truth. The proposed Constitution, while it adopted for the judges of the Superior Courts the tenure of good behaviour, guarded by a clause against the construction which had in one instance prevailed, that the repeal of the law establishing the court, and by a mere

majority, should dissolve the tenure, and discharge the judge upon the world. In support of this clause, which was proposed by himself, and of the general principle of judicial independence, he spoke with the fervour and almost with the authority of an apostle. "The argument of the gentleman, he said, goes to prove not only that there is no such thing as judicial independence, but that there ought to be no such thing:—that it is unwise and improvident to make the tenure of the judge's office to continue during good behaviour. I have grown old in the opinion that there is nothing more dear to Virginia, or ought to be more dear to her statesmen, and that the best interests of our country are secured by it. Advert, sir, to the duties of a judge. He has to pass between the government, and the man whom that government is prosecuting,—between the most powerful individual in the community, and the poorest and most unpopular. It is of the last importance, that in the performance of these duties, he should observe the utmost fairness. Need I press the necessity of this? Does not every man feel that his own personal security, and the security of his property, depends upon that fairness. The judicial department comes home in its effects to every man's fire side;—it passes on his property, his reputation, his life, his all. Is it not to the last degree important, that he should be rendered perfectly and completely independent, with nothing to control him but God and his conscience." "I acknowledge that in my judgment, the whole good which may grow out of this convention, be it what it may, will never compensate for the evil of changing the judicial tenure of office." "I have always thought from my earliest youth till now, that the greatest scourge an angry heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent judiciary."

These sentiments are worthy of the profoundest consideration. They were the last legacy of his political wisdom, from an incorruptible patriot, and one of the wisest of men. Standing as it were on the verge of life, free from all mixture and stain of selfish motive, having nothing to hope, nothing to fear from men, they are the parting testimony of his pure and disciplined reason. They are worthy of being written on the tables of the heart; and if elsewhere they may be disregarded in the spirit of change, or in the lust of experiment, let them animate us to preserve what we have, and to transmit it to our children.

Fellow Citizens, this admirable man, extraordinary in the powers of his mind, illustrious by his services, exalted by his public station, was one of the most warm hearted, unassuming, and excellent of men. His life, from youth to old age, was one unbroken harmony of mind, affections, principles, and manners. His kinsman says of him—"He had "no frays in boyhood. He had no quarrels or outbreak- "ings in manhood. He was the composer of strifes. He "spoke ill of no man. He meddled not with their affairs. "He viewed their worst deeds through the medium of cha- "rity. He had eight sisters and six brothers, with all of "whom, from youth to age, his intercourse was marked by "the utmost kindness and affection; and although his emi- "nent talents, high public character, and acknowledged use- "fulness, could not fail to be a subject of pride and admi- "ration to all of them, there is no one of his numerous "relations, who has had the happiness of a personal associ- "ation with him, in whom his purity, simplicity and af- "fectionate benevolence, did not produce a deeper and more "cherished impression, than all the achievements of his "powerful intellect." Another of his intimate personal friends has said of him, "In private life he was upright and

"scrupulously just in all his transactions. His friendships "were ardent, sincere and constant, his charity and benevo- "lence unbounded. He was fond of society, and in the "social circle, cheerful and unassuming. He participated "freely in conversation, but from modesty rather followed "than led. Magnanimous and forgiving, he never bore "malice, of which illustrious instances might be given. A "republican from feeling and judgment, he loved equality, "abhorred all distinctions founded upon rank instead of "merit, and had no preference for the rich over the poor. "Religious from sentiment and reflection, he was a chris- "tian, believed in the gospel, and practised its tenets." This is the unbought praise of deep affection and intimate knowledge. It finishes his character in all his relations.

That with which a stranger was most struck in a first interview, was the charm of his most engaging simplicity. The reputation of his remarkable powers of mind was coextensive with our country. Every one who approached him for the first time, was prepared to find something in the carriage of his person, the tones of his voice, or the strain of his conversation, which should distinguish him as much from men in general, as he was raised above them by his station and intellect. But although these were extremely attractive and highly suitable, they did not display his mind so much as the benignity of his heart. There was in his daily manners an unconsciousness of what he was, or how he was estimated, and a freedom from effort, affectation and pretension, which makes the inscription he prepared for his monumental tablet, a perfect representation of the simplicity of him that lies beneath it. It records no more than his name and that of his deceased wife, with the date of his birth and marriage, and leaves a blank for the year and day of his death.

The world, my fellow citizens, has produced fewer instances of truly great judges, than it has of great men in almost every other department of civil life. A large portion of the ages that are past, have been altogether incapable of producing this excellence. It is the growth only of a government of laws, and of a political Constitution so free as to invite to the acquisition of the highest attainments, and to permit the exercise of the purest virtues, without exposure to degradation and contempt, under the frown of power. The virtues of a prince may partially correct the mischiefs of arbitrary rule, and we may see some rare examples of judicial merit, where the laws have had no sanction, and the government no foundation, but in the uncontrolled will of a despot; but a truly great judge belongs to an age of political liberty, and of public morality, in which he is the representative of the abstract justice of the people in the administration of the law, and is rewarded for the highest achievements of duty, by proportionate admiration and reverence. Of all the constitutions of government known to man, none are so favourable to the development of judicial virtue, as those of America. None else confide to the judges the sacred deposit of the fundamental laws, and make them the exalted arbiters between the Constitution and those who have established it. None else give them so lofty a seat, or invite them to dwell so much above the impure air of the world, the tainted atmosphere of party and of passion. None else could have raised for the perpetual example of the country, and for the crown of undying praise, so truly great a judge as JOHN MARSHALL.

THE END.

ERRATUM.—In page 36, line 15 from top, for "John Marshall will ever stand the first and most illustrious," read, "John Marshall will ever stand *among* the first and most illustrious."

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ADVERTISEMENT.

THE narrative of facts and some of the reflections in this Discourse are taken from a biographical sketch, written by me some years ago for the North American Review. As those parts were derived from the most authentic sources, and as the reflections connected with them naturally grew out of the subject, I have not hesitated to adopt them, whenever they were appropriate to my present purpose. It would have been mere affectation to have attempted to avoid the same train of narrative or remark. This explanation is necessary to be made, lest I should be supposed to have appropriated without acknowledgment the labors of another person.

Cambridge, Oct. 16, 1835.

DISCOURSE.

THE funeral obsequies have been performed; the long procession has passed by; and the earth has closed over the mortal remains of Chief Justice Marshall. Time has assuaged the first agonies of grief of the immediate relatives, who were called to mourn over so afflictive a loss; and others, who, looking to the claims of private friendship or to the public interests, were astounded at a blow, which, though not unexpected, came at last with a startling force, have had leisure to recover from their perturbation, and may now contemplate the event with a calm though profound melancholy.

It is under these circumstances, that we are now assembled together, to devote a brief space of time to the consideration of his life, character, and services; and then to return again to the affairs of the world, edified, as I may hope, by what he was, and warmed and elevated by a nearer approach to excellencies, which, if we may not reach, we may yet gaze on with devout respect and reverence. I am not insensible of the difficulties of the task of worthily discharging the duties of the present occasion. I am but too conscious, how much more successfully it would have been accomplished in other hands; and how little is my own ability to do justice, even to my own feelings, in

attempting a sketch of such a man. I have not, however, felt at liberty to decline the part, which has been assigned to me in the commemorations of this day, lest I should be thought wanting in readiness to do homage to one, who was the highest boast and ornament of the profession. There is this consolation, nevertheless, in undertaking the task, that it requires no labored vindication of motives or actions. His life speaks its own best eulogy. It had such a simplicity, purity, consistency, and harmony, that the narrative of the events, in their natural order, invests it with an attraction, which art need not seek to heighten, and friendship may well be content to leave with its original coloring.

Of the great men, who have appeared in the world, many have been distinguished by the splendor of their birth or station; many by the boldness or variety of their achievements; and many by peculiarities of genius or conduct, which, from the extraordinary contrasts presented by them, have awakened the curiosity, or gratified the love of novelty, of the giddy multitude. I know not, how it has happened, but so, I fear, the fact will be found to be, that high moral qualities are rarely the passport to extensive popular favor or renown. Nay; a calm and steady virtue, which acts temperately and wisely, and never plunges into indiscretion or extravagance, is but too often confounded with dullness or frigidity of temperament. It seems as if it were deemed the prerogative, if not the attribute, of genius, to indulge itself in eccentricities, and to pass from one extreme to another, leaving behind it the dark impressions of its vices or its follies. The deeper movements of the soul, in the inmost workings of its thoughts, are supposed to display themselves, like

volcanoes in the natural world, by occasional explosions, which awe, but at the same time excite, the crowd of eager spectators. They are struck with admiration of what they do not comprehend; and mistake their own emotions for the presence of superior power. They are bewildered by the shifting exhibition, alternately of brilliant deeds, and debasing passions, of intellectual efforts of transcendent energy, and paradoxes of overwrought ingenuity; and being unable to fathom the motives or sources of anomalies, they confound extravagance with enterprise, and the dreams of wild ambition with lofty and well considered designs.

And yet, if there is any thing taught us, either by the precepts of Christianity, or the history of our race, it is, that true greatness is inseparable from sound morals; that the highest wisdom is but another name for the highest talents; that the genius, which burns with a pure and regulated flame, throws far and wide its beneficent light, to guide and cheer us; while occasional corruscations serve only to perplex and betray us, or (to borrow the language of poetry) serve but to make the surrounding darkness more visible. The calm and patient researches of Newton and Locke have conferred far more lasting benefits on mankind, than all the achievements of all the mere heroes and conquerors of ancient or modern times. One patriot, like Epaminondas, Scipio, or Washington, outweighs a host of Alexanders, Cæsars, and Napoleons. The fame of Justinian, as a fortunate possessor of the imperial purple, would have long since faded into an almost evanescent point in history, if his memorable Codes of Jurisprudence had not secured him an enviable immortality, by the instruction, which

they have imparted to the legislation of all succeeding times. He, who has been enabled by the force of his talents, and the example of his virtues, to identify his own character with the solid interests and happiness of his country; he, who has lived long enough to stamp the impressions of his own mind upon the age, and has left on record lessons of wisdom for the study and improvement of all posterity; he, I say, has attained all, that a truly good man aims at, and all, that a truly great man should aspire to. He has erected a monument to his memory in the hearts of men. Their gratitude will perpetually, though it may be silently, breathe forth his praises; and the voluntary homage paid to his name will speak a language, more intelligible and more universal than any epitaph inscribed on Parian marble, or any image wrought out by the cunning hands of sculpture.

Reflections, like these, naturally crowd upon the mind upon the death of every great man; but especially of every one, who may be justly deemed a benefactor and ornament of his race. In the present case, there is little occasion to point out the manner or the measure of their application.

JOHN MARSHALL was born on the 24th day of September, 1755, (a little more than eighty years ago,) in the county of Fauquier, in the State of Virginia. His father was Thomas Marshall, a native of the same State, and at the time of his birth, a planter of narrow fortune and retired habits. Of this gentleman, who afterwards served with great distinction during the revolutionary war, having been appointed to the command of one of the Continental Regiments of Infantry, it is proper to say a few words in this place. He was a man of uncommon capacity and

vigor of intellect; and though his original education was very imperfect, he overcame this disadvantage by the diligence and perseverance, with which he cultivated his natural endowments; so that he soon acquired, and maintained throughout the course of his life, among associates of no mean character, the reputation of masculine sense, and extraordinary judgment and ability. No better proof, indeed, need be adduced to justify this opinion than the fact, that he possessed the unbounded confidence, respect, and admiration of all his children at that mature period of their lives, when they were fully able to appreciate his worth, and to compare and measure him with other men of known eminence. I have myself often heard the Chief Justice speak of him in terms of the deepest affection and reverence. I do not here refer to his public remarks; but to his private and familiar conversations with me, when there was no other listener. Indeed, he never named his father on these occasions, without dwelling on his character with a fond and winning enthusiasm. It was a theme, on which he broke out with a spontaneous eloquence; and, in the spirit of the most persuasive confidence, he would delight to expatiate upon his virtues and talents.—"My father," (would he say with kindled feelings and emphasis,) "my father was a far abler man than any of his sons. To him I owe the solid foundation of all my own success in life." Such praise from such lips is inexpressibly precious. I know not, whether it be most honorable to the parent, or to the child. It warms, while it elevates our admiration of both. What, indeed, can be more affecting than such a tribute of filial gratitude to the memory of a parent, long after death has set its seal upon his character, and at such a distance of

time, as leaves no temptation to pious sorrow to exaggerate what he was, or to excite the imagination to paint what he might have been.

Colonel Marshall had fifteen children, several of whom are still living. Some of them, besides the one of whom I am mainly to speak, have attained high distinction as scholars and statesmen ; and one, whom I do not feel privileged to name, enjoys the reputation of a thorough acquaintance with that most difficult of all studies, the Philosophy of History.

John was the eldest son, and of course was the earliest to engage the solicitude of his father. The means of obtaining any suitable education at the family residence were at that period scanty and inadequate. Fauquier was then a frontier county of the State ; and whoever will carry back his thoughts to the dangers and difficulties of such a local position, far in advance of the ordinary reach of compact population, will readily comprehend the embarrassments and sacrifices, with which it was attended. Colonel Marshall was thus compelled exclusively to superintend the education of all his children ; and perceiving the rapid development of the talents of his eldest son, he gave him a decided taste for the study of English literature, and especially for poetry and history. At the age of twelve, the latter had transcribed the whole of Pope's Essay on Man, and some of his moral essays ; and had committed to memory many of the most interesting passages of that distinguished poet.

The love of poetry, thus awakened in his warm and vigorous mind, soon exerted a commanding influence over it. He became enamoured of the classical writers of the old English school, of Milton, and Shakspeare, and Dryden, and Pope; and was instructed

by their solid sense and beautiful imagery. In the enthusiasm of youth, he often indulged himself in poetical compositions, and freely gave up his leisure hours to those delicious dreamings with the muses, which (say, what we may) constitute with many the purest source of pleasure in the gayer scenes of life, and the sweetest consolation in the hours of adversity. It has, indeed, been said by Sir James Mackintosh, that all men of genius delight to take refuge in poetry, from the vulgarity and irritation of business. Without yielding to so general and sweeping a conclusion, it may be truly said, that it is not uncongenial with the highest attributes of genius, and is often found an accompaniment of its nicer sympathies.

One of the best recommendations, indeed, of the early cultivation of a taste for poetry, and the kindred branches of literature, is, that it does not expire with youth. It affords to maturer years a refreshing relaxation from the severe cares of business, and to old age a quiet and welcome employment, always within reach, and always bringing with it, if not the charm of novelty, at least the soothing reminiscences of other days. The votary of the muses may not always tread upon enchanted ground; but the gentle influences of fiction and song will steal over his thoughts, and breathe, as it were, into his soul the fragrance of a second spring of life.

Throughout the whole of his life, and down to its very close, Mr. Marshall continued to cultivate a taste for general literature, and especially for those departments of it, which had been the favorite studies of his youth. He was familiar with all its light, as well as its more recondite, productions. He read with intense interest, as his leisure would allow, all the higher lite-

rature of modern times ; and, especially, the works of the great masters of the art were his constant delight. While the common publications of the day fell from his hands with a cold indifference, he kindled with enthusiasm at the names of the great novelists and poets of the age, and discussed their relative powers and merits, with a nice and discriminating skill, as if he were but yesterday fresh from the perusal of them.

To many persons it may seem strange, that such a love of letters, and especially of works of imagination, should ever be found combined with the severe logic and closeness of thought, which belonged to his character, and gave such a grave cast to all his juridical labors. But the truth is, that the union is far less uncommon in the highest class of minds, than slight observers are apt to suppose. There is not only no incompatibility in pursuits of such opposite tendencies ; but men of genius, more than any other persons, from their lively sensibility to excellence, are prone to have their curiosity awakened by any exhibition of it, in whatever department of knowledge or art it may be displayed. They feel the presence of superior power ; they are touched by the sublime reaches of kindred spirits ; they gaze on the wonders of that workmanship, whose exquisite proportions they understand, and whose difficulties of execution they appreciate. They see the glory of that eminence, which is so proudly won, and so bravely maintained. But they can also measure, what few other persons can, what vast resources and uncounted labors have been exhausted in the attainment. Thus, their sympathies are excited by every triumph of the human intellect ; and the very contrast of their own favorite studies and pursuits with those of others opens upon them new sources of pleas-

ure, in surveying the variety, as well as the magnificence, of human genius. But to return to my narrative.

There being no grammar school in the neighbourhood, young Marshall, at the age of fourteen, was sent for his education about a hundred miles from his home, and was placed under the tuition of Mr. Campbell, a clergyman of great respectability. He remained with him a year, and then returned home, and was placed under the care of a Scotch gentleman, who was just then inducted as pastor of the parish, and resided in his father's family. He pursued his classical studies under the care of this reverend pastor, as long as he resided in the family, which was about a year ; and he had at that time commenced the reading of Livy and Horace. After this period, he was left to his own unassisted diligence ; and his subsequent mastery of the Classics was accomplished without any other aids than his Grammar and Dictionary. He never had the benefit of any instruction in any college, or other public institution ; and his attainments in learning, such as they were, were nourished by the solitary vigils of his own genius. In English literature, he continued to receive the fostering care and assistance of his father, who directed his studies, and contributed, in an eminent degree, to cherish his love of knowledge ; to give a solid cast to his acquirements ; and to store his mind with the most valuable materials. It is to this circumstance, that we are mainly to attribute that decided attachment to the writers of the golden age of English literature, which at all times he avowed, and vindicated with a glowing confidence in its importance, and its superior excellence. His father, too, at this period, was not only a watchful parent, but a most useful and

affectionate friend; and he became the constant, as he was also almost the only intelligent, companion of his son. The time, which was not thus passed in the society of his father, he employed in hardy, athletic exercises in the open air. He engaged in field sports; he wandered in the deep woods; he indulged his solitary meditations amidst the wilder scenery of nature; he delighted to brush away the earliest dews of the morning, and to watch the varied magnificence of sunset, until its last beams ceased to play on the dark tops of the noiseless forest. It was to these early habits in a mountainous region, that he probably owed that robust and vigorous constitution, which carried him almost to the close of his life with the freshness and firmness of manhood.

It was about the time, when young Marshall entered on the eighteenth year of his age, that the controversy between Great Britain and her American Colonies, which ended in the establishment of the independence of the latter, began to assume a portentous aspect. It could not fail to engage the attention of all the Colonists, whether they were young, or old, in the retirement of private life, or in the exercise of public political functions. It was a stirring theme of conversation, involving interests of such vast magnitude, and consequences of such enduring influence, that every patriot felt himself called upon by a sense of duty to rouse himself for the approaching exigency. Young Marshall could not be indifferent to it. He entered into the controversy with all the zeal and enthusiasm of a youth, full of the love of his country, and deeply sensible of its rights and its wrongs. Partaking of the spirit and energy of his father, he immediately devoted his time, with a prophetic foresight, to the acquisition of the

rudiments of military manœuvres in an independent company of volunteers, composed of gentlemen of the same county, to the training of a company of the militia of the neighbourhood, and to the diligent reading of the political essays of the day. For these animating pursuits he was quite content to relinquish all his literary studies; and the pages of Blackstone's Commentaries, to which he had already begun to direct his ambition, were forgotten amidst the din of arms, and the preparations for open hostilities.

In the summer of 1775 he was appointed the first lieutenant of a company of minute men, who were enrolled for active service, and assembled in battalion at the beginning of the ensuing September. In a few days they were ordered to march into the lower country, for the purpose of defending it against a small predatory force of Regulars commanded by Lord Dunmore, and also of assisting in the relief of Norfolk, with some other provincial troops. Hearing of their approach, Lord Dunmore took an advantageous position on the north side of Elizabeth, near the great bridge, and at a small distance from Norfolk. A battle soon afterwards took place between the opposing bodies, in which the British were repulsed with great gallantry. On this occasion Lieutenant Marshall took an active part, and had a full share of the honors of the day. The Provincials, immediately after the retreat of the British, made their way to Norfolk; and Lieutenant Marshall was present, when that city was set on fire by a detachment from the British ships, then lying in the river.

In July, 1776, he received the appointment of first lieutenant in the eleventh regiment on the Continental establishment; and in the succeeding winter he

marched with his regiment to the Middle States, then the scene of an harassing warfare ; and in May, 1777, he was promoted to the rank of captain. From this period he remained constantly in service until the close of the year 1779. He was present at the skirmish with the British light infantry at Iron Hill ; and he fought in the memorable battles of Brandywine, Germantown, and Monmouth. During this period of his military life, he was often employed to act as Deputy Judge Advocate, a situation, which brought him to a large acquaintance with the officers of the army, by whom he was greatly beloved, and among whom he deservedly acquired an extensive influence. I myself have often heard him spoken of by some of these veterans in terms of the warmest praise. In an especial manner the Revolutionary officers of the Virginia Line (now "few and faint, but fearless still") appeared almost to idolize him, as an old friend and companion in arms, enjoying their unqualified confidence.

It was during his performance of the duties of Judge Advocate, that he for the first time (I believe) became personally acquainted with General Washington, and (I am sure) with Colonel (afterwards General) Hamilton ; for both of whom, it needs scarcely to be said, he always entertained the deepest respect, and whose unreserved friendship, at a subsequent period of his life, he familiarly enjoyed. His opinion of Washington is sufficiently manifested in his biography of that great man. Of Hamilton he always spoke in the most unreserved manner, as a soldier and statesman of consummate ability ; and in point of comprehensiveness of mind, purity of patriotism, and soundness of principles, as among the first, that had ever graced the councils of any nation. His services to the American Republic

he deemed to have been of inestimable value, and such as had eminently conduced to its stability, its prosperity, and its true glory.

There being in the winter of 1779, a great surplus of officers belonging to the Virginia Line, beyond the immediate exigencies of the service, the supernumeraries, among whom was Captain Marshall, were directed to return home, in order to take charge of such men, as the State Legislature might raise for their command. It was in this interval of military inactivity, that he availed himself of the opportunity of attending at William and Mary's College the course of law lectures of Mr. (afterwards Chancellor) Wythe, and the lectures upon natural philosophy of the then president of the college, Mr. (afterwards Bishop) Madison. He left that institution in the summer vacation of 1780; and soon afterwards received the usual license to practice law. In October of the same year he returned to the army, and continued in active service until after the termination of Arnold's invasion of Virginia. Finding, that the same redundancy of officers in the Virginia Line still continued, he then resigned his commission, and addicted himself to the study of his future profession. The Courts of law were suspended in Virginia until after the capture of Lord Cornwallis and his army at the memorable siege at Yorktown. As soon as they were reopened, Mr. Marshall commenced the practice of the law, and soon rose into high distinction at the bar.

In the spring of 1782, he was elected a member of the State Legislature; and, in the autumn of the same year, a member of the State Executive Council. In January, 1783, he married Miss Ambler, the daughter of the then Treasurer of the State, to whom he had become attached, before he quitted the army. With this

lady he lived in a state of the most devoted conjugal affection for nearly fifty years ; and her death, not quite three years ago, cast a gloom over his thoughts, from which I do not think he ever fully recovered. About the time of his marriage, he took up his permanent residence in the city of Richmond. In the spring of 1784, he resigned his seat at the council board, in order to devote himself more exclusively to the duties of the bar. He was immediately afterwards elected a member of the Legislature by the County of Fauquier, a tribute of respect from the spot of his nativity the more marked, because he had already ceased to have any thing but a nominal residence there. In 1787, he was elected a member of the Legislature by the County of Henrico ; and he soon embarked in all the perplexing political questions, which then agitated the state.

It is to this period, — between the close of the war of the Revolution, and the adoption of the present constitution of the United States, — that we are to refer the gradual development, and final establishment of those political opinions and principles, which constituted the basis of all the public actions of his subsequent life. He had entered the army with all the enthusiasm of a young man, ardent in the cause of liberty, devoted to his country, glowing with confidence in the wisdom and virtue of the people, and unsuspicious, that they could ever be seduced or betrayed into any conduct, not warranted by the purest public principles. He knew the disinterestedness of his own heart ; and he could not believe, nay he could not even imagine, that it was possible, that a Republic, founded for the common good, should not, at all times and under all circumstances, be exclusively administered for this single purpose. The very suggestion of any doubt upon the subject led him

to distrust, not his own judgment, but the intelligence or integrity of those, who ventured to breathe that doubt, even in the softest whispers. He had never heard of the profound remark of a great statesman, that a young man, who was not an enthusiast in matters of government, must possess low and grovelling principles of action; but that an old man, who was an enthusiast, must have lived to little purpose. He could have learned nothing worth remembering; or remembered only what was fit to be forgotten. Like the Shepherd in Virgil, in the simplicity of his heart he thought, that all things were at Rome, as they were at Mantua; — Sic parvis componere magna solebat. Amidst the din of arms, he found no leisure to study the science of government. He deemed it useless to consider, how Liberty was to be enjoyed and protected, until it was won. The contest for national existence was then instant and pressing. The only lights, which were on the paths of the patriot, to guide or instruct him, were those, which glanced from the point of his sword. The midnight hours were to be passed, not in the soft serenities of meditation, but in mounting guard on the outposts; in stealthy patroles along the lines of the enemy; or in repelling the deadly attack in the midst of the flashes and the roar of well directed musketry and cannon.

"When I recollect" (said he, in a letter written long afterwards to a friend,) "the wild and enthusiastic notions, with which my political opinions of that day were tinctured, I am disposed to ascribe my devotion to the Union, and to a government competent to its preservation, at least as much to casual circumstances, as to judgment. I had grown up at a time, when the love of the Union, and the resistance to the claims of

Great Britain, were the inseparable inmates of the same bosom; when patriotism and a strong fellow feeling with our suffering fellow citizens of Boston were identical; when the maxim, 'United we stand; divided we fall,' was the maxim of every orthodox American. And I had imbibed these sentiments so thoroughly, that they constituted a part of my being. I carried them with me into the army, where I found myself associated with brave men from different States, who were risking life and every thing valuable, in a common cause, believed by all to be most precious; and where I was confirmed in the habit of considering America as my country, and Congress as my government."

But the times were now arrived, in which the dreams of his early manhood were to be rigidly compared with the sober realities about him. The revolution, with its strong excitements, and its agitations of alternate hopes and fears, had passed away. The national Independence had been achieved; and the feverish and restless activity of the past had given place to a state of languor and exhaustion, which made the advent of peace itself a period of renewed anxieties, and heavier cares. What had been gained by the sword was now to be secured by civil wisdom; by the establishment of wholesome laws, sound institutions, and well regulated government. And deeply and painfully did every lover of his country then feel the truth of the remark of Milton, — "Peace hath her victories, no less renowned than War."

Whoever is well read in our domestic history, cannot have forgotten the dangers and difficulties of those days. The close of the war of the Revolution found the whole country impoverished and exhausted by the

necessary expenditures of the contest. Some of the States had made enormous sacrifices to provide their own just contributions for the public service ; and most of them had been compelled to resort to the ruinous expedient of a paper currency, to supply their own immediate wants. The national finances were at the lowest ebb of depression. The Continental Congress had issued more than three hundred millions of paper money, purporting on its face to contain a solemn pledge of the faith of the Union for its due redemption, which pledge had been as notoriously violated. And, indeed, this paper money had sunk to the value of one dollar only for one hundred ; and at last had ceased in fact to circulate at all as currency. The national debt was not only not discharged ; but was without any means of being discharged, even as to the interest due upon it. The army had been disbanded with long arrearages of pay outstanding ; and the discontents of those noble bands, which had saved the country, were listened to, only to be disregarded. The very magnitude of the public evils almost discouraged every effort to redress them. The usual consequences of such a state of things had been fully realized. Private, as well as public, credit was destroyed. Agriculture and commerce were crippled ; manufactures could not, in any strict sense, be said to have an existence. They were in a state of profound lethargy. The little money, which yet remained in specie in the country, was subject to a perpetual drain, to purchase the ordinary supplies from foreign countries. The whole industry of the country was at a stand. Our artisans were starving in the streets, without the means, or the habits of regular employment ; and the disbanded officers of the army found them-

selves, not only without resources, but without occupation. Under such circumstances, the popular murmurs were not only loud, but deep; and the general distress became so appalling, that it threatened a shipwreck of all our free institutions. In short, we seemed to have escaped from the dominion of the parent country, only to sink into a more galling domestic bondage. Our very safety was felt to be mainly dependent upon the jealousy, or forbearance of foreign governments.

What aggravated all these evils was the utter hopelessness of any effectual remedy under the existing form of the national government; if, indeed, that might be said to deserve the name, which was but the shadow of a government. The union of the States at the commencement of the revolutionary contest was forced upon us by circumstances; and from its nature and objects seemed limited to that precise exigency. The Confederation, which was subsequently framed, was conceived in a spirit of extreme jealousy of national sovereignty, and withal was so feeble and loose in its texture, that reflecting minds foresaw, that it could scarcely survive the revolutionary contest. Yet feeble and loose as was its texture, it encountered the most obstinate opposition at every step of its progress; and it was not finally adopted, until the war was about to close, in 1781. The powers of Congress, under the Confederation, were, for the most part, merely recommendatory, and to be carried into effect only through the instrumentality of the States. It conferred no power to raise revenue, or levy taxes, or enforce obedience to laws, or regulate commerce, or even to command means to pay our public ministers at foreign courts. Congress could make con-

tracts; but could not provide means to discharge them. They could pledge the public faith; but they could not redeem it. They could make public treaties; but every State in the Union might disregard them with impunity. They could enter into alliances; but they could not command men or money to give them vigor. They could declare war; but they could not raise troops; and their only resort was to requisitions on the States. In short, all the powers given by the Confederation, which did not execute themselves without any external aid, were at the mere mercy of the States, and might be trampled upon at pleasure. Even that miserable fragment of sovereignty, the power to levy a tax of five per cent. on imports, in order to pay the public debt, and until it was paid, was solemnly rejected by the States, though asked by Congress in terms of humble intreaty, and the most affecting appeals to public justice.

The result was obvious. Without the power to lay taxes, Congress were palsied in all their operations. Without the power to regulate commerce, we were left to the capricious legislation of every State. Nay more; our trade was regulated, taxed, monopolized, and crippled at the pleasure of the maritime powers of Europe. Every State managed its own concerns in its own way; and systems of retaliation for real or imaginary grievances were perpetually devised and enforced against neighbouring States. So that, instead of being a band of brothers, united in common cause, and guided by a common interest, the States were every where secret or open enemies of each other; and we were on the verge of a border warfare of interminable irritation, and of as interminable mischiefs.

Such was the state of things in the times, of which I have been speaking; and, strong as the coloring may seem to those, whose birth is of a later date, it falls far short of a full picture of the actual extent of the evils, which the details of the facts would justify.

It was under these circumstances, that the State Legislatures were constantly called upon by public clamor, and private sufferings, to interpose summary remedies to ward off the hardships of the times. The people, loaded with debts, and goaded on almost to madness by the thickening calamities, demanded measures of relief of the most extravagant nature. The relations of debtor and creditor, always delicate, became every day more embarrassed and more embarrassing. Laws suspending the collection of debts; insolvent laws; instalment laws; tender laws; and other expedients of a like nature, which, every reflecting man knew would only aggravate the evils, were familiarly adopted, or openly and boldly vindicated. Popular leaders, as well as men of desperate fortunes, availed themselves (as is usual on such occasions) of this agitating state of things to inflame the public mind, and to bring into public odium those wiser statesmen, who labored to support the public faith, and to preserve the inviolability of private contracts.

The whole country soon became divided into two great parties, one of which endeavoured to put an end to the public evils by the establishment of an efficient national government; the other adhered to the State sovereignties, and was determined, at all hazards, to resist the increase of the national power. Virginia bore her full share in these political controversies. They were constantly debated in the halls of her

Legislature ; and, whatever might be the fate of any particular debate, the contest was perpetually renewed ; for every victory was but a temporary and questionable triumph ; and every defeat left still enough of hope to excite the vanquished to new exertions. At this distance of time it is scarcely possible to conceive the zeal, and even the animosity, with which the opposing opinions were maintained. The question, whether the Union ought to be continued, or dissolved by a total separation of the States, was freely discussed ; and either side of it was maintained, not only without reproach, but with an uncompromising fearlessness of consequences. Those, who clung to the supremacy of the States, looked without dismay upon a dissolution of the Union ; and felt no compunctions in surrendering it. Those, on the other hand, who deemed the Union the ark of our political safety, without which independence was but a name, shrunk with horror from the thought of its dissolution ; and maintained the struggle with a desperate valor, as the death grapple for constitutional liberty.

It was in such times and under such circumstances, that Mr. Marshall, while yet under thirty years of age, was called upon to take an active part in the legislative deliberations, as well as in the popular meetings, in his native State. "My immediate entrance," said he, in the letter already alluded to, "into the State Legislature opened to my view the causes, which had been chiefly instrumental in augmenting those sufferings [meaning of the army] ; and the general tendency of State politics convinced me, that no safe and permanent remedy could be found, but in a more efficient and better organized general government." Mr. Madison was at that time, and had for some years

before been, a member of the State Legislature; and stood forth on all occasions an inflexible and enlightened advocate for the Union; and General Washington was the acknowledged head and supporter of the same principles. Mr. Marshall at once arrayed himself on the side of these great leaders; and while Mr. Madison remained in the Legislature, he gave him a bold and steady support in all the prominent debates. The friendship, which was thus formed between them, was never extinguished. The recollection of their coöperation at that period served, when other measures had widely separated them from each other, still to keep up a lively sense of each other's merits. Nothing, indeed, could be more touching to an ingenuous mind, than to hear from their lips, in their latter years, expressions of mutual respect and confidence; or to witness their earnest testimony to the talents, the virtues, and the services of each other.

It was by this course of action in State Legislation at this appalling period, that Mr. Marshall was disciplined to the thorough mastery of the true principles of free government. It was here, that he learned and practised those profound doctrines of rational, limited, constitutional liberty, from which he never shrunk, and to which he resolutely adhered to the end of his life. It was here, that he became enamoured, not of a wild and visionary Republic, found only in the imaginations of mere enthusiasts as to human perfection, or tricked out in false colors by the selfish, to flatter the prejudices, or cheat the vanity of the people; but of that well balanced Republic, adapted to human wants and human infirmities, in which power is to be held in check by countervailing power; and life, liberty, and property are to be secured by a real and substan-

tial independence, as well as division of the Legislative, Executive, and Judicial departments. It was here, that he learned to love the Union with a supreme, unconquerable love; — a love, which was never cooled by neglect, or alienated by disappointment; a love, which survived the trials of adversity, and the still more dangerous trials of prosperity; — a love, which clung more closely to its object, as it seemed less dear, or less valuable in the eyes of others; — a love, which faltered not, fainted not, wearied not, on this side the grave. Yes; his thoughts ever dwelt on the Union, as the first and best of all our earthly hopes. The last expressions, which lingered on his dying lips, breathed forth a prayer for his country.

> "Such in that moment, as in all the past,
> 'O, save my Country, Heaven,' was then his last."

While these exciting discussions were absorbing the whole attention of the State Legislatures, the Confederation was obviously approaching its final dissolution. It had passed the crisis of its fate; and its doom was fixed. As a scheme of government it had utterly failed; and the moment was now anxiously expected, when, from mere debility, it would cease to have even a nominal existence, as it had long ceased to have any substantial authority. The friends of the Union determined to make one more and final effort. A Convention was called, which framed the Constitution of the United States; and it was presented to the people for their ratification or rejection. This measure at once gave rise to new and more violent political controversies; and the whole current of popular opinion was impetuously hurried into new channels. Parties, for and against the adoption of the Constitution, were immediately organized in every State; and the

lines of political division were for the most part the same, which marked the former parties. Virginia, as a leading State, became the scene of the most active exertions; and, as many of her gifted and eloquent men were arrayed against the Constitution, so its friends rallied for the approaching struggle with a proportionate zeal and ability.

Mr. Marshall was chosen a member of the Convention of Virginia, which was called to deliberate upon the ratification of the Constitution, under circumstances peculiarly gratifying. — A majority of the voters of the County, in which he resided, were opposed to the adoption of it; and he was assured, that, if he would pledge himself to vote against it, all opposition to his election should be withdrawn; otherwise he would be strenuously resisted. — He did not hesitate for a moment to avow his determination to vote for the Constitution. To use his own language — "The questions, which were perpetually recurring in the State Legislatures; and which brought annually into doubt principles, which I thought most sacred; which proved, that every thing was afloat, and that we had no safe anchorage ground; gave a high value in my estimation to that article in the Constitution, which imposes restrictions on the States. — I was consequently a determined advocate for its adoption; and became a candidate for the Convention." — The opposition to him rallied with great force; but such was his personal popularity, and the sense of his integrity, or (as in his modesty he chose to express it) "parties had not yet become so bitter, as to extinguish the private affections," that he was chosen by a triumphant majority.

Few assemblies have ever been convened under circumstances of a more solemn and imposing respon-

sibility. It was understood, that the vote of Virginia would have a principal and perhaps decisive influence upon several other States; and for some weeks the question of the adoption of the Constitution hung suspended upon the deliberations of that body. On one side were enlisted the powerful influence of Grayson, the strong and searching sense of George Mason, and the passionate and captivating eloquence of Patrick Henry. On the other side were the persuasive talents of George Nicholas, the animated flow of Governor Randolph, the grave and sententious sagacity of Pendleton, the masculine logic of Marshall, and the consummate skill and various knowledge of Madison. Day after day, during the period of twenty-five days, the debate was continued with unabated ardor and obstinate perseverance. And it was not until it was known, that the Constitution had already been adopted by nine States, (which settled its fate,) that Virginia by the small majority of *ten* votes, reluctantly gave her own voice in its favor.

During the whole of this most arduous and interesting contest the leading debates were principally conducted on opposite sides by Henry and Madison. Mr. Marshall contented himself with a constant support of his leader. But on three great occasions, the debate on the power of taxation, that on the power over the militia, and that on the powers of the Judiciary, he gave free scope to his genius, and argued in their favor with commanding ability. The printed sketches of all these debates are confessedly loose, and imperfect, and do little justice to the eloquence or ability of the respective speakers. Yet with all their imperfections the most careless observer cannot fail to perceive, in what is attributed to Mr. Marshall on these occasions, the

closeness of logic, the clearness of statement, and the comprehensiveness of principles, which characterized his labors in the maturer periods of his life. I regret, that the brief space of time, allowed for the present notices, does not justify me in the citation of some passages to illustrate these remarks.

It is difficult, perhaps it is impossible, for us of the present generation to conceive the magnitude of the dangers, which then gathered over our country. Notwithstanding all the sufferings of the people, the acknowledged imbecility, nay the absolute nothingness of the Confederation, and the desperate state of our public affairs, there were men of high character, and patriots too, who clung to the Confederation with an almost insane attachment. They had been so long accustomed to have all their affections concentrated upon the State Governments, as their protection against foreign oppression, that a National Government seemed to them but another name for an overwhelming despotism. We have lived to see all their fears and prophecies of evil scattered to the winds. We have witnessed the solid growth and prosperity of the whole country, under the auspices of the National Government, to an extent never even imagined by its warmest friends. We have seen our agriculture pour forth its various products, created by a generous, I had almost said, a profuse industry. The miserable exports, scarcely amounting in the times, of which I have been speaking, in the aggregate, to the sum of one or two hundred thousand dollars, now almost reach to forty millions a year in a single staple. We have seen our commerce, which scarcely crept along our noiseless docks, and stood motionless and withering, while the breezes of the ocean moaned through the crevices of our

ruined wharves and deserted warehouses, spread its white canvass in every clime ; and, laden with its rich returns, spring buoyant on the waves of the home ports ; and cloud the very shores with forests of masts, over which the stars and the stripes are gallantly streaming. We have seen our manufactures, awakening from a deathlike lethargy, crowd every street of our towns and cities with their busy workmen, and their busier machinery ; and startling the silence of our wide streams, and deep dells, and sequestered valleys. We have seen our wild waterfalls, subdued by the power of man, become the mere instruments of his will, and, under the guidance of mechanical genius, now driving with unerring certainty the flying shuttle, now weaving the mysterious threads of the most delicate fabrics, and now pressing the reluctant metals into form, as if they were but playthings in the hands of giants. We have seen our rivers bear upon their bright waters the swelling sails of our coasters, and the sleepless wheels of our steamboats in endless progress. Nay, the very tides of the ocean, in their regular ebb and flow in our ports, seem now but heralds to announce the arrival and departure of our uncounted navigation. We have seen all these things ; and we can scarcely believe, that there were days and nights, nay, months and years, in which our wisest patriots and statesmen sat down in anxious meditations to devise the measures, which should save the country from impending ruin. The task was, indeed, most arduous ; in which success was far more desired than expected. Obstinate prejudices were to be overcome ; and popular influences were to be resisted. They could scarcely hope for their just rewards, except from a distant posterity. But they were governed by a supreme love of their country, and the

consciousness of the inestimable value of the objects, if achieved. Events, indeed, have far outstripped their most sanguine imaginings. By the blessing of Providence we have risen, under the auspices of the Federal Constitution, from a feeble republic to a wide spreading empire. Many of these patriots and statesmen went down to their graves without the consolation of having witnessed the glorious results of their labors. We owe them a debt of gratitude, which can never be repaid. They laid the broad foundations of our government upon public justice, public virtue, and public liberty. They reared the superstructure with consummate skill, and of the most solid materials. It is for us to say, whether it shall remain through all ages an enduring monument of political wisdom; or, toppling from its height, shall bury under its ruins the glory of the past and the hopes of the future. It can be preserved only by untiring watchfulness. It may be destroyed by popular violence, or the madness of party, or the deeper sappings of corruption. It may, like the fragments of other great empires, (may Heaven avert the evil!) it may

> "Leave a name, at which the world grew pale,
> To point a moral, or adorn a tale."

But these are topics, which, though not inappropriate upon the present occasion, are of themselves of too absorbing an interest to be discussed, as mere incidents in the life of any individual. They may be glanced at in order to do justice to eminent patriotism; but they essentially belong to that philosophy, which reads in the history of the past lessons of admonition and instruction for the ascertainment of the future. Tacitus in other days arrived at the melancholy conclusion,

Reipublicæ Forma laudari facilius, quam evenire; vel si evenit, haud diuturna esse potest.*

As soon as the adoption of the Constitution had been secured, Mr. Marshall immediately determined to relinquish public life, and to confine his labors to his profession. To this resolution, which was urged upon him by the claims of a growing family and a narrow fortune, he was not enabled to adhere with the steadfastness, which he wished. The hostility, already evinced against the establishment of the National Government, was soon transferred in Virginia to an opposition to all its leading measures. Under such circumstances, it was natural for the friends of the Constitution to seek to give it a strong support in the State Legislature. Mr. Marshall was accordingly compelled to yield to their wishes, and served as a member from 1788 to 1792. From the time of the organization of the government under President Washington, almost every important measure of his administration was discussed in the Virginia Legislature with great freedom, and no small degree of warmth and acrimony. On these occasions, it fell to the lot of Mr. Marshall to defend these measures, and to maintain the rights, duties, and powers of the National Government against every attack; and he performed the service with great zeal, independence, and ability. In 1792, he again retired from the State Legislature, and returned to his professional labors with increased activity; and soon found himself engaged in all the leading causes in the state and national tribunals. The excellent Reports of this period by my lamented friend, Mr. Justice Washington, exhibit ample proofs of his success in argument.†

* Tacitus, Annal. B. 4, n. 15.

† See also Mr. Call's Reports.

But, although Mr. Marshall was thus for some years withdrawn from public life, yet he was still compelled to take an active part in political discussions. The French Revolution, which at its early dawn had been hailed with universal enthusiasm throughout America, had now burst out into extravagancies and butcheries, which disgraced the cause of liberty, and gave an unbounded license to ferocious mobs and demagogues. The monarchs of Europe, alarmed for their own safety, were soon leagued in a mighty confederacy to crush a revolution, dangerous to the claims of legitimacy, and the stability of thrones. It was easy to foresee, that if their enterprises against France were successful, we, ourselves, should soon have but a questionable security for our own independence. It would be natural after their European triumphs were complete, that they should cast their eyes across the Atlantic, and trace back the origin of the evil to the living example of constitutional liberty in this Western Hemisphere. Under such circumstances, notwithstanding all the excesses of the French Revolution, the mass of the American people continued to take the liveliest interest in it, and to cherish the warmest wishes for its success. These feelings were heightened by the grateful recollection of the services rendered to us by France in our own Revolution ; and the consideration, that she was struggling to relieve herself from oppressions, under which she had been groaning for centuries. In this posture of affairs, there was infinite danger, that we should be driven from the moorings of our neutrality, and should embark in the contest, not only as an ally, but as a party, foremost in the fight, and in the responsibility. We were just recovering from the exhaustion, and poverty, and suffering, consequent upon

our own struggle; and the renewal of war would be fraught with immeasurable injuries, not only to our present interests, but to our future national advancement. France saw and felt the nature of our position; and partly by blandishments, and partly by threats, endeavoured to enlist our fortunes, as she had already succeeded in enlisting our feelings, in her favor. The other powers of Europe were not less eager in their gaze, or less determined in their future course. England, herself, had already adopted precautionary measures to compel us to support our neutrality in an open and uncompromising manner, or to assume the state of positive hostilities.

It was under these circumstances, that President Washington, having determined to preserve our own peace, and to vindicate our rights against all the belligerents with an even handed justice, issued his celebrated Proclamation of Neutrality. The whole country was immediately thrown into a flame; and the two great parties, into which we were then divided, engaged, the one in denouncing it, and the other in supporting it, with intense zeal. On this occasion Mr. Marshall found himself, much to his regret, arranged on a different side from Mr. Madison. He resolutely maintained the constitutionality, the policy, nay, the duty of issuing the Proclamation, by oral harangues, and by elaborate writings. For these opinions he was attacked with great asperity in the newspapers and pamphlets of the day, and designated by way of significant reproach, as the friend and coadjutor of Hamilton, a reproach, which at all times he would have counted an honor; but, when coupled (as it was) with the name of Washington, he deemed the highest praise. He defended himself against these attacks with an

invincible firmness, and ability, proportioned to the occasion. He drew up a series of resolutions, approving the conduct of the Executive, and carried them by a decided majority at a public meeting of the citizens of Richmond.

The result of this controversy is well known. The administration was sustained in its course by the sober sense of the majority of the nation; and the doctrine, then so strenuously contested and boldly denounced, has ever since that time been laid up as among the most undisputable of executive rights and duties. Probably, at the present day, not a single statesman can be found, of any influence in any party, who does not deem the measure to have been as well founded in constitutional law, as it was in sound policy.

In the spring of 1795, Mr. Marshall was again returned as a member of the State Legislature, not only without his approbation, but against his known wishes. It was truly an honorable tribute to his merits; but it was demanded by the critical posture of our public affairs. The treaty with Great Britain, negotiated by that eminent patriot, Mr. Jay, was then the subject of universal discussion. As soon as the ratification of it was known to have been advised by the Senate, the opposition to it broke out with almost unexampled violence. Public meetings were called in all our principal cities for the purpose of inducing the President to withhold his ratification; and if this step should fail, then to induce Congress to withhold the appropriations necessary to carry the treaty into effect. Such a course, if successful, (it was obvious) would at once involve us in a war with England, and an alliance with France. The denunciations of the treaty were every where loud and vehement. The topics of animadver-

sion were not confined to the policy, or expediency of the principal articles of the treaty. They took a broader range; and the extraordinary doctrine was advanced and vigorously maintained, that the negotiation of a commercial treaty by the Executive was an infringement of the Constitution, and a violation of the power given to Congress to regulate commerce.

Mr. Marshall took an active part in all the discussions upon this subject. Believing the treaty indispensable to the preservation of peace, and its main provisions beneficial to the United States, and consistent with its true dignity, he addressed himself with the most diligent attention to an examination of all the articles, and of the objections urged against them. It was truly a critical period, not merely for the country, but also in an especial manner for the administration. Many of its sincere friends, from the boldness and suddenness of the attacks upon it, from the inflamed state of the public mind, and from a natural distrust of their own judgment upon topics full of embarassment and novelty, remained in a state of suspense, or timidly yielded themselves to the prejudices of the times. It has been well observed in the biography of Washington, that it is difficult now to review the various resolutions and addresses, to which this occasion gave birth, without feeling some degree of astonishment, mingled with humiliation, on perceiving such proofs of the deplorable fallibility of human reason.

In no State in the Union was a more intense hostility exhibited against the treaty than in Virginia; and in none were the objections against it urged with more unsparing or impassioned earnestness. The task, therefore, of meeting and overturning them was of no ordinary magnitude, and required the resources of a

well instructed mind. In some resolutions passed at a meeting of the citizens of Richmond, at which Mr. Chancellor Wythe presided, the treaty was denounced "as insulting to the dignity, injurious to the interest, dangerous to the security, and repugnant to the Constitution of the United States." At a meeting of the same citizens, subsequently held, Mr. Marshall introduced certain resolutions in favor of the conduct of the Executive, and supported them in a masterly speech; the best comment upon which is, that the resolutions were approved by a flattering majority.

But a more difficult and important duty remained to be performed, It was easily foreseen, that the controversy would soon find its way into the State Legislature, and would there be renewed with all the bitter animosity of party spirit. So odious was the treaty in Virginia, that Mr. Marshall's friends were exceedingly solicitous, that he should not engage in any legislative debates on the subject, as it would certainly impair his well earned popularity, and might even subject him to some rude personal attacks. His answer to all such suggestions uniformly was, that he would not bring forward any measure to excite a debate on the subject; but if it were brought forward by others, he would at all hazards vindicate the administration, and assert his own opinions. The subject was soon introduced by the opposition; and, among other things, the constitutional objections were urged with triumphant confidence. Especially was that objection pressed, which denied the constitutional right of the Executive to conclude a commercial treaty, as a favorite and unanswerable position. The speech of Mr. Marshall on this occasion has always been represented as one of the noblest efforts of his genius. His vast powers of rea-

soning were displayed with the most gratifying success. He demonstrated, not only from the words of the Constitution and the universal practice of nations, that a commercial treaty was within the scope of the constitutional powers of the Executive ; but that this opinion had been maintained and sanctioned by Mr. Jefferson, by the Virginia delegation in Congress, and by the leading members of the Convention on both sides. The argument was decisive. The constitutional ground was abandoned ; and the resolutions of the assembly were confined to a simple disapprobation of the treaty in point of expediency.

The constitutional objections were again urged in Congress, in the celebrated debate on the Treaty in the spring of 1796 ; and there finally assumed the mitigated shape of a right claimed by Congress, to grant or withhold appropriations to carry treaties into effect. The higher ground, that commercial treaties were not, when ratified by the Senate, the supreme law of the land, was abandoned ; and the subsequent practice of the government has, without serious question, been under every administration, in conformity to the construction vindicated by Mr. Marshall. The fame of this admirable argument spread through the Union. Even with his political enemies, it enhanced the estimate of his character ; and it brought him at once to the notice of some of the most eminent statesmen, who then graced the councils of the nation.

In the winter of 1796, Mr. Marshall visited Philadelphia, to argue before the Supreme Court the great case of Ware *v.* Hylton, which involved the question of the right of recovery of British debts, which had been confiscated during the revolutionary war. It is well known, that the question was decided against

the side, on which Mr. Marshall was employed. On this occasion he was opposed by three of the ablest lawyers, then belonging to the Pennsylvania bar. This was, of itself, under such circumstances, no small distinction. But the sketch of the argument delivered by him, as we find it in the printed Reports, affords conclusive evidence of his juridical learning, and the great skill, with which he arranged his materials, and sustained the interests of his client.

It was during this visit, that he became personally acquainted with the distinguished men, who were then in Congress, as Representatives from the Northern States. "I then became acquainted," says he, in a letter to a friend, "with Mr. Cabot, Mr. Ames, Mr. Dexter, and Mr. Sedgwick of Massachusetts, Mr. Wadsworth of Connecticut, and Mr. King of New York. I was delighted with these gentlemen. The particular subject (the British Treaty) which introduced me to their notice, was at that time so interesting, and a Virginian, who supported, with any sort of reputation, the measures of the government, was such a *rara avis*, that I was received by them all with a degree of kindness, which I had not anticipated. I was particularly intimate with Mr. Ames, and could scarcely gain credit with him, when I assured him, that the appropriations would be seriously opposed in Congress." The event proved, that he was right. The high opinion, which he then formed of these gentlemen, continued to be cherished by him through all his future life.

About this period President Washington offered him the office of Attorney General of the United States; but he declined it on the ground of its interference with his far more lucrative practice in Virginia.

He continued, however, in the State Legislature; but he rarely engaged in the debates, except when the measures of the National Government were discussed, and required vindication. Nor were the occasions few, in which this task was required to be performed with a steady confidence. One of them shall be mentioned in his own words. "It was, I think," said he, "in the session of 1796, that I was engaged in a debate, which called forth all the strength and violence of party. Some Federalist moved a resolution, expressing the high confidence of the House in the virtue, patriotism, and wisdom of the President of the United States. A motion was made to strike out the word *wisdom*. In the debate the whole course of the Administration was reviewed, and the whole talent of each party was brought into action. Will it be believed, that the word was retained by a very small majority? A very small majority in the Legislature of Virginia acknowledged the wisdom of General Washington!"

Upon the recall of Mr. Monroe, as Minister to France, President Washington solicited Mr. Marshall to accept the appointment, as his successor; but he respectfully declined it for the same reasons as he had the office of Attorney General; and General Pinckney, of South Carolina, was appointed in his stead. "I then thought," said he, "my determination to remain at the bar unalterable. My situation at the bar appeared to me to be more independent, and not less honorable, than any other; and my preference for it was decided."

But he was not long permitted to act upon his own judgment and choice. The French Government refused to receive General Pinckney; and Mr. Adams, (who had then succeeded to the Presidency,) from an

anxious desire to exhaust every measure of conciliation, not incompatible with the national dignity, in June, 1797, appointed Mr. Marshall, General Pinckney, and Mr. (afterwards Vice-President) Gerry, Envoys Extraordinary to the Court of France. After no inconsiderable struggles in his own mind, (which are fully developed in a paper now in my possession,) Mr. Marshall accepted the appointment; and proceeded to Paris, and there, with his colleagues, entered upon the duties of the mission. It is well known, that the mission was unsuccessful; the French Government having refused to enter into any negotiations. The preparation of the official despatches addressed to that Government upon this occasion was confided to Mr. Marshall; and these despatches have been universally admired. They are models of skilful reasoning, clear illustration, accurate detail, and urbane and dignified moderation. They contain a most elaborate review of all the principles of national law, applicable to the points in controversy between the two Nations. As State Papers, there are not in the annals of our diplomacy any, upon which an American can look back with more pride, or from which he can draw more various instruction.

On his return home Mr. Marshall resumed his professional business, and had the best reasons to believe, that it would be increased rather than diminished by his temporary absence. He was determined to pursue it with renewed ardor. But from this determination he was again diverted by a personal appeal made to him by General Washington, who earnestly insisted, that he should become a candidate for Congress. After a conversation between them of the deepest interest and animation, and breathing on each side a spirit of the

purest patriotism, Mr. Marshall reluctantly yielded to the wishes of General Washington, and became a candidate; and was elected after a most ardent political contest; and took his seat in Congress in December, 1799. While he was yet a candidate, President Adams offered him the seat on the Bench of the Supreme Court, then vacant by the death of Mr. Justice Iredell. He immediately declined it; and it was conferred on that excellent magistrate, Mr. Justice Washington.

The Session of Congress in the winter of 1799 and 1800 will be for ever memorable in our political annals. It was the moment of the final struggle for power between the two great political parties, which then divided the country, and ended, as is well known, in the overthrow of the federal administration. Men of the highest talents and influence were there assembled, and arrayed in hostility to each other; and were excited by all the strongest motives, which can rouse the human mind, the pride of power, the hope of victory, the sense of responsibility, the devotion to principles deemed vital, and the bonds of long political attachment and action. Under such circumstances, (as might naturally be expected,) every important measure of the administration was assailed with a bold and vehement criticism; and was defended with untiring zeal and firmness. Mr. Marshall took his full share in the debates; and was received with a distinction proportioned to his merits. Such a distinction, in such a body, is a rare occurrence; for years of public service and experience are usually found indispensable to acquire and justify the confidence of the House of Representatives.

It is not my intention to enter into a minute detail of the debates, in which Mr. Marshall took a part, or to vindicate his votes or opinions. That duty is more

appropriate for a different labor. On one occasion, however, he took a leading part in a most important debate, which acquired for him a wide public fame, and therefore requires notice in this place. I allude to the debate on the case of Thomas Nash, otherwise called Jonathan Robbins, who had been surrendered to the British Government for trial for a supposed murder, committed by him on board of a British ship of war. Certain Resolutions were brought forward, censuring the conduct of the Executive for this act, in terms of decided disapprobation, as unconstitutional and improper. Mr. Marshall in the course of the debate delivered a speech in vindication of the right and duty of the Executive to make the surrender, which placed him at once in the first rank of constitutional statesmen. The substance of it is now in print. It is one of the most consummate juridical arguments, which was ever pronounced in the Halls of Legislation ; and equally remarkable for the lucid order of its topics, the profoundness of its logic, the extent of its research, and the force of its illustrations. It may be said of that Speech, as was said of Lord Mansfield's celebrated Answer to the Prussian Memorial, it was *Reponse sans replique*, an answer so irresistible, that it admitted of no reply. It silenced opposition, and settled then, and for ever, the points of national law, upon which the controversy hinged. The Resolutions did not, indeed, fall lifeless from the Speaker's table, though they were negatived by a large majority. But a more unequivocal demonstration of public opinion followed. The denunciations of the Executive, which had hitherto been harsh and clamorous every where throughout the land, sunk away at once into cold and cautious whispers only of disapprobation. Whoever reads that Speech even at

this distance of time, when the topics have lost much of their interest, will be struck with the prodigious powers of analysis and reasoning, which it displays; and which are enhanced by the consideration, that the whole subject was then confessedly new in many of its aspects.

In May, 1800, President Adams, without any personal communication with Mr. Marshall, appointed him Secretary of War. Before, however, he was called to enter upon the duties of that office, the known rupture took place between the President and Col. Pickering; and Mr. Marshall was appointed Secretary of State in the stead of the latter. The appointment was every way honorable to his merits; and no one doubted, that he was eminently qualified for the discharge of its arduous and important duties.

And, here, I cannot but take great pleasure in recording a circumstance equally honorable to all the parties concerned. Without intending in the slightest degree to enter upon the discussion of the controversy between the President and Col. Pickering, I may be permitted to say, that the circumstances, necessarily attending the dismissal of the latter from office, were calculated to awaken a strong sense of injustice in the mind of an officer of unquestionable integrity and patriotism. The rupture grew out of a serious difference of opinion upon very grave political measures; and Mr. Marshall entertained a serious attachment to the views of the President. Under such circumstances, it would have been not unnatural, that the late Secretary should have felt some prejudices against his successor; and that there should have been some withdrawal of mutual confidence and perhaps respect between them. No such event occurred. On the contrary, each to the day of his death spoke of the other in terms of enviable

commendation; and their mutual frank and familiar friendship was never in the slightest manner interrupted. I have often listened to the spontaneous praise bestowed on Mr. Marshall by Col. Pickering, (a man to whom might justly be applied the character — Incorrupta fides, nudaque veritas, et mens conscia recti) in his own peculiar circle of friends with unmixed delight. It was full, glowing, and affecting. It was a tribute from one of such sincerity of thought and purpose, that praise, even when best deserved, came from his lips with a studied caution of language. His conversation, always instructive, on these occasions rose into eloquence, beautiful, nay, touched with a moral sublimity. When all the circumstances are considered, I think, that I do not over estimate the value of this example of mutual confidence and friendship, when I pronounce it as gratifying, as it is rare. It prostrates in the dust all petty rivalry for public distinction. It shows, that great minds, (and perhaps great minds only,) fully understand that exquisite moral truth, that no man stands in another man's way in the road to honor; and that the world is wide enough for the fullest display of the virtues and talents of all, without intercepting a single ray of light reflected by any.

On the 31st of January, 1801, Mr. Marshall received the appointment of Chief Justice of the United States. It is due to his memory to state, that it was conferred on him, not only without his own solicitation, (for he had in fact recommended another person for the office,) but by the prompt and spontaneous choice of President Adams upon his own unassisted judgment. The nomination was unanimously confirmed by the Senate; and the Chief Justice accordingly took his seat on the

Bench at the ensuing term of the Supreme Court. I trust, that I am not violating any private confidence, when I quote from a letter of the distinguished Son of this distinguished Patriot a passage on this subject, to which the whole country will respond without hesitation. It enclosed a judicial commission to a gentleman, now justly enjoying the highest professional reputation; and says with equal felicity and truth — "One of the last acts of my father's administration was the transmission of a commission to John Marshall, as Chief Justice of the United States. One of the last acts of my administration is the transmission of the enclosed commission to you. If neither of us had ever done any thing else to deserve the approbation of our country, and of posterity, I would proudly claim it of both for these acts, as due to my father and myself." The claim is, indeed, a proud claim to distinction. It has received, as it deserved, the approbation of the whole country. The gratitude of posterity will also do just homage to the sagacity, foresight, disinterestedness, and public spirit of the choice. It was in moral dignity the fit close of a political life of extraordinary brilliancy. In public importance it scarcely yielded to any act of that life, except the motion for the Declaration of Independence. Such honor from such hands was felt to be doubly dear. It was the highest praise from one, whose title to confer it had been earned by long services in the cause of liberty. The names of Adams and Marshall became thus indissolubly connected in the juridical and constitutional history of the country.

From this time until his death the Chief Justice continued in the discharge of the duties of his exalted office with unsullied dignity, and constantly increasing

reputation. Notwithstanding his advancing years, no sensible inroad had been made upon his general health, until the last term of the Court, when it was obvious, that his physical strength had passed the utmost stretch of its vigor, and was in a state of rapid decline. His intellectual powers still, however, retained their wonted energy; and, though he was suffering under great bodily pain, he not only bore it with an uncomplaining spirit, but continued to take his full share of the business of the Court. No better proof need be required of his intellectual ability than his opinions, which stand recorded in the last volume of Reports.

At the close of the term he returned to his residence in Virginia; and he was afterwards induced, by the solicitations of his friends, to visit Philadelphia, in the expectation of receiving some aid from the distinguished medical skill of that city. His constitution, however, had become so shattered, that little more remained to be done, during the last weeks of his life, than to smooth the downward path towards the grave. He died on the sixth day of July last past, about six o'clock in the evening, in the arms of his children, without a struggle; and to use the expressive language of one, who was present, his last breath was the softest whisper of a zephyr. Fortunately, by the considerate kindness of his friends, he was spared the knowledge of the death of his eldest son, who lost his life a few days before by a most calamitous accident; an event, which, from the high character of the son, and his strong affection for him, would have filled his last hours with inexpressible anguish.

He was fully aware of his approaching end, and prepared to meet it with a calmness built upon the fixed principles, by which he had regulated his life. Two

days only before his death he wrote an Inscription to be placed on his tomb, in the following simple and modest terms: "John Marshall, son of Thomas and Mary Marshall, was born on the 24th of September, 1755, intermarried with Mary Willis Ambler the 3d of January, 1783, departed this life the —— day of —— 18—."

What can be more affecting than these few facts, the only ones, which he deemed in his last moments worth recording! His birth; his parentage; his marriage; his death; — His parents, to whose memory he was attached with a filial piety, full of reverence; — his marriage to the being, whom he had loved with a singleness and devotedness of affection never surpassed; — his own birth, which seemed principally memorable to him, as it connected him with beings like these; — his own death, which was but an event to re-unite him with those, who had gone before, in a world, where there should be no more suffering or sorrow; but kindred souls should dwell together, even as the Angels in Heaven.

I have now finished the narrative of the life of Chief Justice Marshall, a life, which, though unadorned by brilliant passages of individual adventure, or striking events, carries with it, (unless I am greatly mistaken,) that, which is the truest title to renown, a fame founded on public and private virtue. It has happened to him, as to many other distinguished men, that his life had few incidents; and those,which belonged to it, were not far removed from the ordinary course of human events. That life was filled up in the conscientious discharge of duty. It was throughout marked by a wise and considerate propriety. His virtues expanded with the gradual development of his character. They

were the natural growth of deep rooted principles, working their way through the gentlest affections, and the purest ambition. No man ever had a loftier desire of excellence; but it was tempered by a kindness, which subdued envy, and a diffidence, which extinguished jealousy. Search his whole life, and you cannot lay your finger on a single extravagance of design or act? There were no infirmities, leaving a permanent stain behind them. There were no eccentricities to be concealed; no follies to be apologized for; no vices to be blushed at; no rash outbreakings of passionate resentment to be regretted; no dark deeds, disturbing the peace of families, or leaving them wretched by its desolations. If here and there the severest scrutiny might be thought capable of detecting any slight admixture of human frailty, it was so shaded off in its coloring, that it melted into some kindred virtue. It might with truth be said, that the very failing leaned to the side of the charities of life; and carried with it the soothing reflection — Non multum abludit imago. It might excite a smile; it could never awaken a sigh.

Indeed, there was in him a rare combination of virtues, such only as belongs to a character of consummate wisdom; a wisdom which looks through this world, but which also looks far beyond it for motives and objects. I know not, whether such wisdom ought to be considered as the cause, or the accompaniment, of such virtues; or whether they do not in truth alternately act upon, and perfect each other.

I have said, that there was in him a rare combination of virtues. If I might venture, upon so solemn an occasion, to express my own deliberate judgment, in the very terms most significant to express it, I should say,

that the combination was so rare, that I have never known any man, whom I should pronounce more perfect. He had a deep sense of moral and religious obligation, and a love of truth, constant, enduring, unflinching. It naturally gave rise to a sincerity of thought, purpose, expression, and conduct, which, though never severe, was always open, manly, and straight forward. Yet it was combined with such a gentle and bland demeanour, that it never gave offence; but it was, on the contrary, most persuasive in its appeals to the understanding.

Among Christian sects, he personally attached himself to the Episcopal Church. It was the religion of his early education; and became afterwards that of his choice. But he was without the slightest touch of bigotry or intolerance His benevolence was as wide, as Christianity itself. It embraced the human race. He was not only liberal in his feelings, and principles, but in his charities. His hands were open upon all occasions to succour distress, to encourage enterprise, and to support good institutions.

He was a man of the most unaffected modesty. Although I am persuaded, that no one ever possessed a more entire sense of his own extraordinary talents and acquirements, than he; yet it was a quiet, secret sense, without pride and without ostentation. May I be permitted to say, that, during a most intimate friendship of many, many years, I never upon any occasion was able to detect the slightest tincture of personal vanity. He had no desire for display; and no ambition for admiration. He made no effort to win attention in conversation or argument, beyond what the occasion absolutely required. He sought no fine turns of expression, no vividness of diction, no ornate elegancies

of thought, no pointed sentences, to attract observation. What he said was always well said, because it came from a full mind, accustomed to deep reflection; and he was rarely languid, or indifferent to topics, which interested others. He dismissed them without regret; though he discussed them with spirit. He never obtruded his own opinions upon others; but brought them out only, as they were sought, and then with clearness and calmness. Upon a first introduction, he would be thought to be somewhat cold and reserved; but he was neither the one, nor the other. It was simply a habit of easy taciturnity, waiting, as it were, his own turn to follow the line of conversation, and not to presume to lead it. Even this habit melted away in the presence of the young; for he always looked upon them with a sort of parental fondness, and enjoyed their playful wit, and fresh and confident enthusiasm. Meet him in a stage coach, as a stranger, and travel with him a whole day; and you would only be struck with his readiness to administer to the accommodations of others, and his anxiety to appropriate the least to himself. Be with him, the unknown guest at an Inn, and he seemed adjusted to the very scene, partaking of the warm welcome of its comforts, whenever found; and if not found, resigning himself without complaint to its meanest arrangements. You would never suspect, in either case, that he was a great man; far less, that he was the Chief Justice of the United States. But, if perchance, invited by the occasion, you drew him into familiar conversation, you would never forget, that you had seen and heard that "old man eloquent."

He had great simplicity of character, manners, dress, and deportment; and yet with a natural dignity,

that suppressed impertinence, and silenced rudeness. His simplicity was never accompanied with that want of perception of what is right, and fit for the occasion; of that grace, which wins respect; or that propriety, which constitutes the essence of refined courtesy. And yet it had an exquisite *naivete*, which charmed every one, and gave a sweetness to his familiar conversations, approaching to fascination. The first impression of a stranger, upon his introduction to him, was generally that of disappointment. It seemed hardly credible, that such simplicity should be the accompaniment of such acknowledged greatness. The consciousness of power was not there; the air of office was not there; there was no play of the lights or shades of rank; no study of effect in tone or bearing. You saw at once, that he never thought of himself; and that he was far more anxious to know others, than to be known by them. You quitted him with increased reverence for human greatness; for in him it seemed inseparable from goodness. If vanity stood abashed in his presence, it was not, that he rebuked it; but that his example showed its utter nothingness.

He was a man of deep sensibility and tenderness; nay, he was an enthusiast in regard to the domestic virutes. He was endowed by nature with a temper of great susceptibility, easily excited, and warm, when roused. But it had been so schooled by discipline, or rather so moulded and chastened by his affections, that it seemed in gentleness, like the distilling dews of evening. It had been so long accustomed to flow in channels, where its sole delight was to give or secure happiness to others, that no one would have believed, that it could ever have been precipitate or sudden in its movements. In truth, there was, to the

very close of his life, a romantic chivalry in his feelings, which, though rarely displayed, except in the circle of his most intimate friends, would there pour out itself with the most touching tenderness. In this confidential intercourse, when his soul sought solace from the sympathy of other minds, he would dissolve in tears at the recollection of some buried hope, or lost happiness. He would break out into strains of almost divine eloquence, while he pointed out the scenes of former joys, or recalled the memory of other days, as he brought up their images from the dimness and distance of forgotten years, and showed you at once the depth, with which he could feel, and the lower depths, in which he could bury his own closest, dearest, noblest emotions. After all, whatever may be his fame in the eyes of the world, that, which, in a just sense, was his highest glory, was the purity, affectionateness, liberality, and devotedness of his domestic life. Home, home, was the scene of his real triumphs. There, he indulged himself in what he most loved, the duties and the blessings of the family circle. There, his heart had its full play; and his social qualities, warmed, and elevated, and refined by the habitual elegancies of taste, shed around their beautiful and blended lights. There, the sunshine of his soul diffused its softened radiance, and cheered, and soothed, and tranquillized the passing hours.

May I be permitted also in this presence to allude to another trait in his character, which lets us at once into the inmost recesses of his feelings with an unerring certainty. I allude to the high value, in which he held the female sex, as the friends, the companions, and the equals of man. I do not here mean to refer to the courtesy and delicate kindness, with which he

was accustomed to treat the sex; but rather to the unaffected respect, with which he spoke of their accomplishments, their talents, their virtues, and their excellencies. The scoffs and jeers of the morose, the bitter taunts of the satirist, and the lighter ridicule of the witty, so profusely, and often so ungenerously, poured out upon transient follies or fashions, found no sympathy in his bosom. He was still farther above the common place flatteries, by which frivolity seeks to administer aliment to personal vanity, or vice to make its approaches for baser purposes. He spoke to the sex, when present, as he spoke of them, when absent, in language of just appeal to their understandings, their tastes, and their duties. He paid a voluntary homage to their genius, and to the beautiful productions of it, which now adorn almost every branch of literature and learning. He read those productions with a glowing gratitude. He proudly proclaimed their merits, and vindicated on all occasions their claims to the highest distinction. And he did not hesitate to assign to the great female authors of our day a rank, not inferior to that of the most gifted and polished of the other sex. But, above all, he delighted to dwell on the admirable adaptation of their minds, and sensibilities, and affections to the exalted duties assigned to them by Providence. Their superior purity, their singleness of heart, their exquisite perception of moral and religious sentiment, their maternal devotedness, their uncomplaining sacrifices, their fearlessness in duty, their buoyancy in hope, their courage in despair, their love, which triumphs most, when most pressed by dangers and difficulties; which watches the couch of sickness, and smooths the bed of death, and smiles even in the agonies of its own

sufferings ; — These, these were the favorite topics of his confidential conversation ; and on these he expatiated with an enthusiasm, which showed them to be present in his daily meditations.

I have hitherto spoken of traits of character, belonging in a great measure to his private life. Upon his public life we may look with equal satisfaction. It was without stain or blemish. It requires no concealment or apology ; and may defy the most critical and searching scrutiny. He was never seduced by the allurements of office to a desertion of his principles. He was never deterred from an open vindication of them by popular clamor, or party cabal ; by thefrowns of power, or the fury of mobs. His ambition took a loftier range. He aspired to that fame, which is enduring, and may justly be conferred by future ages ; not to that fame, which swells with the triumphs of the day, and dies away, long before it can reach the rising generation. To him might be applied the language of another great magistrate* — He wished for popularity ; that popularity, which follows, not that, which is run after ; that popularity, which, sooner or later, never fails to do justice to the pursuit of noble ends by noble means. He would not do, what his conscience told him was wrong, to gain the huzzas of thousands, or the daily praise of all the papers, which came from the press. He would not avoid to do, what he thought was right, though it should draw on him the whole artillery of libels ; all that falsehood or malice could invent, or the credulity of a deluded populace could swallow.

There was throughout his political life a steadfast-

* Lord Mansfield, 4 Burr. R. 2562.

ness and consistency of principle as striking, as they were elevating. During more than half a century of public service, he maintained with inflexible integrity the same political principles, with which he begun. He was content to live *by*, *with*, and *for* his principles. Amidst the extravagancies of parties at different times, he kept on the even tenor of his way with a calm and undeviating firmness, never bending under the pressure of adversity, or bounding with the elasticity of success. His counsels were always the counsels of moderation, fortified and tried by the results of an enlightened experience. They never betrayed either timidity or rashness. He was, in the original, genuine sense of the word, a Federalist — a Federalist of the good old school, of which Washington was the acknowledged head, and in which he lived and died. In the maintenance of the principles of that school he was ready at all times to stand forth a determined advocate and supporter. On this subject he scorned all disguise; he affected no change of opinion; he sought no shelter from reproach. He boldly, frankly, and honestly avowed himself, through evil report and good report, the disciple, the friend, and the admirer of Washington and his political principles. He had lived in times, when these principles seemed destined to secure to the party, to which he belonged, an enduring triumph. He had lived to see all these prospects blasted; and other statesmen succeed with a power and influence of such vast extent, that it extinguished all hopes of any future return to office. Yet he remained unshaken, unseduced, unterrified. He had lived to see many of his old friends pass on the other side; and the gallant band, with which he had borne the strife, drop away by death, one after another, until it

seemed reduced to a handful. Yet he uttered neither a sigh, nor a complaint. When, under extraordinary excitements in critical times, others, with whom he had acted, despaired of the Republic, and were willing to yield it up to a stern necessity, he resisted the impulse, and clung to the Union, and nailed its colors to the mast of the Constitution.

It is no part of my duty or design upon the present occasion to expound, or vindicate his political opinions. That would of itself furnish ample materials for a discourse of a different character. But it is due to truth to declare, that no man was ever more sincerely attached to the principles of free government; no man ever cherished republican institutions with more singleness of heart and purpose; no man ever adhered to his country with a stronger filial affection; no man in his habits, manners, feelings, pursuits, and actions, ever exemplified more perfectly that idol of chivalry, a patriot without fear and without reproach. But, on the other hand, no man was ever more sensible of the dangers incident to free institutions, and especially of those, which threaten our national existence. He saw and felt, where the weaknesses of the Republic lay. He wished, earnestly wished, perpetuity to the Constitution, as the only solid foundation of our national glory and independence. But he foresaw what our course would be; and he never hesitated to express, what his fears were, and whence the ruin of the Constitution must come, if it shall come at all. In his view, the Republic is not destined to perish, if it shall perish, by the overwhelming power of the National Government; but by the resisting and counteracting power of the State sovereignties. He thought with another kindred mind, whose vivid language still rings

in my ears after many years, as a voice from the dead, that in our Government the centrifugal force is far greater than the centripetal; that the danger is not, that we shall fall into the sun; but that we may fly off in eccentric orbits, and never return to our perihelion. Whether his prophetic fears were ill or well founded, Time alone can decide; — Time, which sweeps away the schemes of man's invention; but leaves immovable on their foundations the eternal truths of nature.

Hitherto, I have spoken of the attributes belonging to his moral character, and the principles, which governed his life and conduct. On these, I confess, that I dwell with a fond and reverential enthusiasm. There was a daily beauty in these, which captivated the more, the nearer they were approached, and the more they were gazed on. Like the softened plays of moonlight, they served to illuminate all objects, at the same time, that they mellowed and harmonized them. But, I am admonished, that the duties of the present occasion require me to dwell rather on his intellectual, than his moral qualities. He stands before us rather as the head of a learned profession, than as a private citizen, or as a statesman.

He was a great man. I do not mean by this, that among his contemporaries he was justly entitled to a high rank for his intellectual endowments, an equal among the master spirits of the day, if not *facile princeps*. I go farther; and insist, that he would have been deemed a great man in any age, and of all ages. He was one of those, to whom centuries alone give birth; standing out, like beacon lights on the loftiest eminences, to guide, admonish, and instruct future generations, as well as the present. It did not happen to him, as it has happened to many men of celebrity,

that he appeared greatest at a distance ; that his superiority vanished on a close survey ; and that familiarity brought it down to the standard of common minds. On the contrary, it required some degree of intimacy fully to appreciate his powers ; and those, who knew him best, and saw him most, had daily reason to wonder at the vast extent and variety of his intellectual resources.

His genius was rather contemplative, than imaginative. It seemed not so much to give direction to his other intellectual powers, as to receive its lead from them. He devoted himself principally to serious and profound studies ; and employed his invention rather to assist philosophical analysis, than to gather materials for ornament, for persuasion, or for picturesque effect. In strength, and depth, and comprehensiveness of mind, it would be difficult to name his superior. He sought for truths far beyond the boundaries, to which inquisitive and even ambitious minds are accustomed to push their inquiries. He traced them out from their first dim lights and paly glimmers, until they stood embodied before him with a clear and steady brightness. His sagacity was as untiring, as it was acute ; and he saw the conclusion of his premises at such vast distances, and through such vast reaches of intermediate results, that it burst upon other minds as a sort of instant, and miraculous induction. It was said by a distinguished political opponent, who had often felt the power of his reasoning, that he made it a rule in argument, never to admit any proposition asserted by the Chief Justice, however plain and unquestionable it might seem to be ; for, if the premises were once admitted, the conclusion, however apparently remote, flowed on with an irresistible certainty. His powers

of analysis were, indeed, marvellous. He separated the accidental from the essential circumstances with a subtilty and exactness, which surprised those most, who were accustomed to its exercise. No error in reasoning escaped his detection. He followed it through all its doublings, until it became palpable, and stripped of all its disguises. But, what seemed peculiarly his own, was the power, with which he seized upon a principle or argument, apparently presented in the most elementary form, and showed it to be a mere corollary of some more general truth, which lay at immeasurable distances beyond it. If his mind had been less practical, he would have been the most consummate of metaphysicians, and the most skilful of sophists. But his love of dialectics was constantly controlled by his superior love of truth. He had no vain ambition to darken counsel, or encourage doubt. His aim was conscientiously to unfold truth, as it was, in its simple majesty; to strengthen the foundation of moral, religious, social, political, and legal obligations; and to employ the gifts, with which Providence had entrusted him, to augment human happiness, support human justice, and bind together in an indissoluble union the great interests of human society. In short, if I were called upon to say, in what he intellectually excelled most men, I should say it was in wisdom, in the sense already alluded to; — a wisdom drawn from large, extensive, sound principles and various researches; — a wisdom, which constantly accumulated new materials for thought and action, and as constantly sifted and refined the old. He was not ambitious of literary distinction. But his great work on the life of Washington shows his capacity for historical composition in the most favorable light. It will for ever remain a monument of

his skill, sound judgment, and strict impartiality; and must in the future, as in the past, be a standard authority for all other historians.

In contemplating his professional career it cannot for a moment be doubted, that he must have occupied the foremost rank among Advocates. Such accordingly has been his reputation transmitted to us by his contemporaries at the bar. From what has been already said, his powers of argument must have ensured him entire success. In his manner he was earnest, impressive, deliberative; but at the same time far more intent on his matter, than his manner. Never having known him, while he was at the bar, I should have silently drawn the conclusion, that his forensic arguments were more distinguished for masculine sense, solid reasoning, and forcible illustration, than for impassioned appeals, or touching pathos, even when the latter might fairly enlist the judgment of an advocate. But there have been times in private conversations and conferences, in which he has been roused by the interest of the subject to such a glowing strain of animated reasoning, that I am convinced, that he was no stranger to appeals to the heart; and that, when he chose, he could call up from the very depths of the soul its most powerful feelings.

In regard to Eloquence, if by that be merely meant, an ornamented diction, splendor of style, impassioned delivery, and fine flourishes of rhetoric, it could scarcely be said to belong to his forensic addresses. In the view of such a mind as his, there were graver duties to be performed, and more important interests to be secured. He loved the law, as a science, and not as a trade; and felt the full dignity of being a minister at its altars. He deemed himself under deep responsi-

bility, not to his client alone, but to the court, and to the cause of public justice. He studied to know, what the precepts of the law were, that he might apply them to his cause, and not to pervert them to aid the triumph of injustice, or to swell the trophies of cunning, or avarice, or profligacy. His notions of professional morals and obligations were far different from such mean and debasing palterings with conscience. He argued *for* the law, and *with* the law, and *from* the law. He disdained to mislead the court or jury, if he could; and he gave to both on all occasions the support and the instruction of his ample studies.

But if by Eloquence be meant the power to address other men's minds in language expressive and luminous; to present the proper topics of argument in their just order and fullness; to convince the understanding by earnest and sententious appeals; and by the force of reasoning, to disarm prejudices, to subdue passions, and to dissipate popular delusions; — if these be the attributes of eloquence, then, indeed, few men might more justly aspire to such a distinction. I would not claim for him, that he possessed the power to seduce men's understandings by persuasive insinuations, or honied accents; but I affirm, that he withdrew their understandings from the potency of such artifices, so that they fell lifeless at his feet; — telumque imbelle sine ictu. To him may unhesitatingly be applied the language of Cicero, pronounced upon one of the greatest lawyers of Rome, that he possessed a mastery of the highest art of oratory; the art of analyzing, defining, and illustrating a subject; separating the true from the false; and deducing from each the appropriate consequences; — artem, quæ doceret rem universam tribuere in partes,

latentem explicare definiendo, obscuram explanare interpretando; ambigua primum videre, deinde distinguere; postremo, habere regulam, quâ vera et falsa judicarentur; et quæ, quibus positis, essent, quæque non essent, consequentia. Hic enim attulit hanc artem, omnium artium maximam, quasi lucem, ad ea, quæ confuse ab aliis aut respondebantur, aut agebantur.*

But it is principally upon his character as a Magistrate, presiding over the highest tribunal of the Nation, that the solid fabric of his fame must rest. And there let it rest; for the foundations are deep, and the superstructure fitted for immortality. Time, which is perpetually hurrying into a common oblivion the flatterers of kings, and the flatterers of the people, the selfish demagogues, and the wary courtiers, serves but to make true greatness better known, by dissolving the mists of prejudice and passion, which for a while conceal its true glory. The life of the Chief Justice extended over a space rare in the annals of jurisprudence; and still more rare is such a life, with the accompaniment of increasing reputation. There was nothing accidental or adventitious in his judicial character. It grew by its own native strength, unaided by the sunshine of power, and unchecked by cold neglect, or unsparing indifference. The life of Lord Mansfield was one of the longest and most splendid in the juridical history of England. That of the Chief Justice was longer, and may fairly rival it in the variety of its labors, in the glory of its achievements, and in its rapid advancement of the science of jurisprudence.

The Chief Justiceship of the United States is a station full of perplexing duties, and delicate responsibili-

* Cicero De Clar. Orator. Cap. 41.

ties, and requiring qualities so various, as well as so high, that no man, conscious of human infirmity, can fail to approach it with extreme diffidence and distrust of his own competency. It is the very post, where weakness, and ignorance, and timidity must instantly betray themselves, and sink to their natural level. It is difficult even for the profession at large fully to appreciate the extent of the labors, the various attainments, the consummate learning, and the exquisite combination of moral qualities, which are demanded to fill it worthily. It has hitherto been occupied only by the highest class of minds, which had been trained and disciplined by a long course of public and professional service for its functions. Jay, Ellsworth, and Marshall, have been the incumbents for the whole period since the adoption of the Constitution ; and their extraordinary endowments have in a great measure concealed from the public gaze the dangers and the difficulties of this dazzling vocation.

There is nothing in the jurisprudence of the States, which affords any parallel or measure of the labors of the National Courts. The jurisprudence of each State is homogeneous in its materials. It deals with institutions of a uniform character. It discusses questions of a nature familiar to the thoughts and employments of the whole profession. The learned advocate, who finds himself transferred, by public favor or superior ability, from the state bar to the state bench, finds the duties neither new, nor embarrassing in their elements or details. He passes over ground, where the pathways are known and measured ; and he finds pleasure in retracing their windings and their passages. He may exclaim with the poet, Juvat iterare

labores; and he indulges a safe and generous confidence in his own juridical attainments.

How different is the case in the National Courts! With whatever affluence of learning a Judge may come there, he finds himself at once in a scene full of distressing novelties and varieties of thought. Instead of the jurisprudence of a single State, in which he has been educated and trained, he is at once plunged into the jurisprudence of twenty-four States, essentially differing in habits, laws, institutions, and principles of decision. He is compelled to become a student of doctrines, to which he has hitherto been an entire stranger; and the very language, in which those doctrines are sometimes expressed, is in the truest sense to him an unknown tongue. The words seem to belong to the dialect of his native language; but other meanings are attached to them, either so new, or so qualified, that he is embarrassed at every step of his progress. Nay; he is required in some measure to forget in one cause, what he has learned in another, from its inapplicability or local impropriety; and new statutes, perpetually accumulating on every side, seem to snatch from his grasp the principles of local law, at the moment, when he is beginning to congratulate himself upon the possession of them. Independent of this complicated intermixture of State Jurisprudence, he is compelled to master the whole extent of Admiralty and Prize Law; the public and private Law of Nations; and the varieties of English and American Equity Jurisprudence. To these confessedly Herculean labors he must now add some reasonable knowledge of the Civil Law, and of the Jurisprudence of France and Spain, as they break upon him from the sunny regions of the farthest South. Nor is this all; (though much

of what has been already stated must be new to his thoughts) he must gather up the positive regulations of the statutes and treaties of the National Government, and the silent and implied results of its sovereignty and action. He must finally expand his studies to that most important branch of National Jurisprudence, the exposition of constitutional law, demanding, as it does, a comprehensiveness of thought, a calmness of judgment, and a diligence of research, (not to speak of other qualities,) which cannot be contemplated without the most anxious apprehensions of failure. When these various duties are considered, it is scarcely too much to say, that they present the same discouraging aspect of the National Jurisprudence, which Sir Henry Spelman has so feelingly proclaimed of the municipal jurisprudence of England, in his day ; — Molem, non ingentem solum, sed perpetuis humeris sustinendam.

These, however, are but a part of the qualifications required of the man, who holds the office of Chief Justice. He must also possess other rare accomplishments, which are required of one, who, as the Head of the Court, is to preside over its public deliberations, and its private confidential conferences. Patience, moderation, candor, urbanity, quickness of perception, dignity of deportment, gentleness of manners, genius, which commands respect, and learning, which justifies confidence ; — These seem indispensable qualifications to fill up the outlines of the character. While I was yet shadowing them out in my own mind, my eyes insensibly turned (as it were) to the Judicial Hall at Washington, and to the very Chair appropriated to the office. The venerable form of Marshall seemed still seated there ! — It was but a momentary dream ;

— I awoke ; and found, that I had but sketched the first lines of his portrait.

Yes, this great and good man was all, that we could ask, or even desire for the station. He seemed the very personation of Justice itself, as he ministered at its altars — in the presence of the nation — within the very walls, which had often echoed back the unsurpassed eloquence of the dead, of Dexter, and Pinkney, and Emmett, and Wirt, and of the living also, nameless here, but whose names will swell on the voices of a thousand generations. Enter but that hall, and you saw him listening with a quiet, easy dignity to the discussions at the bar ; silent, serious, searching ; with a keenness of thought, which sophistry could not mislead, or error confuse, or ingenuity delude ; with a benignity of aspect, which invited the modest to move on with confidence ; with a conscious firmness of purpose, which repressed arrogance, and overawed declamation. You heard him pronounce the opinion of the Court in a low but modulated voice, unfolding in luminous order every topic of argument, trying its strength, and measuring its value, until you felt yourself in the presence of the very oracle of the law. You heard, (if I may adopt the language applied to another great magistrate on a like occasion) you "heard principles stated, reasoned upon, enlarged, and explained, until you were lost in admiration at the strength and stretch of the human understanding."* Follow him into the conference room, a scene of not less difficult or delicate duties, and you would observe the same presiding genius, the same kindness, attentiveness, and deference ; and, yet, when the occasion required, the same

* Mr. Justice Buller, speaking of Lord Mansfield, in Lickbarrow v. Mason, 2 Term Rep. 73.

power of illustration, the same minuteness of research, the same severity of logic, and the same untiring accuracy in facts and principles.

It may be truly said of him, as it was of Lord Mansfield, that he excelled in the statement of a case; so much so, that it was almost of itself an argument. If it did not at once lead the hearer to the proper conclusion, it prepared him to assent to it, as soon as it was announced. Nay more; it persuaded him, that it must be right, however repugnant it might be to his preconceived notions. Perhaps no Judge ever excelled him in the capacity to hold a legal proposition before the eyes of others in such various forms and colors. It seemed a pleasure to him to cast the darkest shades of objection over it, that he might show, how they could be dissipated by a single glance of light. He would by the most subtile analysis resolve every argument into its ultimate principles, and then with a marvellous facility apply them to the decision of the cause.

That he possessed an uncommon share of juridical learning, would naturally be presumed, from his large experience and inexhaustible diligence. Yet it is due to truth, as well as to his memory to declare, that his juridical learning was not equal to that of many of the great masters in the profession, living or dead, at home or abroad. He yielded at once to their superiority of knowledge, as well in the modern as in the ancient law. He adopted the notion of Lord Bacon, that "studies serve for delight, for ornament, and for ability,"—"in the judgment and disposition of business." The latter was his favorite object. Hence he "read not to contradict and confute; nor to believe and take for granted; nor to find talk and discourse; but to

weigh and consider." And he followed another suggestion of that great man, that "Judges ought to be more learned, than witty; more reverend, than plausible; and more advised, than confident." The original bias, as well as choice, of his mind was to general principles, and comprehensive views, rather than to technical, or recondite learning. He loved to expatiate upon the theory of equity; to gather up the expansive doctrines of commercial jurisprudence; and to give a rational cast even to the most subtile dogmas of the common law. He was solicitous to hear arguments; and not to decide causes without them. And no Judge ever profited more by them. No matter, whether the subject was new or old; familiar to his thoughts, or remote from them; buried under a mass of obsolete learning, or developed for the first time yesterday; whatever was its nature, he courted argument, nay, he demanded it. It was matter of surprise to see, how easily he grasped the leading principles of a case, and cleared it of all its accidental incumbrances; how readily he evolved the true points of the controversy, even when it was manifest, that he never before had caught even a glimpse of the learning, upon which it depended. He seized, as it were by intuition, the very spirit of juridical doctrines, though cased up in the armor of centuries; and he discussed authorities, as if the very minds of the Judges themselves stood disembodied before him.

But his peculiar triumph was in the exposition of constitutional law. It was here, that he stood confessedly without a rival, whether we regard his thorough knowledge of our civil and political history, his admirable powers of illustration and generalization, his scrupulous integrity and exactness in interpreta-

tion, or his consummate skill in moulding his own genius into its elements, as if they had constituted the exclusive study of his life. His proudest epitaph may be written in a single line — Here lies the Expounder of the Constitution of the United States.

I am aware of the force of this language; and have no desire to qualify it. The task, which he had to perform, was far different from that, which belongs to the debates in other places, where topics may be chosen, and pressed, or avoided, as the occasion may require. In the forum there is no choice of topics to be urged; there are no passions to be addressed; there are no interests to be courted. Critical inquiries, nice discriminations, severe inductions, and progressive demonstrations are demanded upon the very points, on which the controversy hinges. Every objection must be met, and sifted, and answered, not by single flashes of thought, but by the closest logic, reasoning out every successive position with a copious and convincing accuracy.

Let it be remembered, that, when Chief Justice Marshall first took his seat on the Bench, scarcely more than two or three questions of constitutional law had ever engaged the attention of the Supreme Court. As a science, constitutional law was then confessedly new; and that portion of it, in an especial manner, which may be subjected to judicial scrutiny, had been explored by few minds, even in the most general forms of inquiry. Let it be remembered, that in the course of his judicial life, numerous questions of a practical nature, and involving interests of vast magnitude, have been constantly before the Court, where there was neither guide, nor authority; but all was to be wrought out by general principles. Let it be

remembered, that texts, which scarcely cover the breadth of a finger, have been since interpreted, explained, limited, and adjusted by judicial commentaries, which are now expanded into volumes. Let it be remembered, that the highest learning, genius, and eloquence of the bar, have been employed to raise doubts, and fortify objections ; that State sovereignties have stood impeached in their legislation ; and rights of the most momentous nature have been suspended upon the issue ; that, under such circumstances, the infirmities of false reasoning, the glosses of popular appeal, the scattered fire of irregular and inconclusive assertion, and the want of comprehensive powers of analysis, had no chance to escape the instant detection of the profession ; — Let these things (I say) be remembered ; and who does not at once perceive, that the task of expounding the Constitution, under such circumstances, required almost superhuman abilities ? It demanded a mind, in which vast reaches of thought should be combined with patience of investigation, sobriety of judgment, fearlessness of consequences, and mastery of the principles of interpretation, to an extent rarely belonging to the most gifted of our race.

How this gigantic task of expounding the Constitution was met and executed by Chief Justice Marshall, let the Profession, let the Public, decide. Situated as I am, I may not speak for others upon such an occasion. But having sat by his side during twenty-four years ; having witnessed his various constitutional labors ; having heard many of those exquisite judgments, the fruits of his own unassisted meditations, from which the Court has derived so much honor ; — et nos aliquod nomenque decusque gessimus ; — I

confess myself unable to find language sufficiently expressive of my admiration and reverence of his transcendent genius. While I have followed his footsteps, not as I could have wished, but as I have been able, at humble distances, in his splendid judicial career, I have constantly felt the liveliest gratitude to that beneficent Providence, which created him for the age, that his talents might illustrate the law, his virtues adorn the bench, and his judgments establish the perpetuity of the Constitution of the country. Such is my humble tribute to his memory. His saltem accumulem donis, et fungar inani munere. The praise is sincere, though it may be perishable. Not so his fame. It will flow on to the most distant ages. Even if the Constitution of his country should perish, his glorious judgments will still remain to instruct mankind, until liberty shall cease to be a blessing, and the science of jurisprudence shall vanish from the catalogue of human pursuits.

And this great Magistrate is now gone — gone, as we trust, to the high rewards of such eminent services. It is impossible to reflect, that the places, which once knew him, shall know him no more, without a sense of inexpressible melancholy. When shall we look upon his like again ? When may we again hope to see so much moderation with so much firmness ; so much sagacity with so much modesty ; so much learning with so much purity ; so much wisdom with so much gentleness ; so much splendor of talent with so much benevolence ; so much of every thing to love and admire, with nothing, absolutely nothing, to regret ?

And yet there are some consolations even in so great a loss. Cicero, in mourning over the death of his friend, the great Roman lawyer, Hortensius, did

not hesitate to pronounce his death fortunate; for he died at a moment happy for himself, though most unfortunate for his country. Quoniam perpetuâ quâdam felicitate usus ille, cessit e vitâ, suo, magis quam suorum civium, tempore. Vixit tam diu quam licuit in civitate bene beateque vivere.* We may well apply the like remark to Chief Justice Marshall. He was not cut off in middle life, in the early maturity of his faculties, while he was yet meditating new plans of usefulness or glory. He lived to the very verge of that green old age, after which the physical strength sensibly declines, and the intellectual powers no longer reach their accustomed limits. He retained, to the very last hour of his life, the possession of all these powers in full perfection, without change — nay, without the shadow of change. Such had been his hope, earnestly and frequently expressed to his confidential friends, with deep solicitude; for no man more than he dreaded to add another to the melancholy lessons:

> "In life's last scenes, what prodigies surprise,
> Tears of the brave, and follies of the wise."

We may well rejoice, therefore, that a life, so long and so useful, should have come to its close without any exhibition of human infirmity. The past is now secure. It is beyond the reach of accident. The future cannot be disturbed by error, or darkened by imbecility. His setting sun loomed out in cloudless splendor, as it sunk below the horizon. The last lights shot up with a soft and balmy transparency, as if the beams, while yet reflected back on this world, were but ushering in the morn of his own immortality.

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* Cicero De Clar. Orator. Cap. 1.

ERRATUM.

Page 45, line 27, *for* serious, *read* decided.

DORCHESTER
IN 1630, 1776, AND 1855.

AN

ORATION

DELIVERED AT DORCHESTER,

ON THE FOURTH OF JULY, 1855.

BY

EDWARD EVERETT.

BOSTON:
PRINTED AND PUBLISHED BY DAVID CLAPP.
EBENEZER CLAPP, JR.....184 WASHINGTON ST.
1855.

Dorchester, July 13, 1855.

HON. EDWARD EVERETT,—

MY DEAR SIR:

I have the honor herewith to transmit a Resolution of the Executive Committee for the late celebration in Dorchester, which passed that body with perfect unanimity.

Permit me also to express the sense of gratitude which the Committee, in common with their fellow citizens, feel for the most acceptable service performed by you on that occasion, and to hope that it may suit your convenience to place early in our hands, a copy of your very learned and eloquent Oration for publication.

With profound respect, your obd't servant,

MARSHALL P. WILDER.

—

Dorchester, July 9, 1855.

At a meeting of the Executive Committee for the Celebration of the Settlement of Dorchester and the Seventy-ninth Anniversary of the Independence of the United States, it was—

Resolved, That the thanks of the Committee be tendered to the Hon. Edward Everett for his eloquent, instructive, and truly patriotic Address delivered upon that occasion, and that a copy of it be requested for publication.

MARSHALL P. WILDER,
E. P. TILESTON,
DANIEL DENNY,
WILLIAM D. SWAN,
NAHUM CAPEN,
ENOCH TRAIN,
OLIVER HALL,
LEWIS PIERCE,
NATHAN CARRUTH,
E. J. BISPHAM,
JNO. H. ROBINSON,
CHARLES HUNT,
EDWARD KING.

Boston, 15 July, 1855.

MY DEAR SIR,—

I have received your letter of the 13th, with the resolution of the Executive Committee for the late Celebration in Dorchester, requesting a copy of my Oration delivered on the 4th instant.

I am much indebted to the Committee for their favorable estimate of my Address, and cheerfully place it at their disposal.

Be pleased to accept my acknowledgments for the kind terms with which you have conveyed the request of the Committee, and believe me, dear Sir, with great regard,

Very truly yours,

EDWARD EVERETT.

Hon. MARSHALL P. WILDER.

DEDICATION.

To the Inhabitants of both Sexes of my Native Town this Oration is, with warm Gratitude for the sympathizing Attention with which it was heard by them,

Respectfully and affectionately

Dedicated, by

EDWARD EVERETT.

INTRODUCTORY NOTE.

The following Oration is printed from the manuscript as originally prepared (of which about a third part was omitted in speaking in consequence of its length), with the addition as far as recollected of what suggested itself in the delivery.

Besides the original authorities cited in their appropriate places, I would make a general acknowledgment of my obligations to the "Chronological and Topographical Account of Dorchester," by Rev. Dr. Harris, in the ninth volume of the first series of the Collections of the Massachusetts Historical Society, and to the three numbers of the "History of Dorchester," now in course of publication by a committee of the Antiquarian and Historical Society of that town. Other interesting materials, of which my limits did not permit me to make much use, were placed in my hands by Dr. T. W. Harris, partly from the manuscripts of his venerable father; by Mr. Nahum Capen on the connection of Roger Sherman with Dorchester; by Mr. Ebenezer Clapp, jr. on the subject of the Midway Church; and by Mr. Daniel Denny, from a memorandum of the late Mr. J. Smith Boies, on the occupation of Dorchester Heights. If those acquainted with the history of our ancient town should be disappointed at finding some matters of interest wholly passed over, and others lightly treated, they will be pleased to reflect upon the difficulty of doing justice to all parts of a subject so comprehensive, within the limits of a popular address.

In the narrative of the occupation of Dorchester Heights, I have followed the safe guidance of the "History of the Siege of Boston," by Mr. R. Frothingham, jr.

It may be thought ungracious, at the present day, to dwell with emphasis on the oppressive measures of the Colonial Government, which caused the American Revolution, and on the military incidents of the contest. I believe, however, that no greater service could be rendered to humanity than to present the essential abuses and inevitable results of colonial rule in such a light to the Governments of Western Europe, and especially to the English Government as that most concerned, as will lead to the systematic adoption of the course suggested on page 77 of this discourse;— that is, the amicable concession to colonies, mature for self-government, of that independence which will otherwise be extorted by mutually exhausting wars.

Among the novel lessons of higher politics taught in our constitutional history, as yet but little reflected on at home, and well worth the profound study of statesmen in the constitutional governments of Europe, is the peaceful separation from parent States of territories as large as many a European kingdom; an event of which five or six instances have occurred since the formation of the Federal Union, under whose auspices these separations have taken place.

Boston, July, 1855.

ORATION.

Among the numerous calls to address public meetings with which I have been honored during my life, I have never received one with greater pleasure, than that which brings me before you this day. Drawn up with unusual precision and care by a skilful pen, subscribed by more than one hundred and fifty of your leading citizens, and placed in my hands by a most respected committee of their number, it apprizes me that "the citizens of Dorchester, without distinction of party, actuated by motives of public good, and believing in the salutary teaching of national events, when contemplated with an inquiring spirit and an enlightened judgment, are desirous of celebrating the 4th of July, 1854, in a manner that shall prove creditable to that ancient town, instructive to the young, renovating to the aged, and morally profitable to the nation," and it invites me, as a native citizen of the town, to join you in carrying this purpose into effect.

You are well acquainted, Fellow-citizens, with the circumstances that prevented my appearing before you last year, in pursuance of this invitation. I might still, without impropriety, offer you a sufficient

excuse, in the state of my health, for shrinking from the effort of addressing an audience like this; and I feel deeply my inability, under any circumstances, to fulfil the conditions of your invitation as I have just repeated them. But I confess I have not been able to forego this first opportunity, the last, also, no doubt, I shall ever enjoy, of publicly addressing the citizens of Dorchester; — the place of my birth, of my early education, and of all the kindly associations of my childhood. I have felt an irresistible attraction to the spot. I behold around me the originals of the earliest impressions upon my mind, which neither time nor the cares of a crowded life have effaced. Some fifty-six or seven years have passed since, as a school-boy, I climbed,—summer and winter,—what then seemed to me the steep acclivity of Meeting-house hill. The old School-house (it was then the new School-house, but I recollect that which preceded it) has disappeared. The ancient Church in which I was baptized, is no longer standing. The venerable pastor,* whose affectionate smile still lives in the memory of so many who listen to me, has ceased from his labors. The entire generation to whom I looked up as to aged or even grown men, are departed; but the images of all that has passed away have been cast and abide, with more than photographic truth, upon the inmost chambers of my memory. Some of us, my friends, companions of school-boy days, remain to cherish the thought of the past, to meditate on the lapse of years and the

* Rev. Dr Harris.

events they have brought forth, and to rejoice in the growth and improvement of our native town. We have pursued different paths in life; Providence has sent us into various fields of duty and usefulness, of action and suffering: but I am sure there is not one of us who has wandered or who has remained, that does not still feel a dutiful interest in the place of his birth; and who does not experience something more than usual sensibility on an occasion like this.

In those things, which in a rapidly improving community are subject to change, there are few places, within my knowledge, which within fifty years have undergone greater changes than Dorchester. The population in 1800 was 2347; in 1850 it was a little short of 8000. What was then called "the Neck," the most secluded portion of the old town, although the part which led to its being first pitched upon as a place of settlement, was in 1804 annexed to Boston; and being united with the city by two bridges, has long since exchanged the retirement of a village for the life and movement of the metropolis. The pick-axe is making sad ravages upon one of the venerable heights of Dorchester; the entrenchments of the other, no longer masking the deadly enginery of war, are filled with the refreshing waters of Cochituate lake. New roads have been opened in every part of our ancient town, and two railways traverse it from north to south. The ancient houses built before the revolution have not all disappeared, but they are almost lost in the multitude of modern dwellings. A half century ago there was but one church in the town, that which

stood on yonder hill, and the school-house which then stood by its side was, till 1802, the only one dignified by the name of a Town School. You have now ten churches and seven school-houses of the first class;—and all the establishments of an eminently prosperous town, situated in the vicinity of a great commercial metropolis, have multiplied in equal proportion.

But all is not changed. The great natural features of the scene, and no where are they more attractive, are of course unaltered:—the same fine sweep of the shore with its projecting headlands,—the same extensive plain at the North part of the town, — the same gentle undulations and gradual ascent to the South,—the same beautiful elevations. I caught a few days ago, from the top of Jones's hill, the same noble prospect (and I know not a finer on the coast of Massachusetts), which used to attract my boyish gaze more than fifty years ago. Old hill, as we called it then (it has lost that venerable name in the progress of refinement, though it has become half a century older), notwithstanding the tasteful villas which adorn its base, exhibits substantially the same native grouping of cedars and the same magnificent rocks, and commands the same fine view of the harbor, which it did before a single house was built within its precincts. Venerable trees that seemed big to me in my boyhood,—I have been looking at some of them this morning,—seem but little bigger now, though I trace the storms of fifty winters on some well-recollected branches. The aged sycamores which shaded the roof, beneath which I

was born, still shade it; and the ancient burial ground hard by, with which there are few of us who have not some tender associations, upon whose early graves may yet be seen the massy unhewn stones placed there by the first settlers for protection against the wolves, still attracts the antiquary with its quaint and learned inscriptions, and preserves the memory not merely of "the rude forefathers of the hamlet," but of some of the most honored names in the history of Massachusetts.

But I ought to apologize, my friends, for dwelling on topics so deeply tinged with personal recollection. The occasion on which we are met invites all our thoughts to public themes. It is two hundred and twenty-five years since the commencement of the settlement of our ancient town,—the first foothold of the pioneers of Governor Winthrop's expedition. It is the seventy-ninth anniversary of the Declaration of the Independence of the United States. Our minds naturally go back to the foundations of the ancient Commonwealth of which we are citizens, laid as they were within our limits. We dwell with pleasure and pride on the growth of our native town under the vicissitudes of colonial fortune, from its feeble beginnings to the dimensions of a large and flourishing municipality; and we meditate with just interest upon those eventful scenes at the commencement of the Revolutionary War of which our heights were the theatre, and which exerted an undoubted influence upon the Continental Congress at Philadelphia in hastening the Great Declaration.

Thus the appropriate topics of the day correspond

with the three great divisions, which make up the whole system of political philosophy. We have, first, The foundation of a State,—the measures and agencies by which, under Providence, a new people is called into the family of nations;—manifestly the most important event, humanly speaking, that can occur in the history of our race. Second, We have the institutions and events which make up the political life of a community;—the organization and action, by which the divinely appointed ordinance of civil government is administered, so as best to promote the welfare and progress of a people. Third, We have one of those great movements called Revolutions, by which a people for urgent causes introduces organic changes in the frame-work of its government, and materially renovates or wholly reconstructs the fabric of its political relations.

In reference to each of these three great branches of political science, the history of our ancient town and the occasion which calls us together furnish us with the most striking illustrations and instructive lessons. The foundation of a new State, in a quarter of the globe before unknown, is an event without a parallel in the domain of authentic history. The time and the manner in which the earliest predecessors of the present inhabitants of Europe became established there, are but imperfectly known; while the first settlement of Asia and Africa, after the original dispersion of mankind, is lost in those unfathomable depths of antiquity, which the deep sea-line of research has never sounded. It is only after comparing the authentic pages of our early history

with the clouds of insipid fable that hang over the origin of Athens, and Rome, and Great Britain,—fables which neither Plutarch, nor Livy, nor Milton has been able to raise into dignity and interest,—that we perceive the real grandeur of the work of which the foundations were laid two centuries and a quarter ago on Dorchester plain.

So with respect to the second branch of political philosophy, the organization and administration of States, I am disposed to affirm that there are secrets of practical wisdom and prudence, — elements of growth and prosperity, — in our municipal system, which deserve to be thoughtfully explored. Our towns of course are but units in the great sum which makes up the State. They possess none of the higher powers of government. Not by their hands is wielded the mace of legislation, or the scales of justice, the purse or the sword of the Commonwealth. But whenever the prosperity of New England and the younger States modelled on its type is traced to its ultimate causes, it will be found to a good degree in this municipal system. In the pages of these ancient volumes, — these old town records which have in few cases been better preserved than in Dorchester,— there will be found lessons of experience, of blessed common sense shaping itself to the exigency of uncommon times, of patient submission to present evils in the hope of a brighter day, of fortitude and courage in an humble sphere, of provident care for the rising generation and posterity, of unwearied diligence for the promotion of religion, morals, and

education, which in their joint effect have done much toward giving us this goodly heritage.

Lastly, of those great movements by which organic changes are wrought in established governments and a new order in the political world brought in, it must be admitted that the event which we commemorate to-day, in the character of the parties,—an infant confederacy of republics just starting out of a state of colonial pupilage on the one hand, and one of the oldest monarchies in Europe on the other; the long and silent preparation and the gradual approach; the soundness of the principles which impelled the movement, acknowledged as it was by the most illustrious statesmen of the mother country; the purity and pristine simplicity of manners that characterized the revolutionary leaders; the almost total absence of those violent and sanguinary incidents that usually mark the progress of civil war; and the gradual development, out of the chaos of the struggle, of well-balanced systems of republican government and federal union;—in all these respects, it must be allowed, that there is a solitary dignity and elevation in our American Revolution. They make it perhaps the only instance in history of the severance of a mighty empire, equally to the advantage of the new state and the parent country; the single case of a rising republic not built upon the calamitous ruins of earlier organizations.

You will readily perceive, my friends, that the thorough treatment of this subject in all its parts would occupy much more time than can be reasonably devoted to a public address; and that in attempt-

ing to embrace them all in the remarks I venture to offer you, I must wholly omit some important topics and pass lightly over others.

It is impossible fully to comprehend the importance of the work which was accomplished in the colonization of America, without regarding it as a part of the great plan of Providence, in disposing the time and circumstances of the discovery of our continent;—hidden as it was till the end of the fifteenth century from the rest of the world. This thought was brought so forcibly to my mind a few years since by a circumstance personal to myself, that I think you will pardon me for alluding to it, though in itself of a trifling domestic character. In the year 1841, I occupied with my family the Villa Careggi, near Florence, once, as its name imports *(Casa regia)*, a princely residence, belonging to the Grand Duke of Tuscany, but of late years private property, and occasionally leased to travellers.* Half fortress, half palace, it was built by Cosmo de' Medici in 1444, nine years before the capture of Constantinople by the Ottomans in 1453. By that appalling event, a barbarous race (which had issued from the depths of Asia some centuries before, and had engrafted the Mahometan imposture on the primitive stock of Tartarian paganism) had stormed the last stronghold of

* Roscoe's Lorenzo de' Medici, p. 292. This most interesting Villa remained a part of the Grand ducal domain till 1788, when with other estates it was sold by the Grand Duke Leopold from motives of economy. It has lately passed into the possession of Mr. Sloane, an English gentleman of taste and fortune, by whom the grounds and approaches have been greatly improved, and the whole establishment restored to something like its original magnificence.

the ancient civilization, the metropolis of the Greek empire, and established the religion of the Koran at the heart of the old world. The relations of the Turks to the rest of Europe are so entirely changed, that it is now scarcely possible to conceive the terror caused by this event. Had nothing occurred to renovate and strengthen the civilization of the west, it is not easy to imagine what might have been at this day the condition of Christendom. Even as it was, the Sultan was for two centuries forward the strongest military power in the world; the scourge and the terror of the Mediterranean, and the master of some of the finest provinces of Eastern Europe.

But germs of revival sprung up from the ruins of the old civilization. A host of learned and ingenious men, Christian scholars, fled from the edge of the Turkish scimetar and took refuge in Italy. They were received with hospitality there, and especially by the merchant princes of Florence. The Platonic Academy was established in the arcades of the Villa Careggi. A great intellectual restoration took place in Italy, and spread rapidly to the west of Europe, where precisely at the same time the Art of Printing (after slowly struggling through successive stages in the cities of the Netherlands and the Rhine) burst upon the world in a state approaching perfection and not surpassed at the present day. The stores of learning and thought accumulated by the mind of antiquity were thrown open to the world. The modern bar and Senate were not yet created, and philosophy stammered in the jargon of the schools; but Cicero, and Demosthenes, and Plato, stepped

forth from the dusty alcoves of monkish libraries, and again spoke to living, acting men. The pulpit of the golden-lipped St. Chrysostom was hushed, but Moses and the prophets, the Evangelists and the Apostles rose, if I may venture to say so, as from the dead. The glorious invention was inaugurated in a manner worthy of itself. Two years only after the Koran began to be read at Constantinople (just four centuries ago this year), the Bible went forth on the wings of the press to the four quarters of the world.* Mahomet the second had struck down the last Christian emperor; but Fust, and Schœffer, and Guttenberg, the Strasburg printers, aimed a deadlier blow at Mahomet the first, his code of barbarism, and all the hosts of political and spiritual darkness throughout the world. The walls of Byzantium, spouting torrents of unquenchable flame, had crumbled; but the mind of the world rallied to the new combat under the living artillery of the press, and came off victorious. A conflict more important to humanity, was never waged on earth. And from that day to this, the civilized world of Europe and America is indebted for that superiority which no second night of ignorance can darken, no new incursion of van-

* My much valued friend, Mr. George Livermore of Cambridge, possesses a leaf on vellum, from an imperfect copy of the Mazarin Bible, the first book ever printed, and which, though without date, is known to have been completed in 1455, and a copy of the New Testament from the Bible of 1462, the first Bible printed with a date. "A metrical exhortation," says Mr. Hallam, "in the German language *to take arms against the Turks*, dated in 1454, has been retrieved in the present century. If this date unequivocally refers to the time of printing, which does not seem a necessary consequence, it is the earliest loose sheet that is known to be extant."—Literature of Europe, Part I., Chap. III., Sec. 23.

dalism can overthrow, to an enlightened, conscientious, independent press.

But Providence had other instrumentalities in store; higher counsels. A broader field of development was to be opened to renovated humanity. The East of Europe and the West of Asia, by nature and position the fairest region of the old world, was relapsing into barbarism, but the hour had arrived to "redress the balance of empire and call into existence a new world in the West." At the close of the century which witnessed these extraordinary events, a Genoese mariner, declined from the meridian of life, in pursuit of a vision which he had cherished through years of enthusiasm and disappointment, seeking a sovereign truth through the paths of sagacious but erroneous theory, launched forth, the living compass his pilot and the constellated heavens his only chart, to find a western passage to India, and discovered a new world. A Florentine navigator, following in his track, completed his discoveries, projected them on the map, and (oh, vanity of human renown), in spite of geography and history, in spite of orators and poets, in spite of the indignant reclamations of all succeeding ages, forever stamped upon the new found continent the name of a man who did *not* first discover it, almost before the ashes were cold of the man who did!

Thus, then, we have two of the elementary conditions of the political, moral, and religious restoration about to be effected in the order of Providence, at a moment when an overshadowing cloud of Mahometan barbarism had shot rapidly toward the

zenith, and seemed about to settle down on the Christian world. We have a general excitement in the Western mind, produced by the revival of the ancient learning, the art of printing, and other conspiring causes which I have not time to enumerate, and we have the boundless spaces of a new hemisphere, opened to the commerce, the adventure, and the ambition, in a word, to the quickened thought and reviving life of the old world.

But something further is wanting: a third condition is required, which should draw the two already existing into efficient coöperation; and that was the impulse and the motive, the moral machinery, the social inducement, the political necessity, which should bring the reviving intelligence of the age into fruitful action upon this vast new theatre, for the joint benefit of America and Europe, and the solid foundation of a higher civilization than the world had yet seen.

In the Villa Careggi, which I have just named, Lorenzo de' Medici, the merchant dictator of Florence, died, and his son Giovanni was born; created, through the influence of his fond father, an Abbot at the age of seven years, a Cardinal at thirteen, and raised to the papal throne at the age of thirty-eight, as Pope Leo X.* This aspiring, liberal and mu-

* The Villa Careggi is still supplied with water from a very deep well in the court yard, into which, according to a still existing but unfounded tradition, the servants of Lorenzo threw his physician for having, as they supposed, poisoned their master.—Roscoe follows the writers who represent Leo the tenth as born in Florence; but other writers and the local traditions make Careggi his birth-place. An extraordinary list of his early preferments is given by Roscoe, Leo X., Vol. I., p. 12.

nificent Pontiff, who, regarded as a secular prince, was, with all his faults, the most enlightened sovereign of his age, cradled in all the luxuries of worldly power, nursed at the bosom of the arts, raised to the throne of the then undivided church in early manhood, devoted his short but brilliant reign to two main objects, viz.:—the expulsion of the Turks from Europe, and the completion of the Church of St. Peter's at Rome, the most splendid and costly structure of human hands, and designed by him to be the great Metropolitan Temple of Universal Christendom. Who can blame him, with the genius and taste of Michael Angelo and Raphael at his command, for the generous ambition? To defray the enormous expenditure incurred by these and other measures of magnificence and policy, Leo resorted to the famous sale of indulgences throughout the Christian world. The mind of Western and Northern Europe had been warming and kindling for a century and a half toward the reformation; the sale of indulgences was the torch in the hands of Luther which lighted the flame.

Some of the German princes put themselves at the head of this great popular revolution, which was in reality the movement of the age toward civil and religious liberty; but Henry VIII. of England was one of its earliest opponents. I have held in my hand, in the library of the Vatican, the identical copy of his book against Luther, sent by Henry to Pope Leo the Tenth, which acquired for him and all his successors the cheaply earned title of "Defender of the Faith." A few years passed by; new

light, kindled at no spiritual altar, shone into his mind; Catherine of Arragon was repudiated; Anne Boleyn was married, and the supremacy of the Pope abjured by Henry VIII.

This certainly was not the Reformation, but, in the hands of that Providence, which sometimes shapes base means to worthy ends, it was a step toward it. After the decease of the remorseless and sensual monarch, the conscience of England took up the work which his licentiousness and ambition began. The new opinions gained credit and extension rapidly, but with fearful dependence on the vicissitudes of the State. The service and ritual of the Church of England, substantially as they exist at this day, were established under Edward VI.; but his sister Mary, married to Philip II., the man who caused his own son to be assassinated for the good of his soul,* restored the old faith and kindled the fires of Smithfield.

With the accession of Elizabeth, the Church of England was cautiously restored, and Protestantism again became the religion of the State. But the trial of prosperity was scarcely less severe than the trial of adversity. Among the pious confessors of the reformed faith, who had been driven into banishment under Mary, bitter dissensions arose on the continent. One portion adhered at Frankfort to the ritual of the Church of England, as established by Edward; another, who had taken refuge at Geneva,

* This almost incredible fact seems to be supported by the authority of Louis XIV., who was great grandson of Philip II. Mad. Sévigné's Letters, Vol. V., p. 73, Edition of 1844.

preferred the simpler forms of worship, and the more republican system of church government, adopted by Calvin. On their return to England, after the accession of Elizabeth, these differences grew to formidable magnitude, and those inclining to the simpler forms received the name of "Puritans." The Queen leaned to the ceremonial of the ancient church; a large number of the clergy and laity regarded the ecclesiastical vestments, the use of the cross in baptism, and some other parts of the ritual, as remnants of Popery. There was no disagreement on points of doctrine; but difference of opinion and taste on these empty forms, the mere husk of religion, led to bitterness of feeling, to the formation of hostile sects (the constant scourge of Protestantism), to the interference of legislation to secure unity of worship, and when this failed, as it always has and always will, except under governments purely despotic, to the exercise of the iron arm of power to punish non-conformity. For this purpose courts of high commission and the star-chamber were established, tribunals abhorrent to the genius of the common law of England; and penalties of fine, imprisonment and death were denounced upon all whose consciences forbade them to conform to the established ritual. After various laws of greater or less severity passed for this end, the statute of 1593 was enacted, by which persevering non-conformists, guilty of no offence but that of failing to attend the Established Church, were required to abjure the realm and go into perpetual banishment;—if they did not depart within the

prescribed time or returned home from exile, the penalty was death.* This atrocious statute, in its final result, peopled New England. The *fundatio perficiens*,—the real foundations of Plymouth and Massachusetts,—are to be sought not in the patent of James or the charter of Charles, with their grant of zones of territory from the Atlantic to the Pacific, but in the stern text of this act of 1593.

Its thunders slumbered at the close of the reign of Elizabeth, but not long after the accession of James the penal laws began to be executed with rigor. He had early announced that no toleration was to be extended to dissent; and in his uncouth border English had threatened to "harrie" the Puritans out of the land. That portion of them who had formally separated from the church, and were known as Brownists, were the first victims. They were driven, under circumstances of great cruelty, from England, as early as 1608, and after suffering for some years the harsh discipline of exile in Holland, went forth, the immortal band of Pilgrims, to find a new home in the wilderness. The more appropriate duties of this occasion permit us to pay only a passing tribute of respect to the precious memory of Robinson and his little flock, canonized as they are in the patriotic calendar of America, and honored in a progeny which in every State of the Union proudly traces its lineage to Plymouth Rock.

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* 35 Elizabeth, c. I. See Hallam's Constitutional History, Vol. I., p. 213.

The fathers of Massachusetts belonged to the more moderate school of the Puritans. They regarded the ecclesiastical vestments and ceremonies with as little favor as the separatists; but they considered the church as established by law a true church, and still clung to her communion. But the burden lay heavy on their consciences, and at length became absolutely intolerable. Shortly after the accession of Charles I. they prepared to execute the plan which they had for some years been meditating, that of transporting themselves to the new world; where, as they supposed, they could, without a formal separation from the Church of England, adopt those simpler forms of worship and church government, which their views of divine truth required.

The waters of Massachusetts Bay, both before and after the settlement at Plymouth, had been much frequented by English fishing vessels. As early as 1619, Thompson's Island, within our limits, is known to have been occupied by an Englishman. In the year 1624, as many as fifty vessels were employed on this coast,* mostly from the West of England. Among the leading non-conformists in that quarter, none was more active and respected than Rev. John White, of Dorchester. He encouraged his parishioners and their friends to engage in these adventures, and early connected with them the idea of a gradual colonization of the coast.

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* Dr. Young's Chronicles of Massachusetts, and the authors cited by him, page 5.

Like Robinson, in reference to Plymouth, John White never set foot upon the soil of Massachusetts, but he was the most efficient promoter of the undertaking which resulted in the settlement, not merely of our ancient town, but of the colony.

In the county of Dorset, which stretches fifty miles along the British Channel in the West of England, upon an island formed by the divided stream of "a noble river in those parts," called the Frome, lies the chief town of the county, the ancient city of Dorchester. The Britons in all probability occupied it, before the time of Julius Cæsar. Druidical mounds still surround it. The Romans, who called it *Durnovaria*, fortified it and built near it the largest Roman Amphitheatre in England, of which the circuit still remains. It was a strong-hold in the time of the Saxon Kings; the Danes stormed it; under a rapacious Norman Governor, one hundred houses, out of one hundred and eighty contained in it, were destroyed.* Every age and every race has left land-marks or ruins within its bounds; it is, by the last English census, a prosperous city of six or seven thousand inhabitants; but perhaps its most honored memorial in after times will be that it gave origin to this its American namesake, and impulse to one of the noblest enterprises of transatlantic colonization.

Of this ancient Dorchester in England, John White was the minister for well nigh forty years,

* Camden's Britannia, Gough's Edition, Vol. I., p. 60. The *Durotriges* are placed by Ptolemy in this region; and a British word, *Dwr*, or *Dour* (water), is supposed to be the root of their name.

being rector of the ancient church of the Trinity. Upon the life and character of this venerable man, "the Patriarch of Dorchester," as he was styled by his contemporaries; "the father of the Massachusetts Colony," as he has been called in this country, you will expect me to dwell for a moment.* He was a Puritan in principle and feeling, but not deeming the ceremonies of vital importance, he adhered to the church. But in periods of great excitement, moderation is an offence in the eyes of violent men. The cavalry of Prince Rupert sacked his house and carried off his library. This drove him to London. He was a man of most excellently tempered qualities, "grave, yet without moroseness, who would willingly contribute his shot of facetiousness on any just occasion." He was an indefatigable preacher, and "had an excellent faculty in the clear and solid interpretation of the scriptures." His executive talent was not less remarkable, and he administered the secular affairs of his church so as greatly to promote the temporal prosperity of the city. Of two things not easily controlled he had, according to Fuller, absolute command, "his own passions and the purses of his parishioners, whom he could wind up to what point he pleased on important occasions." A generous use of his own means was the secret of his command of the means of others. "He had a patriarchal influence both in Old and New England." I find no proof that this

* Wood's Athenæ Oxonienses: Callender's Sermon, in the Rhode Island Historical Collections, Vol. IV., 67.

influence ever ceased over the hardy young men who, by his encouragement, had settled this American Dorchester; but at home his old age was embittered by factions and the "new opinions which crept into his flock." A generation arose which slighted the crown of his old age; and of this he was "sadly and silently sensible;" sadly, as was natural in a man who had reaped ingratitude where he sowed benefits; silently, as became the self-respect of a proud, good conscience. He was one of the most learned and influential of that famous assembly of Divines at Westminster, whose catechisms, after two centuries, remain accredited manuals of Christian belief to millions on millions in the old world and the new. The biographer of the "Worthies of England," after sketching his admirable character of our ever memorable founder, expresses the hope, that Solomon's observation of the poor wise man who saved the little city, "yet no man remembered him," will not be verified of "Dorchester in England, in relation to this their deceased pastor."* He lies buried, without a stone to mark the spot, in the porch of St. Peter's church; and if the good old patriarch should be forgotten in the Dorchester of Old England, let it be some atonement to his memory, that here in New England, after a lapse of two centuries and a quarter, he is still held in pious and grateful remembrance.

Mr. White's connection with New England preceded by several years the settlement of our ancient

* Fuller's Worthies of England, Vol. III., p. 24, Edit. of 1840.

town. He was the chief promoter of the attempt to establish a colony at Cape Ann under Conant; and after its failure there, it was his encouragement and aid that caused the transfer of what remained of it to Salem, where it became the germ of a permanent settlement.* It was Mr. White who brought the adventurers of the West of England into connection with the men of influence in London, in Lincolnshire, and the other eastern counties, and formed with them the ever memorable company, which under a charter from Charles I., engrafted Endecott's settlement at Salem upon the languishing enterprise of the single-hearted, persevering and ill-rewarded Conant; and finally fitted out that noble expedition in 1630, under the great and good Winthrop, which put the finishing hand to the work, and consolidated the foundation of Massachusetts. In all the labors and counsels tending to this end, John White, of Dorchester, appears to have been the person of greatest activity and influence; and when all was prepared for the expedition, and the "Arbella" and her chosen company were ready to set sail, the "Humble Request," as it is called, addressed to the churches of England, setting forth, in language which can scarcely yet be read without tears, the motives and feelings which influenced the pious adventurers, is ascribed to his pen.†

* The history of the establishment at Cape Ann, illustrated with a *fac simile* of the recently recovered patent under which it was made, is given with great learning and ingenuity by John Wingate Thornton, Esq., in his late publication on this subject.

† The authorship of this paper rests upon the authority of Hubbard, who speaks of it as a thing "commonly said." This must be considered good

With us, fellow citizens of Dorchester, his connection is still more intimate. There was a large body of "West Country," or "Dorchester men," in Gov. Winthrop's expedition, who were many of them of Mr. White's church, and all were enlisted, so to say, under his auspices and encouragement; and they were the first in the field. Early in March, 1630, they were ready to depart, and a large vessel was chartered at Plymouth, for their separate conveyance. The faithful pastor, guide at once in things divine and human—which in that age of trial ran strangely together, as in what age do they not?—went with them to their port of embarkation; met with them in the New Hospital at Plymouth, where they gathered themselves into a church under the ministers of his selection; held with them a solemn fast of preparation, and preached to them the last sermon they were to hear from his lips:—

> ——prompt at every call,
> He watched and wept, he prayed and felt for all.

And so on the 20th March, 1630, the Dorchester emigrants embarked in the Mary and John, Capt. Squeb master, a vessel of 400 tons. They had a prosperous voyage of seventy days, and arrived at Nantasket on the 30th of May, about ten days in advance of the "Arbella," and the vessels which accompanied her. The Dorchester company contained

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evidence that such was the tradition in his time. Dr. Young thinks it more likely that the "Humble Request" was written by Winthrop or Johnson (Chronicles of Mass., p. 299); but as its chief object was to define the relation of the adventurers to the Established Church, it appears to me more likely to have been written by a clergyman. Prince adopts Hubbard's tradition (Chronology, p. 275).

several persons of consideration and substance, a numerous party of emigrants with their wives and children, and a frugal store of worldly goods. They were attended by their pastors Messrs. Maverick and Warham,—by whom, says Roger Clap, in his narrative of the voyage, "we had preaching or expounding of the word of God every day for ten weeks together."

Capt. Squeb was under engagement to convey the company to Charles River, but by a latitude of interpretation not peculiar to him, and not perhaps strange at a time when the localities were so little understood, he insisted, greatly to their discontent, on landing them and their cattle at Nantasket. This spot furnished no room nor other facilities for the proposed new settlement, besides being already occupied by "Old Planters" as they were called ("old" on the coast of Massachusetts in 1630!); that is, individuals who had separated themselves from the other independent settlements such as those of Plymouth, Cape Ann, Weymouth, or Salem, or had found their way in the fishing vessels to these coasts. From one of these old planters, a boat was borrowed by the newly arrived company, and a party of ten, headed by brave Capt. Southcoat, who had served in the low countries, was sent up to explore Charles River in search of a place for a settlement. Roger Clap was one of this party;—they went up the river as far as Watertown, passed a day or two on a spot near the present arsenal, and still called "Dorchester fields," and held friendly communications with the Indians of that place, which afterwards became the

first field of the apostolic labors of Eliot, who, when he was in the flesh, sat in the chair in which you, Sir (Gov. Gardner), now sit. The main body meantime had explored the coast nearer Nantasket, and having found "a neck of land fit to keep their cattle on," called Mattapan, had established themselves there.* This, after some hesitation, was adopted as the permanent seat of the settlement.

This "neck of land" was the present South Boston, which within my recollection was still called Dorchester neck. The curving bay, which sweeps round between the neck and Savin hill, still bears on our maps the name of "Old Harbor," and the rising grounds to the South were the site of the first habitations. The first humble meeting-house with its thatched roof,—which caught a year or two afterwards as Mr. Maverick the minister was "drying a little powder (which took fire by the heat of the firepan"),—it being one of the first cares of the puritan fathers to keep their powder dry,—stood probably at the northern end of the plain, now called Pleasant street; and close by its side,—somewhat to the north-east of the present ancient cemetery,—was the first place of burial, of which no traces now remain. It was at first supposed that Dorchester might become the emporium of the new colony. Capt. Smith, in his rude map of the coast, had placed the name of "London" on the spot afterwards and still called Squantum, and a fort was

* The facts relative to the organization of the Dorchester Church at Plymouth, the voyage, and the settlement at Mattapan, are recorded in Roger Clap's Memoir.

built on Savin hill, and a battery on the shore, for the protection of the future metropolis. It soon appeared, however, that the water was not of sufficient depth for this purpose, and Boston was ascertained to be the spot marked out by nature as the future capital of New England. On the 17th of September, 1630, at a meeting of the Court of Assistants at Charlestown, which had already received that name, it was "ordered that Trimountaine shall be called Boston; Mattapan Dorchester; and the towne vpon Charles Ryver Waterton." *

Such, fellow citizens, in the plainest language in which I can relate it, is the simple tale of the foundation of Dorchester, which preceded by a short time the settlements made by the main body of Gov. Winthrop's party at the other towns just named. The hardships of the entire emigration were for the first season severe. They were disappointed in the expectation of deriving supplies from the settlers at Salem; there was dearth there. The stock of provisions brought from England was inadequate for the support of so large a company, and it was too late in the year to plant; the diseases sure to be engendered by want and anxiety prevailed; the native tribes in the neighborhood were an object of exaggerated though natural terror; alarms of invasion from the French and Dutch penetrated to these remote corners of the earth; and the hearts of some failed them

* Massachusetts Records, Vol. I., p. 75. I quote, of course, the recently published edition of the Records, superintended and prepared with extreme accuracy by Dr. Nath'l B. Shurtleff, and printed in a style of unsurpassed beauty at the expense of the Commonwealth.

at the thoughts of their distant home, as want stared them in the face. "In our beginnings," says Roger Clap, "many were in great straights for want of provisions for themselves and little ones. Oh! the hunger that many suffered and saw no hope in an eye of reason to be supplied, only by clams, muscles, and fish."

With all our contemporary accounts and traditions, I imagine we form very inadequate conceptions of the hardships endured by the first settlers of this country. Modern art, with its various astonishing applications, traverses the ocean on its chariot wheels of fire, and transports the traveller in ten or twelve days from Europe to America. Even the sailing vessels accomplish the voyage in three or four weeks. The passages in the seventeenth century were more frequently of two or three months' duration. The Mary and John, without having met with any disaster, was out seventy days. Modern enterprise encounters the expected navigators at sea; sends out her pilot-boat, bounding like a sea-bird on the waves, a hundred miles from port (who that has witnessed the sight homeward bound will ever forget it); unrols her charts, where every shoal and rock is projected, and the soundings laid down so carefully, that you may find your way in the dark, studs the coast with light-houses, and receives the weather-beaten ship at convenient landing places. The first settlers were obliged to feel their way into unknown harbors, ignorant of the depths and shallows, the rocks and the currents, often finding the greatest

discomforts and dangers of the voyage awaiting them at its close.*

Nor were the difficulties less after landing. The "state of nature" in which they found the country, "bare creation" as it is expressively called by an early writer (Dummer), the goal of their wishes and prayers, was a far different thing from that which presents itself to the mind, when those words are used by us. Few, I fear, even in this intelligent audience, have formed an adequate notion of the hard rough nature that confronted our fathers, two centuries and a quarter ago, on these now delightful spots. The "nature" which we think of consists of dreamy lawns, dotted here and there with picturesque cottages, hung with festoons of prairie-rose and honey-suckle;—of shady walks, winding through groves carefully cleared of the thorns and brambles, that weave its matted underbrush into an impenetrable thicket;—of grand sea-views from the cool porticoes of marine villas;—of glimpses of babbling streams as they sparkle through meadows, vocal with lowing herds and bleating flocks. This we call nature, and so it is; but it is nature brought into loving union with the skilful hand and tasteful eye of man, the great "minister and interpreter of nature." Great heavens! how different the nature which frowned upon the fathers and mothers of New England;—harsh, austere, wearisome, often terrific.

* This is well illustrated in the voyage of the Rev. Richard Mather, the first pastor of Dorchester after the re-organization of the church in 1636.—Collections of Dorchester Antiquarian and Historical Society, No. III.

On the sea-board, broad marshes cut up with deep oozy creeks, and unfordable tide-water rivers,—no dykes, no bridges, no roads, no works of friendly communication of any kind;—in short, no traces of humanity in the kindly structures for travel, shelter, neighborhood, or defence, which raise the homes of man above the lairs of wild beasts. In fact, the aboriginal tribes, in this respect, hardly went as far as the beavers, who in their small way were very tolerable engineers for wet meadows.

Such was the coast; as you retreated from it, you entered the terrific wilderness, which stretched from ocean to ocean, the abode of the savage and the wild beast,—gloomy—awful! No civilized foot had penetrated its depths,—no surveyor's chain had measured its boundaries,—no Christian eye had searched its dismal shades. In the ignorance that prevailed as to the real character of the new and unexplored country, imagination naturally added fictitious to real terrors. Unearthly cries were sometimes heard in the crackling woods; glimpses were caught, at dusk, of animals, for which natural history had no names; and strange foot-marks which men did not like to speak of, were occasionally seen in the snow. Even amidst the multiplying settlements, the hill-sides were alive with rattle-snakes, a reptile unknown and much dreaded in Europe; and the ravening bear and wolf were heard by night around the farm-yard. Humanity lost the kindly links of intelligible language; and was seen only under the aspect of a strange race, whose numbers and strength were unknown, and whose disposition toward the

new comers remained to be learned from experience.

But these hardships and terrors yielded to the courage and perseverance of our fathers, and the all-subduing power of time. Dorchester, with the usual vicissitudes of a new country, prospered. As it was by a slight priority the first town settled by Governor Winthrop's party, it retained for a short time a certain precedence. In 1633, a tax of four hundred pounds was laid, of which Dorchester paid eighty pounds,—Boston, Roxbury, Newtown (afterwards Cambridge), Watertown, and Charlestown, paid £48 each, Saugus £36, Salem £28, and Medford £12; and these were the whole of Massachusetts, two centuries and a quarter ago! In the year 1633, Wood calls our ancient town "the greatest town in New England." The description of Josselyn is still more glowing. Its geographical extent, till reduced by the separation from it of several large new towns, was great. It comprised the modern towns of Milton, Stoughton, Sharon, Canton, and Foxborough, with a part of Wrentham and Dedham, being of the length of thirty-five miles, and the average breadth of five. Nor was it merely in time or wealth that it took for a short time the lead. It set the example, in 1633, of that municipal organization which has prevailed throughout New England, and has proved one of the chief sources of its progress. It has been supposed that the first stated provision for a public school was made here:—but the loss of the earliest leaves of our town records leaves us without the documentary proof of this fact, if it be one.

One would suppose that the extensive territory I have just described, would have afforded ample accommodation for some two or three hundred inhabitants. They had, however, scarcely established themselves in their new home, before they began to be straightened for want of room. It seems to have been thought extremely desirable, in the first settlement of the country, to be seated either on the sea coast or the banks of a river. The inhabitants of the Bay had been early made acquainted by those at Plymouth with Connecticut River, although the court declined an application from that quarter, to join them in anticipating the Dutch in their attempts to get possession of it. Three or four individuals, however, from Dorchester, had as early as 1633 crossed the intervening wilderness, and explored this magnificent stream.

Influenced by their reports of the noble range of pasturage to be found on its banks, aided, it must be confessed, by discontents in the Bay, an emigration was contemplated in 1634 by the inhabitants of Dorchester and Newtown. Mr. Ludlow, of Dorchester, it was said, thought that some other persons, himself included, would fill the chair of State as well as Governor Winthrop; and the star of Mr. Hooker in the church at Newtown, it was thought, was not wanted so near the light of John Cotton. The emigration was warmly debated in the Court. Fifteen out of twenty-five of the infant house of deputies, first elected that year, were for the removal; a majority of the magistrates placed their *veto* on the measure, and great heats ensued.

It was opposed on various grounds, but the "procatarctical" reason (as Hubbard somewhat learnedly expresses it) was, that so many of its inhabitants could not safely be spared from the Bay.* The next year the Rev. Messrs. Richard Mather, and Thomas Shepherd, with numerous associates, arrived in the colony. Mr. Mather's company being prepared to fill the places of those desiring to leave Dorchester, and Mr. Shepherd's to succeed to their brethren at Newtown (Cambridge), the Court gave way and permitted the undertaking. A portion of the emigrants went in the autumn of 1635, the residue in the following spring. Great were the hardships and severe the sufferings endured in this early American exodus through the wilderness, first faint image of that living tide of emigration which in all subsequent time has flowed westward from the Atlantic coast, till in our day it has reached the boundless west; and is even now swelling over the Rocky Mountains, and spreading itself on the shores of the Pacific. Still may it swell and still may it flow; bearing upon its bosom the laws and the institutions, the letters and the arts, the freedom and the faith, which have given New England her name and praise in the world! † The adventurers from Dorchester,—men, women and children,—were fourteen days in making the journey now daily accomplished in three hours, and reached the river

* Winthrop's Journal for 4th September, 1634.

† This emigration is beautifully described in the Life of John Mason, by Rev. George E. Ellis; Sparks's Library of American Biography, Vol. XIII., p. 331.

weak with toil and hunger, and all but disheartened. Both the Dorchester ministers, though it is said reluctantly, agreed to join their emigrating church. Mr. Maverick the senior died in Boston before starting; Mr. Warham conducted his flock to East Windsor, where they formed the first church in Connecticut, as they had been in Massachusetts second to Salem alone. Thus from our native town of Dorchester, and from Cambridge, not yet bearing that honored name, within five years from their first settlement, went forth the founders of Connecticut.

Nor was it for their own establishment alone that the early fathers of Dorchester were careful; they remembered the native children of the soil with kindness. When, a few years after the emigration to the Connecticut, the increase of the new comers about the falls of Neponset had begun to press hard upon the natives gathered about that spot, on the application of John Eliot a grant of six thousand acres of land, being the greater part of the modern town of Stoughton, was made by Dorchester for their accommodation; a grant, as one of our town clerks well says, without example in the history of the State.* In this pleasant retreat were collected the remnants of the friendly tribe, who gave us this venerable name of MASSACHUSETTS, and who ruled the shores of the noble BAY, which, in years past, added another epithet to this time-honored designation. The fair domain of this, our name-sake tribe,

* Noah Clap's letter, 4 Jan., 1792. Mass. Hist. Coll., First Series, Vol. I., p. 98.

extended from the broad smooth floor of Nantasket, where the whispering ripple, as it runs up the beach, scarcely effaces the foot prints of the smart little sand-piper, all round to the cold gray ledges of Nahant, on which the mountain waves of the Atlantic, broken and tired with their tempestuous weltering march through seventy degrees of longitude, conflicting with all the winds of Heaven, sink down upon their adamantine bed, like weary Titans after battling with the gods, and lulled by the moaning dirges of their voiceful caves, roll and rock themselves heavily to sleep. Some "old men of Massachusetts" affirmed that in the interior they extended as far west as Pocomtacook. They hunted small game in the blue-hills, and on their snow-shoes they followed the deer to Wachusett. They passed in their bark canoes through Mother Brook into Charles River; the falls of Nonantum and the head waters of the Mystic were favorite resorts; they ranged even to the Nashua. Their war parties met the Tarratines on the Shawshine and the Merrimac;—but they loved especially the fair headland of Squantum; the centre of their power was Neponset falls.

From the origin of the colony they were the friends of the white man, and in the first mention of Mattapan as the place of the future settlement, it is stated, that "there also the Indians were kind to us." Thinned by a pestilential disease before the arrival of the English, overshadowed by the numbers, the physical power, and the intellectual superiority of the new comer, reading in the events of

every day the terrible but inevitable doom, "he must increase, but I must decrease," they adopted the white man's faith, and by a miracle of Christian pains and charity read the white man's Book in their native tongue. But not even that mighty element of life, to which the civilized nations of the earth owe so much of their vitality, availed to prolong the red man's existence. Twelve families only of praying Indians, as they were called, the remains of those who removed from Neponset, were found by Gookin at Punkapoag in 1674.* John Eliot, jun., the son of the apostle,—and truly I know not who, since Peter and Paul, better deserves that name,—labored with them once a fortnight. But they dwindled with each generation; till in my boyhood I remember hearing of one poor solitary Indian, who, it was said, occupied a lonely wigwam on Stoughton Pond, and who used to come down, once or twice a year, to the sea-side; hovered a day or two about Squantum; caught a few fish at the lower mills; strolled off into the woods, and with plaintive wailings cut away the bushes from an ancient mound, which, as he thought, covered the ashes of his fathers; and then went back a silent, broken, melancholy man,—the last of a perished tribe.

The agency of Dorchester in the settlement of Connecticut is not the only incident of the kind in our annals. Two generations later, viz., in 1695, application was made to our minister, Mr. Danforth,

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* Mass. Hist. Collections, First Series, Vol. I., p. 184.

both personally and by letter, from South Carolina, setting forth the spiritual destitution of that region, and asking aid from us. A missionary church was forthwith organized, in compliance with this request from the remote sister plantation. A pastor, Mr. Joseph Lord, was ordained over it;—it sailed from Dorchester in the middle of December, and arrived at its destination in fourteen days. The little community established itself on Ashley river, in South Carolina, and fondly assumed the name of Dorchester. Here, for more than half a century, the transplanted church and settlement enjoyed a modest prosperity. But the situation proving unhealthy, and the quantity of land limited, a removal to Georgia was projected in 1752. The legislature of that colony made a liberal grant of land, where the emigrants from Dorchester founded the town of Midway, as being half-way between the rivers Ogeechee and Altamaha. This settlement constituted a considerable part of the parish of St. John's, afterwards honorably known as Liberty County in Georgia. Its inhabitants, in the third generation, retained the character and manners, the feelings and principles, which their ancestors brought from our Dorchester eighty years before. On the assembling of the Continental Congress at Philadelphia in 1774, Georgia as a colony not having chosen delegates, the parish of St. John's addressed themselves directly to that body, and received from them a copy of the "General Association." The Convention of Georgia declining to join it without modification, the Parish of St. John's subscribed it on their

own account, and sent one of their number, Dr. Lyman Hall, a native of Connecticut, a member of the little Dorchester-Midway church, to represent that Parish in the Congress at Philadelphia. "At this period," says Dr. Stevens, the intelligent historian of Georgia, "the parish of St. John's possessed nearly one third of the entire wealth of the province; and its inhabitants were remarkable for their upright and independent character. Sympathizing, from their New England origin, more strongly with the northern distresses than the other parts of Georgia, and being removed from the immediate supervision of the Governor and his Council, they pressed on with greater ardor and a firmer step than her sister parishes. The time for action had arrived, and the irresolution of fear had no place in their decisive councils. Alone she stood, a Pharos of liberty in England's most loyal province, renouncing every fellowship that savored not of freedom, and refusing every luxury which contributed to ministerial coffers. With a halter around her neck and a gallows before her eyes, she severed herself from surrounding associations, and cast her lot, while as yet all was gloom and darkness, with the fortunes of her country, to live with her rights or to die for their defence. Proud spot of Georgia's soil! Well does it deserve the appellation (Liberty County) which a grateful State conferred upon it; and truly may we say of its sons, in the remembrance of their patriotic services, "nothing was wanting to their glory, they were wanting to ours."*

* Georgia Historical Collections, Vol. II., p. 24.

Dr. Hall appeared at Philadelphia on the third day of the session of 1775 (13th May), and was admitted as a delegate. On that day Congress was composed of the representatives of the twelve United Colonies, and Dr. Lyman Hall, the deputy from the Parish of St. John's. The patriotic example was soon followed by the colony, and four delegates, of whom Dr. Hall was one, were in the course of a few weeks deputed to Philadelphia. In this way, and by the strange sequence of events which pervades our history, the pious zeal of a few humble Christians of our ancient town, in 1695, was the remote cause that the great empire State of the South, then in its infancy, was represented at the opening of the Congress of 1775. A deputation from this distant offshoot of the old Dorchester stock has been expected to favor us with their attendance on this occasion. If they are present, we bid them cordially welcome.*

It cannot be expected that the annals of a small municipality like Dorchester should furnish many events of striking public interest. It is enough to say of our fathers that they bore their part faithfully in the silent work of progress, which was carried on under both charters. Among them were many individuals of great worth, and some who have played a distinguished part in public affairs.

Of Maverick and Warham, the first ministers, not

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* This interesting and important incident in the History of Dorchester is fully narrated by the Rev. Dr. Holmes, who in early life was the pastor of the Midway church. See *Annals*, under the years 1696, and 1775. Also Journals of the Continental Congress for 13th May, 1775.

much is known. Warham had been the clergyman of Exeter in England, and they were both selected by Mr. White as the spiritual guides (and that imported little less than a moral dictatorship) of the infant colony. His name is still perpetuated in Connecticut.

When their services were lost to the church of Dorchester, by the decease of Mr. Maverick in 1636 and the emigration of Mr. Warham to Connecticut, their place was more than filled by Mr. Richard Mather, the leader of the second emigration, a person of great authority in the infant churches of the colony, the father of Increase Mather, the grandfather of Cotton Mather, and as such the head of a family which for nearly a century filled no second place in the church of New England.

Mr. Rossiter was one of the assistants chosen in London in 1629, but died in a short time after his arrival.

Mr. Ludlow, also one of the first emigration, was of the magistracy in 1630; deputy in 1634, and an unsuccessful candidate for the governorship the next year. He was unwise enough to let this want of success disturb his equanimity, and protested against the election of Winthrop. The constituency were offended at this, and refused to continue him in the second office. In the gentle phrase of Dr. Eliot, they "gave him an opportunity to enjoy private life." Disgusted with the turn things were taking in the Bay, he joined the emigration to Connecticut, and took a distinguished part in the affairs of that colony. He finally removed to Virginia.

I have already spoken of Roger Clap, whose diary relates the voyage and settlement of the first company of Dorchester emigrants, and is an interesting original contribution to our early history. Induced by his example and advice, several of his kindred followed him to America, among whose descendants are those of that name, who in every generation have creditably served their native town, as well as some of the most eminent sons of New England in other parts of the country. Of this stock was the learned President Clap of Yale College, and the venerable Nathanael Clap of Newport, of whom Bishop Berkeley said, "before I saw Father Clap, I thought the Bishop of Rome (Pope Clement XI.) had the most grave aspect of any man I ever saw, but really the minister of Newport has the most venerable appearance. The resemblance is very great." I may be permitted to allude to my own grateful associations with this name, as that of the patient and faithful instructress of the same lineage, who taught me to read before I could speak plain. Considerately mingling the teacher and nurse, she kept a pillow and a bit of carpet in the corner of the school-room, where the little heads, throbbing from a premature struggle with the tall double letters and ampersand, with Korah's troop and Vashti's pride, were permitted, nay encouraged, to go to sleep. Roger Clap was a military man; and in time succeeded, with the title of Captain, to the command of our stout little colonial Sebastopol,—originally the Castle, then Castle William, and now Fort Independence:—a fortress coeval with the colony; whose

walls first of mud, then of wood, then of brick, and now lastly of granite, not inappropriately symbolize the successive stages of our political growth. When the great Dutch Admiral de Ruyter, the year after that famous *Annus Mirabilis* immortalized by Dryden, having swept the coast of Africa had been ordered to the West Indies, intending, says Capt. Clap, not a whit daunted at the thought, "to visit us," the Captain adds, with honest satisfaction, "Our battery was also repaired, wherein are seven good guns," probably six pounders at least. De Ruyter, however, did not think it expedient to come within two thousand miles of their range.

John Mason was a chieftain of still greater eminence. He had served under Fairfax in the low countries. He commanded the Dorchester train band in 1633, but led the emigration three years afterwards to Connecticut. When the great Pequot war broke out, he commanded the river troops; and at the famous battle of the Mystic, in May 1637, he all but annihilated that hostile tribe. He was among the most active, useful, and honored of the Dorchester company, and of the founders of Connecticut; whose fate depended for the time on the success of the battle of the Mystic. The late Jeremiah Mason, one of the most distinguished of the statesmen and jurists of our own time, was among his descendants.

William Pynchon early removed from Dorchester to Roxbury, and thence to Springfield,—the most prominent of the founders of Western Massachusetts.

Israel Stoughton was probably one of the first emigration; his name appears on one of the earliest

pages of our Dorchester annals. He was a member of the first general court of deputies; a citizen of energy and public spirit. Unlike modern legislators, who, "without distinction of party," are accused of looking out for the loaves and fishes for themselves, worthy Col. Stoughton provided them for others. He built the first tide-mill for grinding corn, and established the first wier for taking fish in the colony. He, too, was a military man, and commanded the contingent from Massachusetts in the Pequot war. After filling important trusts in New England, he returned home and served as a colonel in the parliamentary army. By his will he bequeathed three hundred acres of land to Harvard College.

His son William fills a still more distinguished place in the history of Dorchester and Massachusetts. He was educated for the pulpit, and often urged to settle over the church of his native town and elsewhere. He preached the annual election sermon in 1668, from which one striking expression is still remembered: "God sifted a whole nation that he might send choice grain over into this wilderness." He was an agent for the colony at the court of Charles II., and was afterwards named Deputy Governor in the new charter, subsequently acting as chief magistrate on the departure of Phipps and Bellamont. He built a college at Cambridge, which bore his name;—a memorial of his liberality which has been perpetuated by a college edifice, of more recent construction, but bearing the same name. His monument, the most costly in our ancient burial ground, the work probably of a foreign artist,

is conspicuous for a highly rhetorical inscription, of which the material portion is borrowed from that of Pascal.

William Poole was of the first company of emigrants, for several years town clerk and school-master. He lived a considerable time at Taunton, where the benefactions of his sister procured for her the honorable title of the "Virgin Mother" of that town. William Poole is spoken of in our records as a "sage, reverend, and pious man of God." His epitaph, written by himself before his death, is still legible upon his grave stone, and is one of the best expressed of our mortuary inscriptions:

> "Ho paſsenger tis worth thy paines to ſtay
> & take a dead mans leſson by ye way
> I was what now thou art & thou ſhalt be
> what I am now what odds twixt me & thee
> Now go thy way but ſtay take one word more
> Thy ſtaff, for ought thou knowest, stands next ye dore
> Death is ye dore ye dore of heaven or hell
> Be warned, Be armed Beliue Repent Fariewell."

Edmund Hartt is just mentioned in the list of the first company. I suppose him to be the ancestor of Edmund Hartt who built the frigate "Constitution." It has been denied that he drew the plan of that noble ship; doubted even if he superintended the work; but he was at least the "master" who "laid the keel;" and the master who laid the keel of "Old Ironsides," even if he worked with no higher instruments than mallet and chisel, was surely a workman that needeth not to be ashamed of his work, nor Dorchester of the workman.

Robert Pierce was of the first emigration, and was the ancestor of the late venerable and beloved Dr. Pierce of Brookline. He built the house in which one of his descendants, Mr. Lewis Pierce, lives at the present day, in whose possession is still preserved a portion of the bread brought from England by his ancestor; a "remainder biscuit" certainly, and by this time a pretty dry one.*

Humphrey Atherton was of the second emigration, a man of mark and influence in the colony. He filled some of the most important offices of civil life, and attained the highest military rank. He was "slow of speech;" but "downright for the business, one of cheerful spirit and entire for the country." After having been employed on almost every occasion of importance, in peace or war, for thirty years, he was thrown from his horse as he was riding from Boston, and killed. His death (in 1661) was regarded as a public calamity. The sensation caused by it has been handed down to posterity in the monumental record, still legible upon his tomb-stone, and still constantly quoted, in which, at some expense of grammar and rhythm, the high qualities of his character and the pomp of his obsequies are set forth with a certain solemn quaintness not unpleasing to a native Dorchester ear:

"Here lies ovr Captaine, & Major of Svffolk was withall;
A Godly Majistrate was he, and Maior Generall,

* Mr. Everett here exhibited in a glass case two sea-biscuits which were brought over by Mr. Robert Pierce, and have been carefully preserved in his family to the present day.

Two Trovps of Hors with him heare came, ſvch worth his love did crave;
Ten Companyes of Foot also movrning marcht to his grave.
Let all that Read be ſure to keep the Faith as he has don
With Chriſt he lives now Crown'd his name was Hvmpry Atherton."

But time would fail me to mention even by name all the persons entitled to a respectful recollection in our history. It is enough to say that they comprehend a fair proportion of the eminent men of the colony, and that a large number of those most distinguished in New England, or the States settled from New England, trace their origin directly or collaterally to this spot. In proof of this assertion, besides the names already given, I might repeat those of Roger Sherman, Strong, Dewey, Wolcott, Hawthorne, Putnam, Phillips, Breck, Minot, Moseley, Withington, Robinson, and many others. So, too, it would be easy to show, from the contents of our ancient records, if the limits of the occasion permitted it, that the character of Dorchester, as a town, was at all times sustained upon the solid basis on which the fathers had placed it. When we bear in mind the great power and influence of the church in the early days, as a species of moral and spiritual government, outside and above the municipal organization, and exercising a paramount control far beyond the strict bounds of ecclesiastical affairs, we shall be prepared to admit, that the steadiness of our progress and the general prosperity which the town has enjoyed, are owing, in no small degree, to the diligent labors, faithful services, and excellent characters of its clergy, an unbroken line of pious, learned, and devoted men. The whole period, from

the emigration to Connecticut in 1636 to the resignation of Mr. Bowman in 1773, is covered by the lives of Mather, Flint, Danforth, and Bowman, who with Messrs. Burr and Wilson, both colleagues of Mather, make up the list. It would not become me to speak of Mr. Bowman's successor, a near relative of my own; while the memory of Dr. Harris, the last pastor of the first, and of Dr. Codman, the first pastor of the second Dorchester church, is too recent to require a tribute. It would not perhaps be easy to find a town, which has been more highly favored in a succession of ministers modelled upon the true type of a New England Pastor, in whom a well-digested store of human and divine learning, directed by a sound practical judgment, was united with an all-controlling sense of the worth of spiritual things; while the austerity of manners required by the taste of the age was sustained by spotless purity of life, and habitually softened by offices of charity and words of love. Notwithstanding the dissensions with which the churches of New England, in the course of two centuries, were too often agitated, and the consequent frequent disturbance of the friendly relations of Minister and People, I do not know that there is one of the Ministers of Dorchester who may not be considered as having adorned his office, and as having exercised a kindly and healing influence on the church and the community.

With respect to the great reproach of our puritan fathers, that of intolerance, too well founded as we must all admit and lament, I cannot find that our ancient town was above or below the standard of

the age. It was an age which sincerely believed itself in direct alliance with the Supreme Being. The Colonial government for two generations had all the essential features of a theocracy. Every event, from the sickness or death of the minister of a village church, to that of a foreign potentate, a winter's storm or a summer's drought, canker worms in the spring and frosts in the autumn, a heresy invading the church, a *quo warranto* threatening the charter, an Indian or a European war, was the occasion of a fast, and "improved" in a spiritual application. We use the same language as our forefathers in this respect. The difference between us and them, I fear, is, that they believed what they said, with a more profound conviction. But while their lofty faith gave a high tone to their characters, its influence was not in all respects favorable to the happiness of their lives, the wisdom of their counsels, or the charity of their opinions. Our poor natures are not strong enough to bear a direct personal union with the Infinite. We are too prone to do wrong, to be trusted with the consciousness of infallibility; too ignorant, to be safely animated with the conviction that we have grasped the whole truth. The annals of Dorchester, however, present a few noble examples of charity and toleration beyond the age. When the statute against the Quakers was enacted in 1658, a statute which reproduced the worst features of the cruel law against non-conformists of 1593, Thomas Clark, with one other deputy, voted against it. He was a Dorchester man, though removed to Boston, which

he represented at that time ;—and Nicholas Upsall, also of Dorchester, was fined, imprisoned, and eventually banished, for deeds of mercy toward that persecuted sect.

In all the important political events of the times, the town of Dorchester bore its part, often a conspicuous one. A very striking illustration of this fact may be seen in the Memorial addressed to the Colonial legislature in 1664, and signed by the principal inhabitants of the town.* The New England Colonies, though by no means what can be called a military people, had been led by circumstances to a large experience of the hardships and perils of war. This grew at first out of the necessity of protecting themselves against the native tribes; which they were obliged to do, entirely without aid from the mother country. I do not recollect that, under the first charter, a dollar or a man was sent from England to the Colonies, to aid in their defence against the Indians, the French, or the Dutch. Under the new charter, and with the increase of population both in the French and British Colonies, American interests acquired a greatly increased importance ; and the Colonies, as a matter of course, were involved in all the wars of Europe. A considerable military and naval force was always kept up, and the royal navies and armies were recruited for foreign service in New England. In this way, the flower of our youth, for three successive genera-

* This interesting paper was published in the New England Genealogical Register, Vol. V., p. 393, with valuable notices of the signers.

tions, were engaged in a series of sanguinary but now almost forgotten conflicts on the inland frontier, the banks of the St. Lawrence, in Cape Breton, in Martinico and Cuba, and on the Spanish Main. Besides what was done still earlier, the New England Colonies raised two thousand men in 1690 for that fatal expedition against Canada, of whom one thousand perished, "not vagrants," says Dummer, "picked up in the streets and pressed into the war, but heads of families, artificers, robust young men, such as no country can spare, and least of all, new settlements."* Expeditions of this kind, sometimes prosperous, more frequently attended with the most distressing sacrifices, not merely of property but of life, recur too frequently even to be enumerated here. I mention only those which are alluded to in our histories. In 1740, five companies of one hundred men each, as the excellent Mr. James Blake, for so many years the faithful town clerk of Dorchester, relates, "went from this province to war with Spain. They went to Jamaica to Admiral Vernon, and so to Carthagena and Cuba." Mr. Blake adds, "we hear many or most of them are dead." Let us hope that the town clerk of Dorchester will never again have to make precisely that record. Three thousand men were raised in New England for the memorable expedition against Louisburg in 1745. "Most that went from hereabouts," says Father Blake, "that I knew, either died there, or in their passage home, or soon after they came

* Defence of the New England Charters, p. 17.

home. 'Tis said there died of our New England forces about five hundred." This expedition, as you are well aware, was planned by Gov. Shirley. The Governor's stately mansion still stands upon our borders; the iron cross, brought from the market-place at Louisburg, adorns the library of Harvard College. But no monument is reared to the brave men who fell in these distant expeditions; no memorial remains of those who came back to their native villages, with wounds and diseases brought from the camp. On one mouldering stone only, in our ancient grave-yard, we read that it covers a person who "died in his majesty's sarvice."

The Indian's shaft, the Briton's ball,
The sabre's thirsting edge,
The hot-shell shattering in its fall,
The bayonet's rending wedge
There scattered death;—yet seek the spot,
No trace thine eye can see,
No altar; and they need it not,
Who leave their children free.*

The great expedition against the Havana, in 1762, was on the point of sinking under the climate and the protracted resistance of the Spaniards. "A thousand languishing and impatient looks," says the historian, "were cast *on the reinforcements from America.*" None, however, as yet appeared; and the exhausted army was left to its own resources. Many fell into despair and died, overcome with fatigue, anguish, and disappointment. These reinforcements at length arrived in two divisions. Some-

* Holmes.

of the vessels composing the first, were wrecked in the Bahama passage; of the second, a part were intercepted by the French; but those who escaped, "arrived seasonably and rendered excellent service." On the 14th day of August, 1762, after a murderous siege of two months and eight days, under a burning tropical sun, in mid-summer, the Royal forces of England, with her brave provincial allies, marched together through the battered wall of the Havana.* This was an era in history; it was the last time in which England and her North American colonies stood side by side on the battle field. Their next meetings were fifteen years later at Lexington and Concord, at Bunker Hill and Dorchester heights;—No, not on Dorchester heights; it was not deemed expedient by the royal forces to meet them there.

In 1763, the temple of Janus was shut, and there was peace throughout christendom. England had gained an empire in the war; Canada had been acquired by her, and, with her elder American colonies, spread out before her one vast field for the promotion of human happiness and the culture of a high civilization. By the hand of Chatham she might have sown protection, and reaped grateful allegiance. From the lips of Burke she might have sown conciliation, and reaped union and love. But by the counsels of Grenville and North she sowed taxation, and reaped revolt. In 1764 she sowed the wind (a crop which never comes up in regular drills); she came for the harvest in 1775, and, lo! the whirl-

* Annual Register for 1762, chap. VIII.

wind; reaper, sickle, and sheaves swept before the tempest; the fountains of the great deep broken up; and the very soil itself, the rock-ribbed continent, torn from the British empire by the convulsion!

In the struggle, which began with the passage of the Stamp-act, Dorchester was in no degree behind the metropolis. In 1765 she instructed her representative, Col. John Robinson, "to use the utmost of his endeavors, with the great and general court, to obtain the repeal of the late parliamentary act, (always earnestly asserting our rights as free-born Englishmen), and his best skill in preventing the use of stamped paper in this government." But though resolutely bent on resisting the obnoxious and tyrannical act, they would nevertheless manifest to him their "utter abhorrence of all routs, riots, tumults, and unlawful assemblies; and if the laws now in being are not sufficient to suppress such high misdemeanors, that you would use your skill and interest in making such laws as would answer such a salutary purpose." (Dorchester Rec. III., 293.) When, in consequence of the dissolution of the general court in 1768, a convention of the Province was recommended by Boston, Dorchester voted "to choose one person to act as a committee in convention, with such committee as may be sent from other towns in the province, in order that such measures may be consulted and advised, as his majesty's service and the peace and safety of his subjects in this province may require." As a farther measure to promote his majesty's service and the peace and safety of the province, the next vote

passed at the same meeting was, that a "place be built under the roof of the meeting-house at the east end thereof, to keep the town's stock of powder in." (Rec. III., 333.) In 1770, Dorchester resolved not to purchase any articles of the traders in Boston, who had violated the non-importation agreement, and resolved that "whereas a duty has been laid on foreign tea, we will not make use of it in our families, except in case of sickness, till the duty is repealed." (Rec. III., 352.) On the 4th of June, 1773, Dorchester responded to the solemn exposition of the rights of America, drawn up by a committee of twenty-one of the citizens of Boston. The resolutions of this town were nine in number, expressed with perspicuity and force, and the representatives of Dorchester are instructed "to join in any motion or motions in a constitutional way, to obtain not only redress of the aforementioned grievances, but of all others, and that they in no wise consent to give up any of our rights, whether from nature or by compact." (Rec. III., 380.)

At the close of 1773, the great question of taxation, out of which sprung the independence of America, was brought to a practical issue in reference to the duty on tea. When attempts were made to persuade Lord North not to introduce the obnoxious article into the colonies, his answer was, "It is of no use making objections, for the King will have it so. The King means to try the question"; and the question was tried in Boston and its vicinity.* As soon as information was received that

* Bancroft's History, Vol. VI., p. 465, 472.

two or three cargoes of tea were speedily to arrive in Boston, the consignees were called upon, by a committee of the citizens in town meeting assembled, to resign their trust. This they refused to do; and the further management of affairs was left by the citizens to the committee of correspondence. On Monday, November 22d, 1773, the committees of Dorchester, Roxbury, Brookline, and Cambridge met the Boston Committee in the Selectmen's room in Faneuil Hall. At this conference of the five committees, it was unanimously voted to prevent the landing and sale of the tea, and to address a letter on the subject to all the towns in the province. On Sunday the 28th, the Dartmouth, the first of the tea ships, arrived. On the following day Samuel Adams invited the committees of Dorchester and the three other towns, to meet the committee and citizens of Boston in Faneuil Hall. This is the memorable meeting that was adjourned to the Old South church, at which it was resolved that the tea should be sent back to England. On the 30th, a meeting was held in Dorchester, at which it was resolved, that "should this country be so unhappy, as to see a day of trial for the recovery of its rights, by a last and solemn appeal to Him who gave them, we should not be behind the bravest of our patriotic brethren, and that we will at all times be ready to assist our neighbors and friends, when they shall need us, though in the greatest danger." (Rec. III., 407.) In the course of a few days, two more ships arrived; the committee of the six towns (for Charlestown had now been added) were in continual

conference. The consignees were urged to send back the tea; the collector would not clear the vessels till the tea was discharged; the governor refused a permit to pass the castle, unless the ships were cleared. No peaceable solution of the problem remained, and on the night of the 16th December, a party of persons, disguised as Mohawk Indians, boarded the ships and threw into the water three hundred and forty-two chests of tea.

One of these chests, partly emptied, and buoyant, was borne by the tide to Dorchester neck, and there picked up on the morning of the 17th, by a person who saw it on the marshes and "thought it no harm." He was speedily required to surrender the article, and it was only after apology made in public town meeting, that he was forgiven for his indiscretion. (Rec. III., 414.)

The destruction of the tea, I need hardly say, occasioned the Boston port-bill, and the occupation of the town by a greatly increased military force. These measures on the part of the government were met by the organization of measures of resistance, military and political, on the part of the colonies. On the 24th of August, 1774, delegates were chosen by Dorchester, to attend the celebrated meeting at Dedham, of all the towns in the County of Suffolk, not as yet divided. A month later, instructions were given to Capt. Lemuel Robinson to represent the town in the general court to be held at Salem. The writs for the meeting having been recalled by General Gage, Capt. Robinson was authorized to meet the representatives of the other towns IN GENE-

RAL PROVINCIAL CONGRESS, to "act upon such matters as might come before that body, in such a manner as may appear to him conducive to the true interest of this town and province, and most likely to preserve the liberties of all America." (Rec. III., 435.) The persons elected, to the number of ninety, assembled at Salem on the 5th of October, notwithstanding the recal of the writs. Having waited in vain for the appearance of the Governor to administer the usual oaths, they organized themselves into a convention the next day, with John Hancock as Chairman, and Benjamin Lincoln as Clerk. A committee was appointed to consider the proclamation of the Governor, and on their Report the following day (October 7th, 1774) it was voted, that "the members aforesaid do now resolve themselves into a PROVINCIAL CONGRESS." This body adjourned the same day to Concord, and afterwards held its meetings at Watertown. Its formation followed, by one month, the meeting of the Continental Congress at Philadelphia, and it was, I believe, the first regularly organized body assembled in any of the States, and assuming legislative powers of a revolutionary character.

Among its acts was one which may be considered of itself as forming, as far as Massachusetts is concerned, a precise date to the revolution in the government, regarded as a political measure; I mean the recommendation to the towns to pay their quota of the Province tax not to the Receiver for the Crown, but to a treasurer appointed by this Provincial Congress. Dorchester, on the 27th Dec. 1774,

complied with this recommendation, and resolved that "the collectors of this town pay the province tax, now in their hands or yet to be collected, to Henry Gardner, Esq., of Stow," a gentleman of sterling probity and a true patriot, prematurely removed from the stage of life; whose grandson, a native son of Dorchester, the chief magistrate of the Commonwealth, honors us with his presence on this occasion.

By another act equally decisive, the Provincial Congress of Massachusetts made military preparation for the approaching crisis. The enlistment of twenty thousand men was recommended, and officers of the seven years' war designated for the command.

In pursuance of this recommendation, Dorchester, on the 10th March, 1775, resolved that "the whole of the inhabitants of this town assemble on a certain day, those who are liable to do military duty with arms and ammunition *according to law*, in order to be reviewed, and to see whether any members of them will enlist and hold themselves in readiness as minute men; and those in the alarm list to choose officers to command them." (Rec. III., 442.)

On the 19th of April the all-important blow was struck; the blow which severed the fated chain whose every link was bolted by an act of Parliament, whose every rivet was closed up by an order in Council,—which bound to the wake of Europe the brave bark of our youthful fortune, destined henceforth and forever to ride the waves alone,—the blow which severed that fated chain was struck. The blow was struck, which will be felt in its consequen-

ces to ourselves and the family of nations, till the seventh seal is broken from the apocalyptic volume of the history of empires. The consummation of four centuries was completed. The life-long hopes and heart-sick visions of Columbus, poorly fulfilled in the subjugation of the plumed tribes of a few tropical islands, and the partial survey of the continent; cruelly mocked by the fetters placed upon his noble limbs by his own menial and which he carried with him into his grave, were at length more than fulfilled, when the new world of his discovery put on the sovereign robes of her separate national existence, and joined, for peace and for war, the great Panathenaic procession of the nations. The wrongs of generations were redressed. The cup of humiliation drained to the dregs by the old puritan confessors and non-conformist victims of oppression,—loathsome prisons, blasted fortunes, lips forbidden to open in prayer, earth and water denied in their pleasant native land, the separations and sorrows of exile, the sounding perils of the ocean, the scented hedge-rows and vocal thickets of the "old countrie" exchanged for a pathless wilderness ringing with the war-whoop and gleaming with the scalping-knife; the secular insolence of colonial rule, checked by no periodical recurrence to the public will; governors appointed on the other side of the globe that knew not Joseph; the patronizing disdain of undelegated power; the legal contumely of foreign law, wanting the first element of obligation, the consent of the governed expressed by his authorized representative; and at length the last unutterable and burning affront and

shame, a mercenary soldiery encamped upon the fair eminences of our cities, ships of war with springs on their cables moored in front of our crowded quays, artillery planted open-mouthed in our principal streets, at the doors of our houses of assembly, their morning and evening salvos proclaiming to the rising and the setting sun, that we are the subjects and they the lords,—all these hideous phantoms of the long colonial night swept off by the first sharp volley on Lexington Green.

Well might Samuel Adams exclaim, as he heard it, "Oh, what a glorious morning is this!" glorious, but as is too often the case with human glories, the germ and the fruit of sorrow, sanctified with tears and sealed with blood. Precious lives are to be sacrificed, great trials public and private to be endured, seven years of war are to desolate the land, patriot armies are to march with bloody feet over ice-clad fields, a cloud of anxiety must hang over the prospects of one generation of the young, while another of the aged go down to the grave before the vision is fulfilled:—but still glorious at home and abroad,—glorious for America, and, strange as the word may sound, glorious even for England! Lord Chatham rejoiced that America had resisted. Surely Lord Chatham never rejoiced in the shame of England; he rejoiced that America had resisted, because she resisted on the great principles of constitutional liberty. Burke, in the early stages of the contest, wrote these golden words: "We view the establishment of the British Colonies on principles of liberty, as that which is to render this kingdom venerable to

future ages. In comparison of this we regard all the victories and conquests of our warlike ancestors or of our own times as barbarous and vulgar distinctions, in which many nations whom we look upon with little respect or value, have equalled if not exceeded us. THIS IS THE PECULIAR GLORY OF ENGLAND!"* All the victories and conquests of our warlike ancestors or of our own times—Plantagenets and Tudors; Crecy, Poictiers, Agincourt; Dunkirk and Calais; Jamaica and Gibraltar; the Cromwells and the Blakes; the Williams and the Georges; the triumphs of Marlborough at the gates of France, the thunders of Clive on the banks of the Ganges; all, in Burke's judgment, barbarous distinctions, vulgar fame, compared with "the peculiar glory" of founding a colonial empire on the principles of liberty!

Of the great events which influenced the result of the revolution, few are more important than that which took place within our limits. At Lexington and Concord the great appeal to arms was irrevocably made. As the alarm of that day spread through the country, the men of Dorchester hastened to the field. They stood side by side with their countrymen, from every part of New England, when the great question of the capacity of a patriotic militia to contend with veteran troops was decided at Bunker Hill. But the occupation of our Heights produced a distinct strategic result, not inferior in importance to any other in the whole war. It was literally

* Burke's Works, Vol. II., 403.

victoria sine clade; a noble victory achieved without the effusion of blood.

But there is another circumstance which must ever clothe the occupation of Dorchester Heights with an affecting interest. It was the first great military operation of Washington in the revolutionary war; not a battle, indeed, but the preparation for a battle on the grandest scale, planned with such skill and executed with such vigor, as at once to paralyze the army and navy of the enemy, and force him, without striking a blow, to an ignominious retreat. Washington was commissioned as Commander in Chief of the American Armies on the day the battle of Bunker Hill was fought. The siege of Boston had been already formed; and those noble lines of circumvallation, twelve miles in compass, of which some faint remains may still be traced, had been drawn along the high grounds of Charlestown, Cambridge, Roxbury, and Dorchester. An adventurous expedition against Quebec had failed; partial collisions had taken place wherever there were royal forces throughout the country; but nothing decisive was brought about, and a feverish excitement pervaded the continent. Congress was still conducting the war without a constitutional existence; and all eyes and hearts were turned to the army and to Washington. Men at a safe distance and with nothing at stake, are prone to judge severely the conduct of those who are at the post of responsibility and danger. Washington himself felt the delicacy and the hazards of his position; the importance of sustaining the expectations of the country; the

necessity of decisive results. But his army was without discipline or experience, save a few veterans of the seven years' war, without adequate supplies of any kind, composed of men who had left their homes at a moment's warning and were impatient to return, weakened by camp diseases and the small-pox, with a stock of powder so scanty, that stratagem was resorted to by the commander to conceal the deficiency even from his officers. Thus the summer and the autumn wore away, and every week increased the public impatience and added to the embarrassments of Washington. His private letters at this time are filled with the most touching remarks on his distressed condition. In a letter to Colonel Reed, of the 14th of January, 1776, he says, "The reflection on my situation and that of this army, produces many an unhappy hour, when all around me are wrapped in sleep. Few people know the predicament we are in on a thousand accounts; fewer still will believe, if any disaster happens to these lines, from what cause it flows. I have often thought how much happier I should have been, if, instead of accepting the command under such circumstances, I had taken my musket on my shoulder and entered the ranks; or, if I could have justified the measure to posterity and my own conscience, had retired to the back country and lived in a wigwam."

At length, however, the re-enlistment of the army was completed; advanced lines were thrown up, ordnance captured at Ticonderoga had been transported by Knox with prodigious effort across the country, ammunition had been taken by Manly in

his prize ships, shells were furnished from the royal arsenal at New York. It was Washington's wish to cross the ice to Boston, to carry the town by assault, and destroy the royal army. The ice, however, did not make till the middle of February; and it was decided, by a council of war, that the town could not be assaulted with success.

It was then resolved to repeat, on a grander scale, with full preparation and ample means, the hasty operation which had brought on the battle of Bunker Hill, the preceding summer. It was determined first to occupy the heights of Dorchester, and as soon as an impregnable position was secured there, to establish batteries on Nook Hill and the other rising grounds nearest Boston. The fleet in the harbor was within range of the heights; the town was commanded from the hills below. The occupation of these points would of necessity compel the enemy to take the risk of a decisive action, or to evacuate the town.

Washington, though preferring the bolder measure, yielded to the decision of his council, and threw his whole soul into the work. A plan for a grand combined movement was matured. The heights of Dorchester were to be occupied on the night of the 4th of March, in order that the anticipated battle might be fought on the anniversary of the ever-memorable 5th of March, 1770. As soon as the conflict was engaged on the heights, Putnam was to cross from Cambridge with a body of four thousand men, land in two divisions in Boston, and forcing his way through the town burst open the

fortifications on the neck, and thus admit a division of the American army from Roxbury. To distract and occupy the attention of the enemy, the town was severely bombarded from Somerville, East Cambridge and Roxbury, during the nights of the 2d, 3d, and 4th of March.

I am told by professional men that these dispositions evince consummate military skill; and are among the facts which show that Washington, too often compelled by his situation to pursue the Fabian policy, possessed a talent for military combinations that entitles him to a place beside the greatest captains of the last century.

The 4th of March, the day so long and anxiously expected, at length arrives. The troops are put in motion in the evening, from the American lines at Roxbury and Dorchester. An advanced guard of eight hundred men precedes; the carts with intrenching tools came next, with the main body, twelve hundred strong, under General Thomas; the whole followed by a train of three hundred wagons loaded with fascines, gabions, and bundles of hay. They crossed Dorchester neck without being perceived, and reached their destination in two divisions, one for each of the heights. Bundles of hay were placed on the side of the causeway, at the most exposed parts, as a protection in case the enemy should discover and attempt to interrupt the movement. Under this shelter, parties from the American army passed several times during the night, without being perceived, though it was bright moonlight. This was owing, no doubt, to the cannonade

and bombardment of the town from the opposite quarter, by which also the whole surrounding country was thrown into a state of painful expectation and alarm. The operations were conducted by Gridley, an experienced engineer of the old French war. He was aided by Col. Putnam, in laying out and executing the works, which before morning, though incomplete, were adequate against grape-shot and musketry.

Washington was present on the heights. In the strictness of military duty, the presence of the commander-in-chief of the army was not required on the ground, on such an occasion; but the operation was too important to be trusted entirely to subordinates. Accompanied by Mr. James Bowdoin, then a young man of twenty-two, afterwards your respected fellow citizen, and the representative of Dorchester in the Convention of Massachusetts which adopted the Constitution of the United States, Washington, whose head quarters were at Cambridge, repaired, on this eventful night, to Dorchester heights.* He has left no record descriptive of the scene, or of his thoughts and emotions at what he must have regarded, at that time, as the most eventful hour of his life, and the most critical moment of the war. "The moon shining in its full lustre" (they are the words of Washington), revealed every object through the clear cold air of early March, with that spectral distinctness, with

* Eulogy on Hon. James Bowdoin, by Rev. Dr. Jenks, p. 19, 20; Addresses and Speeches, by Hon. R. C. Winthrop, p. 109.

which things present themselves to the straining eye, at a great juncture. All immediately around him intense movement, but carried on in death-like silence; nothing heard but the incessant tread of busy feet, and the dull sound of the mattock upon the soil, frozen so deep as to make it necessary to place the chief reliance on the fascines and gabions. Beneath him, the slumbering batteries of the castle; the roadstead and harbor filled with the vessels of the royal fleet, motionless except as they swung round at their moorings at the turn of the midnight tide; the beleaguered city, occupied by a powerful army and a considerable non-combatant population, startled into unnatural vigilance by the incessant and destructive cannonade, but yet unobservant of the great operations in progress so near them; the surrounding country, dotted with a hundred rural settlements, roused from the deep sleep of a New England village by the unwonted tumult and glare.

It has been stated, in one or two well-authenticated cases of persons restored after drowning, where life has been temporarily extinguished in the full glow of health, with the faculties unimpaired by disease and in perfect action, that, in the last few minutes of conscious existence, the whole series of the events of the entire life comes rushing back to the mind, distinctly but with inconceivable rapidity; that the whole life is lived over again in a moment. Such a narrative, by a person of high official position in a foreign country, and perfect credibility, I have read. We may well suppose that at this most critical moment of Washington's life, a similar con-

centration of thought would take place, and that the events of his past existence as they had prepared him for it,—his training while yet a boy in the wilderness, his escape from drowning and the rifle of the savage on his perilous mission to Venango, the shower of iron hail through which he rode unharmed on Braddock's field, would now crowd through his memory; that much more also the past life of his country, the early stages of the great conflict now brought to its crisis, and still more solemnly the possibilities of the future for himself and for America, would press upon him; the ruin of the patriotic cause if he failed at the outset; the triumphant consolidation of the revolution if he prevailed; with higher visions of the hopeful family of rising States, their auspicious growth and prosperous fortunes, hovering like a dream of angels in the remoter prospect;—all this, attended with the immense desire of honest fame (for we cannot think even Washington's mind too noble to possess the "last infirmity"), the intense inward glow of manly heroism about to act its great part on a sublime theatre,—the softness of the man chastening the severity of the chieftain, and deeply touched at the sufferings and bereavements about to be caused by the conflict of the morrow; the still tenderer emotions that breathed their sanctity over all the rest; the thought of the faithful and beloved wife who had followed him from Mount Vernon, and of the aged mother whose heart was aching in her Virginia home for glad tidings of "George, who was always a good boy,"—all these pictures, visions,

feelings, pangs;—too vast for words, too deep for tears,—but swelling, no doubt, in one unuttered prayer to Heaven, we may well imagine to have filled the soul of Washington at that decisive hour, as he stood upon the heights of Dorchester, with the holy stars for his camp-fire, and the deep folding shadows of night, looped by the hand of God to the four quarters of the sky, for the curtains of his tent.*

The morning of the 5th of March dawned, and the enemy beheld with astonishment, looming through a heavy mist, the operations of the night. Gen. Howe wrote to the minister that they must have been the work of at least twelve thousand men. In the account given by one of his officers, and adopted in the Annual Register, it is said that the expedition with which these works were thrown up, with their sudden and unexpected appearance, "recalled to the mind those wonderful stories of enchantment

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* This imagery was partly suggested to me by a noble stanza in Gleim's Ode on the victory gained by Frederic the Great, at Lowositz, dimly retained in a recollection of forty years. Since the Address was delivered, my friend, Prof. Felton, has at my request, with the kind aid of Dr. Beck, helped me to the original, which is as follows:—

"Auf einer Trommel sass der Held,
Und dachte seine Schlacht;
Den Himmel über sich zum Zelt,
Und um sich her die Nacht."

Nearly in English as follows:—

Upon a drum the hero sat,
And thought upon his fight;
The heaven above him for his tent,
And all around the night.

and invisible agency, which are so frequent in the Eastern romances."

General Howe, like a gallant commander, immediately determined on the perilous attempt to dislodge the Americans before their entrenchments should be rendered impregnable. A powerful detachment, led by Lord Percy, dropped down to the castle in the afternoon, to rendezvous there, and thence cross over to Dorchester point, and storm the heights. A heavy gale (a "dreadful storm," it is called, in the British account) scattered the barges, and prevented the embarkation of the troops. This delay gave the Americans time to perfect their works, barrels filled with earth were placed round the heights, an *abattis* of trees disposed around the foot of the hill, a reinforcement of two thousand men ordered to the support of General Thomas, and every preparation made for a decisive conflict.*

It was soon understood that the royal commander, not deeming it safe to take the risk of an engagement, had determined to evacuate Boston. To prevent the destruction of the town, Washington was willing that they should leave it unmolested. Finding, however, after some days, that no apparent movement was made for this purpose, he determined without further delay to occupy Nook hill and the other elevations fronting and commanding the town. This produced the desired effect, and General Howe was at length compelled to acknowledge the inability of a powerful land and naval force, under veteran

* Heath's Memoirs, p. 40.

leaders, to maintain themselves against untried levies whom they were accustomed to regard with contempt, led by officers from whom they affected even to withhold the usual titles of military command. He was obliged to acquiesce in an engagement with the Selectmen of Boston, tacitly sanctioned by "Mr. Washington," that his army should be allowed to embark without being fired upon, on condition that they would not burn the town.*

Thus, on the 17th of March, 1776, an effective force of many thousand men evacuated the town, and with a powerful fleet and a numerous train of transports, sailed for Halifax. Putnam, with a detachment of the American army, took possession of Boston. The beloved commander himself made his entry into the town the following day, and the first great act of the drama of the Revolution was brought to a triumphant close, on that old Dorchester Neck which, before the foundation of Boston, our fathers selected as a place for settlement.

This event diffused joy throughout the Union, and contributed materially to prepare the public mind for that momentous political measure, of which we this day commemorate the seventy-ninth anniversary. That civil government, however human infirmities mingle in its organization, is, in its ultimate principles, a Divine ordinance, will be doubted by no one who believes in an overruling Providence. That every people has a right to interpret for itself the will of Providence, in reference to the form of gov-

* Newell's Journal, Mass. Hist. Collections, Fourth Series, Vol. I., 272.

ernment best suited to its condition, subject to no external human responsibility, is equally certain, and is the doctrine which lies at the basis of the Declaration of Independence. But what makes a People,—what constitutes this august community, to which we give that name; how many persons—how few; bound to each other by what antecedent ties of physical descent, of common language, of local proximity, of previous political connection? This is a great question, to which no answer, that I know, has yet been given; to which, in general terms, perhaps, none can be given. Physiologists have not yet found the seat of animal life,—far less of the rational intellect or spiritual essence of the individual Man. Who can wonder that it should be still farther beyond our ability to define the mysterious laws which,—out of the physical instincts of our nature, the inexplicable attractions of kindred and tongue, the persuasions of reason, the social sympathies, the accidents as we call them of birth, the wanderings of nations in the dark ages of the past, the confederacies of peace, the ravages of war, employed by the all-fashioning hand of time, which moulds every thing human according to the eternal types in the divine mind,—work out, in the lapse of centuries, with more than Promethean skill, that wondrous creation which we call A PEOPLE!

The Declaration of Independence which we celebrate to-day, attempted no definition of these mysterious agencies; it assumed their result. It assumed that the late Colonies of England were a People, and entitled to all the rights implied in the name.

"When, in the course of human events, it becomes necessary for one People to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect for the opinions of mankind requires that they should declare the causes that impel them to the separation." Such is the dignified and solemn commencement of the great instrument by which, seventy-nine years ago, with the hearty concurrence of the citizens of Dorchester, the Continental Congress of America, renouncing allegiance to the British government, asserted the Independence of these United States.* They left,—they were com-

* The Council of Massachusetts directed (July 17th, 1776) that a copy of the Declaration should be sent to each minister of every denomination in the State, to be read to his congregation, and then handed to the town clerks, "who are required to record the same in their respective town or district books, there to remain as a perpetual memorial thereof." It is found in Dorchester Records III., p. 461—5.

It is a matter of interest to compare the Declaration of the Independence of the United States of America, of the 4th July, 1776, with that of the States General of the United Provinces of Holland, of the 26th of July, 1581, by which they asserted their independence of the Spanish Crown. The two Declarations are necessarily altogether different in their details, but as the occasions which produced them are alike, so there is a similarity in their structure, and in the mode of treating the subject, which I hardly think can be mere coincidence. I have a black letter copy of the original in Dutch, printed at Leyden by the sworn Printer of the State of Holland, in 1581, with this title:—Placcaet vande Staten generael vande ghevnieerde Nederlanden: byden welcken, midts den redenen in't lange in't selfde begrepen, men verclaert den Coninck van Spaegnien vervallen vande Ouerheyt ende Heerschappije van dese voors. Nederlanden, ende verbiet sijnen naem ende zeghel inde selue Landen meer te ghebruycken, &c. A translation is contained in Lord Somers's Tracts, Vol. I., p. 323, Sir Walter Scott's Edition.

pelled to leave it to the bloody arbitrament of war, whether they were rebellious colonies to be lawfully reduced by force, or a sovereign people rightfully struggling to be free.

Happy for humanity would it be, if this question could find a peaceful and practical solution. It will, in the coming centuries, perhaps in times near at hand, be a frequently recurring question. Vast colonial dependencies exist in various parts of the world, subject to the powers of Western Europe. Such is the case with half the continent of North America; with all the West India Islands, with a single exception; with an immense region of southern Africa; with the vast territory of India, and with most of the islands of the Indian Archipelago; and with the whole Australian world. There is no reason to doubt that, in the lapse of time, these colonial dependencies will grow up in population, in wealth, in intelligence, and in all the elements of political life, to the stature of a perfect State. How devoutly is it to be wished that principles of public law should be established, regulating the transition of colonies into a condition of Independence, by great constitutional compacts, and not through the gates of bloody revolution!

There is another momentous question which is left undecided in the great declaration; and that is, whether all the inhabitants of British America in their united capacity, and in that alone, formed the "one People" which asserted their independence (which was perhaps the opinion generally entertained by the statesmen of 1776), or whether the inhabi-

tants of the several colonies were each a people who, if it had pleased them, could each have declared its separate independence (as some appear afterwards to have held and to hold);—this was a question not discussed this day seventy-nine years ago. That was a period of high patriotic excitement, of fervid sentiment, of impulsive effort against an impending danger. The metaphysics of state are an afterthought of prosperous and speculative times. But, however these questions may be decided, whatever foundation there may be for the opinion that the inhabitants of each State in the Union are entitled to the name and rights of an independent people; it may be safely affirmed that they cannot at one and the same time be the people of two different States or Territories; although the contrary doctrine seems to prevail to some extent, I trust not widely, in the West, where it has lately been maintained, by the sharp logic of the revolver and the Bowie-knife, that the people of Missouri are the people of Kanzas!

It would have been a pleasing task, fellow citizens, had time permitted it, to pursue this rapid glance at the fortunes of our native town, through the period which has elapsed from the Declaration of Independence to the present time. Such a glance would have exhibited, at least since the commencement of this century, a picture of steady growth and almost uninterrupted prosperity, of which few brighter examples can be found in the Commonwealth. It is within this period that my own family associations with Dorchester, and my personal recollections, fall. I seem even now to hear the voice of the same

ancient bell which cheered us this morning with its festal peal, as fifty-five years ago it called together the citizens of Dorchester to the meeting-house on yonder hill, to listen to the eulogy on Washington from the lips of one, whom I was called too soon to deplore; and who is not to be named by me, after the lapse of so many years, but with tenderness and veneration.* In this period, under the influence of the principles of solid national growth which gave character to the earliest settlements of Massachusetts, and of which, thank heaven, the force is not yet expended, of that love of liberty which prompted the Declaration of Independence, and of that spirit of fraternal affection which produced the last great fruit of the revolution, —the union of the States under a constitution of confederated republican government,—our country has increased in population, in wealth, in strength, in all that benefits or adorns the societies of men, till it stands the admiration of the world. O fortunatos nimium, sua si bona norint! Happy, too happy, did we but know our blessings. Perfection belongs to nothing human. Times of trial have come upon the country, at different periods; wars abroad and dissensions at home,—alarming junctures of affairs;—and these vicissitudes must be anticipated in time to come as they have happened in time past. But hitherto an unfailing good Providence has carried us through the trials, without which this world would come too near perfection. Let us, my

* A eulogy on Washington was, at the request of the citizens of Dorchester, delivered on the 22d February, 1800, by my honored father, Oliver Everett, who died 19th December, 1802.

fellow citizens, on this anniversary of the nation's birth, rescue one day from the cruel dominion of those passions which fill us with bitterness toward each other, and unite in the hope, that we shall still be sustained by the same Almighty arm which bore our fathers over the waters,—supported them under the hardships of the first settlement,—conducted them through the difficulties of the colonial period, —protected them through the dangers of the revolutionary struggle,—and has guided their career as an independent State.

Thus, my friends, in the neighborhood of the spot where, in my early childhood, I acquired the first elements of learning at one of those public schools, which are the glory and strength of New England, I have spoken to you imperfectly of the appropriate topics of the day. Retired from public life, without the expectation or the wish to return to it, but the contrary,—grateful for the numerous marks of public confidence which I have received, and which I feel to be beyond my merits,—respecting the convictions of those from whom I have at any time differed, and asking the same justice for my own,—I confess, fellow citizens, that few things would better please me than to find a quiet retreat in my native town, where I might pass the rest of my humble career in the serious studies and tranquil pursuits which befit the decline of life, till the same old bell should announce that the chequered scene is over, and the weary is at rest.

HISTORY

OF

Bunker Hill Battle.

WITH A

PLAN.

BY S. SWETT.

Second Edition.

MUCH ENLARGED WITH NEW INFORMATION DERIVED FROM THE SURVIVING SOLDIERS PRESENT AT THE CELEBRATION ON

THE 17TH JUNE LAST,

AND NOTES.

BOSTON:

MUNROE AND FRANCIS, 128 WASHINGTON-STREET.

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1826.

PRELIMINARY CHAPTER.

PREBLE,* Ward, Pomeroy, Thomas, Heath, and Whitcomb, were appointed by the Mass. Congress generals of the militia, some detachments of which, having defeated the enemy at Lexington and driven them into Boston, could no longer be retained in quarters. Only five days after the battle, Gen. Ward writes Congress, that, unless they furnished him with enlisting orders immediately, he should be left entirely alone. The day before, however, that body had resolved, that an army of thirty thousand was necessary ;— that Massachusetts would raise thirteen thousand six hun- of the number ; and that the other New England States should have notice given them, and be requested to furnish their respective proportions. But the battle of Lexington was a beacon fire to the neighbouring states. The hardy yeomen, whom rage supplied with arms, did not wait to be summoned by the tardy process of legislation ; they seized their hunting pieces, and flew to join their brethren at the scene of danger.

The Committee of Safety, elected anew by Congress at every session, were the real executive of Massachusetts.† They were empowered generally to watch over the safety of the commonwealth, and advise Congress of such measures as they thought beneficial, and expressly commissioned :

" To assemble such and so many of the Militia and them to dispose and place where and detain so long as said Committee shall judge necessary, and discharge said Militia when the safety of the Colony will admit. And the officers of the said Mi-

* Father of Com. Preble, who did not accept.

† The members were now John Hancock and Benjamin Greenleaf, who never took their seats ; John Pigeon, and Enoch Freeman, seldom present ; and Joseph Warren, chairman, Benjamin Church, Benjamin White, Joseph Palmer, Abraham Watson, Samuel Holten, Azor Orne, Nathan Cushing, and Richard Devens.—*Secretary, Jonathan Hastings.*

litia are enjoined to obey the orders and directions of said Committee of Safety. And also to direct the army of this Colony to be stationed where said Committee of Safety shall judge most conducive to the defence and service of this Colony, and the general and other officers of the army are requested to render strict obedience to such orders of said Committee; but Congress have power to control any order of the Committee of Safety. Also to nominate persons to Congress to be commissioned officers in the army and to give enlisting orders to such persons as they think proper. And if any officers be ready to be commissioned agreeable to the resolve of this Congress during the recess of the same the Committee shall fill up and deliver to them commissions to be furnished said Committee in blank for that purpose."

This committee distributed beating or enlisting orders to those whom they thought qualified to raise recruits. The number of a company was reduced from one hundred to fifty-nine; any one who enlisted this number was entitled to a captain's commission; and he who procured ten companies to serve under him commanded the regiment. Mass. Congress issued an eloquent address to the people, recruits came in with spirit, and by the middle of June the New England army of citizen soldiers, enlisted for a few months,* amounted to about fifteen thousand.

Of these about ten thousand were of Massachusetts; animated with the same love of liberty which inspired the whole, they were the most thoroughly instructed in the rectitude of their cause by Otis, who led the forlorn hope of the revolution, Jno. Adams, Quincy, Hancock, Sam'l Adams, and others. They were fighting battles peculiarly their own, in defence of their wives, children and homes, and had that warlike reputation to support, which they and their fathers acquired from continued triumphs over ferocious savages, and recent success at Nova Scotia and Louisbourg over European troops.†

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* Conn. and R. I. to Dec.; Mass. to Jan.

† MASS. REGIMENTS AND FIELD OFFICERS.

From	*Colonels.*	*Lt. Colonels.*	*Majors.*	*At*
Worcester.	Hon. Artemas Ward.	Jonathan Ward.	Edw. Barns, Tim. Bigelow.	Cambridge.
Plymouth.	Hon. John Thomas.	John Bailey.	Thos. Mitchell, Jno. Jacobs.	Roxbury.
Bristol.	Timothy Walker.	Nath'l Leonard.	Abiel Mitchell.	Do.
Plymouth.	Theophilus Cotton.	Ichabod Alden.	Ebenezer Sprout.	Do.
Worcester.	Asa Whitcomb.	Josiah Whitney.	Ephraim Sawyer.	Cambridge.
Do.	Joseph Read.	Ebenezer Clapp.	Calvin Smith.	Roxbury.
Essex.	John Mansfield.	Isr'l Hutchinson.	Ezra Putnam.	Cambridge.

Mass. Congress, on the 10th May, ordered, a regiment of artillery to be raised, it was scarcely organized yet; the train consisted of one six, two brass,* and six iron three-pound cannon. Col. Richard Gridley, Lt. Col. Wm. Burbeck, Majors David Mason and Scarborough Gridley, were the field officers.†

Rhode-Island had sent a regiment to Massachusetts imbued with the determined spirit of civil and religious liberty, which the founder of their state maintained through every peril. Colonel Green was their commander, one of the most promising heroes of the revolution. The elements of a soldier were so mixed in him, that his elevated rank among distinguished warriors was already anticipated. Under him were Lieut.Col. Olny and Maj. Box,‡ an experienced English soldier. An artillery company with four field-pieces was attached to the corps.

The hardy yeomanry of New Hampshire, beneath whose strokes the lofty forests and their savage inhabitants had been levelled with the dust, who had been used to little control but

From	*Colonels.*	*Lt. Colonels.*	*Majors.*	*At*
Wor.&Ham.	Timothy Danielson.	Wm. Sheppard.	David Leonard.	Roxbury.
Middlesex.	William Prescott.	John Robinson.	Henry Wood.	Cambridge.
Essex.	James Frye.	James Brickett.	Thomas Poor.	Do.
Middlesex.	Ebenezer Bridge.	Moses Parker.	John Brooks.	Do.
Berkshire.	John Patterson.	Seth Read.	Jeremiah Cady.	Do.
Maine.	James Scamman.	Johnson Moulton.	Daniel Wood.	Do.
Wor.&Berk.	Ebenezer Learned.	Danforth Keyes.	Jonathan Holman.	Roxbury.
Middlesex.	Thomas Gardner.	William Bond.	Michael Jackson.	Cambridge.
Do. & Wor.	John Nixon.	Thomas Nixon.	John Butterick.	Do.
Ham.&Berk.	John Fellows.	Nathan Eager.	Benjamin Tupper.	Roxbury.
Worcester.	Ephraim Doolittle.	Benj'n Holden.	Willard Moore.	Cambridge.
Do. & Middl.	Jonathan Brewer.	Wm.Buckminster.	Nathaniel Cudworth.	Do.
Do. & do.	David Brewer.	Rufus Putnam.	Nathaniel Danielson.	Roxbury.
Suffolk.	Hon. William Heath	John Graten.	Jotham Loring, Jos. Vose.	Do.
Hampshire.	Benj.R.Woodbridge.	Abijah Brown.	William Stacey.	Cambr.
Essex.	John Glover.	John Gerry.	Gabriel Johonnot.	Marblehead.
Do.	Moses Little.	Isaac Smith.	James Collins.	Cambr.
Do. & Midd.	Samuel Gerrish.	Loammi Baldwin.	James Weston.	Do. Malden & Chelsea.

A number of companies, belonging to regiments at Roxbury, were at Braintree, Weymouth, Hingham, and other parts of Plymouth county.

* The Hancock and Adams, so adroitly taken by stratagem from a British guard in Boston. The two other pieces, taken near the same time and carried to Roxbury, were doubtless in Gen. Thomas' camp.

† Capts. Callender, Burbeck, ~~Trescott,~~ Trevett Pierce, Chadwick, Gridley, Popkin, Crafts, Foster, and Badlam.

‡ Appointed Brig. Maj. by Washington.

what the God of Nature imposed, were moved with indignation at approaching tyranny. They flocked as volunteers to the neighbourhood of Boston, and chose Col. Stark, Lieut. Col. Wyman, and Maj. M'Clary their leaders. Their colonel was worthy to command this formidable band ; he had been a distinguished captain of Provincial Rangers received into the service of the crown, was at Quebec under Gen. Wolfe, and enjoyed half pay as a British officer, an offering he made with other sacrifices for the good of his country.—Their major also was a favourite officer. Nearly six feet and a half in height, with a Herculean form in perfect proportions, a voice like Stentor, and strength of Ajax ; ever unequalled in athletic exercises, and unsubdued in single combat, whole bodies of men had been overcome by him, and he seemed totally unconscious that he was not equally unconquerable at the cannon's mouth. His mind and character were of the same grand and energetic cast with his person ; and though deficient in the advantages of finished education, he had been a member of the state legislature, and his mercantile concerns were extensive.

Colonel Sargent, driven from Massachusetts by the enmity of Governor Hutchinson, resorted to Amherst, and and brought a small regiment from that part of New Hampshire.* And, on 15th June, another small regiment from New Hampshire, arrived under Col. Reed, Lieut. Col. Gilman, and Maj. Hale.

Republican Connecticut, the secure asylum of the regicide judges, was behind none of the provinces in determined hostility to Britain, for not only civil but religious liberty, paramount with her to all earthly considerations, was in danger. In her vocabulary the British were the Philistines, and Putnam, the American Samson,† a chosen instrument to defeat the foe ; and fortunately she inspired her confidence into all her sister states. With her usual sagacity, however, this province, notwithstanding a confident reliance on supernatural aid, employed all human means to secure it. Her State constitution and establishments were unchanged, her troops the best armed, disciplined, and provisioned, in the army.

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* Col. Sargent's Lett.

So completely had almost every circumstance relative to the battle been permitted to sink into oblivion, that the author could not in 1818 discover to what province this whole regiment belonged, but presumed to Massachusetts, where the Col. did ; what renders it more striking, Gen. Dearborn, of the N.H. troops, seems to have forgotten it ; he mentions two other regiments only as coming from New Hampshire.

† N. E Chron. Aug. '75.

On the first news of the battle of Lexington, Putnam mounted his horse, rode night and day till he arrived at Cambridge, and attended a Council of War on the 21st April, when the parole was Putnam.* His troops soon followed him ; Storrs was Lieut. Col. and Durkee, who had served with him through the whole war of '56, with distinguished reputation, the Maj. of his regiment. Brig. Gen. Spencer, Lieut. Col. Willis, and Maj. Mayo, Col. Waterbury and Col. Parsons came also with the Connecticut troops, in all about three thousand. Capt. Coit, who had lost an eye, was next to M'Clary in stature and intrepidity ; he commanded an independent company of New-London mariners, and Chester another independent company from Weathersfield, the elite corps of the army. As such it was selected, on the 6th June, to escort Gen. Putnam and Warren, President of Congress, to Charlestown, on the exchange of prisoners with the British.

The scene of their meeting was hallowed by the flag of truce which waved over it, and sacred to the rites of hospitality and friendship. The officers on both sides were personal friends, though arrayed against each other in public hostility. Between Putnam and the British officers, especially, these ties had been cemented by the mutual perils and intimate associations of the camp, during the long war of '56, and their present opposition served only to make their affection glow with a more genial warmth. These rugged sons of Mars, from the impulse of feeling, rushed into each others' arms ; bravery proved its natural alliance with the finer feelings of the human heart ; the fell spirit of civil war was softened. The British were entertained by Putnam and Warren as their guests.

The army was under the command of Artemas Ward, commissioned the 21st of May, as general and commander in chief of the Massachusetts forces. His general orders were copied and obeyed by all the troops in Massachusetts to whatever Province they belonged, and the officers were ordered on courts martial, and the usual routine of duty without any distinction whatever.* Mass. Congress also resolved, on the 23d of May, that a Lieut.Gen., two Maj.Gens., four Brig., two Adj. and two Qr. Mr. Gens. should be appointed.

Gen. Ward was a gentleman of liberal education, vigorous understanding and distinguished probity. He had been a member of the council, speaker of the assembly, and chief justice of one of the courts in Massachusetts. He professed the rigid

* Ord. Book.

tenets of New England religion, and his rank and character commanded an extensive influence in the country. He had also served with reputation in the war of '56, was a lieut. col. at the storming of Ticonderoga, under Gen. Abercrombie, and soon after commanded the regiment. He had also been a Col. of militia, an office from which Gov. Hutchinson relieved him on account of his being too true a patriot.

Gen. Thomas received the appointment of Lieut. Gen. which he accepted the 27th of May. As a gentleman of honor, superior talents and education, a pure patriot, a gallant, enterprizing soldider, his character commanded universal confidence. He had served in the former war with reputation, and already distinguished himself in this. Being in command at Roxbury with a feeble force, Gen. Gage had determined to drive him from that important post. But his vigilance detected the design, and by a *ruse de guerre* he defeated it, manœuvring his troops in sight of the enemy, he gave them the appearance of much greater numbers than he possessed, and the enemy relinquished the enterprize.*

The veteran Gen. Pomeroy of Northampton continued with the new levied troops under his old commission, not having yet received a new appointment, and assisted in organizing the army. He was a hardy intrepid adventurous soldier, a keen and celebrated hunter, an honest, open hearted man. He had acquired a distinguished reputation in the war of '56, when military fame was the reward of individual prowess and private enterprise, and left the service a laurelled captain of Provincials. He commanded a company under Sir William Johnson in the celebrated engagement when the French and Indians, under the Baron Dieskau, were defeated. To our captain the honor of having slain the Baron was awarded over rival claims, and the baron's watch was bestowed on him as a trophy to be transmitted with his fame to posterity.† He was in fact the natural military chieftain of his neighbourhood, and may well be styled the Putnam of Connecticut river.

Gen. Whitcomb bore a close resemblance in history and character to Pomeroy. He appeared with the militia at Lexington battle, but was too old for service. He received the appointment of Muster Master, with Col. Benjamin, and on 12th June of Maj. Gen. which he declined.

On the 14th of June, Joseph Warren‡ was elected a major general of Massachusetts. In his character the heroism of an-

* Gordon.

† It is yet retained in his family.

‡ " Un des ces hommes, dont la nature est avare."

tiquity combined with the romantic chivalry of the middle ages. An accomplished scholar ; gifted with distinguished genius, his mind was stored with the treasures of classic erudition. A model as an orator ; ardent, elegant, and impressive, selected twice to address his fellow citizens in public, his eloquence burst asunder those strong ties by which nature bound them to the mother country. A patriot, pure and without reproach ; his favourite maxim was " Dulce et decorum est pro patria mori." An eminent physician ; his superb character soared far beyond the narrow limits of his profession. In person handsome, in manners elegant and accomplished, he was the favorite of the drawing room, and qualified to shine in the highest circles of fashion. But the cause of liberty, of his country, and mankind, summoned him to a destiny by far more exalted. Chairman of the Committee of Safety, and President of the Provincial Congress, he remembered that, in the simplicity of ancient republics, the most distinguished legislators were also the most devoted warriors. As a volunteer he accompanied Gen. Putnam to one of the islands, where, in a a warm engagement, the enemy were defeated and one of their vessels destroyed ;* and his head had been grazed by a ball from the enemy at the battle of Lexington.

Gen. Ward's quarters were at Cambridge, with about 8,000 Massachusetts troops, and 1000 from Connecticut. The latter, with Sargent's and Patterson's regiments, were under the immediate command of Gen. Putnam, in a central and advanced position near Inman's farm, where the enemy landed previous to the battle of Lexington. Some slight breastworks were thrown up by these troops, and a considerable redoubt erected near the Charlestown road, a mile and a half from Cambridge, where Col. Patterson's regiment was stationed. Four companies of artillery with, and one without field pieces, were also at Cambridge.

The right wing of the army, consisting of about 2000 Massachusetts, 2000 Connecticut, and 1000 R. I. troops, was at Roxbury, under command of Lieut. Gen. Thomas, who had with him three or four companies of artillery, with small field pieces, and one or two large cannon. He extended a portion of his troops towards the seaboard in Dorchester.

At Medford were about one thousand New Hampshire troops under Colonels Reed and Stark, and a detachment of the same

* Putnam headed his men on this attack up to his middle in mud and water. *N. H. Gaz. Jne. '75*

troops with three companies of Gerrish's regiment at Chelsea, forming the left wing of the army. A large guard, part of Little's and other regiments, were stationed at Lechmere point, on the evening of 16th June.

All these troops were hardy, brave, and athletic. Almost every soldier would rival Tell as a marksman, and aim his weapon at an oppressor with as keen a relish. Those from the frontier had gained this address against the savages and beasts of the forest; the country abounded with game, all were familiar with hunting; and the amusement universal throughout New England was the trial of skill with the musket. These troops were also religious, and their respect for the opinions of the clergy unbounded. But the religion of their clergy was republican in its nature; they had the most lively antipathy to church establishments, and dread of royal oppression. To avoid the expense of chaplains, the clergy in the neighbourhood of the camp were invited by Congress to perform divine service, thirteen of them every sabbath; a request they punctually complied with. Three or four chaplains, however, were attached to the army,* and prayed with the troops every morning on the common.

The confidence of the army in their officers was implicit and, as it appears from the characters already described, richly merited. But, besides their superior officers, many of the subordinate officers and privates had served in the army in the war of '45 or of '56.

Their confidence was at present elevated to an excess by the recent and unexpected conquests, which their arms had accomplished. Besides the victory at Lexington, and successful skirmishes in the neighbourhood of Boston, they had just learned, that Arnold,† who had received a colonel's commission and troops from the Committee of Safety of Massachuchusetts, had, in alliance with other New England forces, achieved the important conquest of Crown Point and Ticonderoga. These troops were also sensible that they were fighting in their own cause, and were exalted into heroes by an ardent love of liberty, a maddening, indignant sense of oppression. This indignation burned with new fury from a recent proclamation of Gov. Gage, denouncing them all as rebels,

* Rev. Jos. Thaxter of Edgartown was one of them, who made an audible and eloquent prayer before an assembly of 20,000 at the celebration on 17. June last.

† Arnold came to Cambridge immediately after Lexington battle with an independent Conn. company, and offered his services for any dangerous enterprize, to the Com. of Safety.

and especially the proscribed patriots Hancock and Adams, their abettors, adherents, and associates.

Excepting these characteristics, however, they were deficient in almost every important requisite of an army. Their arms were wretchedly defective, and the bayonet almost universally wanting. They were strangers to discipline and almost to subordination. Though nominally organized into regiments, these were deficient in numbers, many of them only skeletons, and their respective ranks not ascertained. Some of these troops were yet serving as minutemen,* and the officers in a number of regiments were not commissioned. Tents were not provided, the commissariat, quarter-master's department, and staff were yet unorganized.† The several towns sent sufficient provisions to their troops, but with irregularity and waste.

Col. Gridley was appointed chief, and Wm. Burbeck second engineer; but the latter was attached to the ordnance department, and Gridley had no assistant engineers. It was impossible for him to supply this defect, and he was almost too old for service; but, if military science, skill, and experience could have overcome these difficulties, there was not an officer in America more capable of accomplishing it.

He was born in Boston, 1711, and brother of J. Gridley, "the giant of the law." Uncommon genius, improved by superior education, prepared him for an elevated standing. Apt and learned in every branch of mathematics; of romantic honor, chivalrous ambition, and adventurous bravery, nature made him a soldier; and art could not make him a merchant. The attempt was relinquished, and, like Washington, he employed himself as a practical surveyor and civil engineer. After the decease of his brother, who held the office, he was elected Grand Master of Masons. Military science he studied with enthusiasm and acquired with facility, and in '45 he commenced his military career.

Massachusetts raised an army of three thousand two hundred men, New Hampshire added three and Connecticut five

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* Minute men were raised, by advice of a meeting of Boston patriots, as early as '72, and 29 Oct. '74 Mass. Congress enjoin on the militia to choose company officers, these field officers, the latter to enlist ¼ at least of their respective companies, and form into companies of not less than 50, who shall equip and be prepared at the shortest notice, officer themselves in the manner of the militia, the company officers to form battalions of 9 companies.

† John Pigeon was appointed Commissary; no deputies were appointed till 1. July. The first Adj. Gen. appointed was Wm. Henshaw on the 27th June. Sam'l Brewer was Adj. Gen. to Thomas.

hundred, to conquer the Island of Cape Breton. In this army he received the appointment of engineer and commander of the artillery. Under the instruction of Bastide, a distinguished engineer, he became at once an adept in his profession, and, like Archimedes, acquired celebrity in the war of sieges. With scientific accuracy he pointed the mortar which, on the third fire, threw a shell into the citadel of Louisbourg, one grand cause of its surrender, and the conquest of Cape Breton. He was rewarded by a captaincy in Gov. Shirley's regiment on the British establishment; peace left him on half pay, and in '52 he attended the governor to the Kennebeck, and erected forts Western and Halifax.

In '55 he again entered the service as chief engineer and colonel of infantry. In '56 he was commander of the provincial artillery, under Gen. Winslow, in the expedition against Crown Point, and proceeded to Lake George, where he erected fortifications. In '57 he sailed for Halifax, intended for Louisbourg, but the expedition was arrested by the French fleet. In '58 he revisited his earliest field of glory, and was at the second taking of Louisbourg, under Gen. Amherst. He had the superintendence of the ordnance stores, and was so distinguished in the siege, as were all the New England troops, that the general tendered him the valuable furniture of the governor's house, a present which, from chivalrous delicacy, he declined.

At the siege of Quebec, he enjoyed the distinguished honor of commanding the provincial artillery under the immortal Wolfe.* Gen. Amherst found it impossible to join the expedition; notwithstanding which, the audacious commander, seconded by Gridley and his other officers, determined to achieve the conquest without him. In the glorious battle, which ensued, Gridley proved himself worthy to fight by his side. Gridley's services were acknowledged and rewarded. The Magdalen islands with an extensive seal and cod fishery, and half pay as a British officer, were conferred on him. At the commencement of the revolution his British agent, by order of government, enquired to what party he devoted his services. His

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* With the utmost difficulty two pieces only could be raised to the heights of Abraham; the grape shot from these made great havoc among the enemy. *Knox's Camp. in Amer.*

The respectable intelligent children of Col. Gridley, from whom we derived most of our information concerning him, stated from recollection that he commanded these pieces.

magnanimous answer was, "he never drew his sword but in "the cause of justice, and such he considered to be his coun- "try's." His half pay ceased, and the arrears already due he had too much spirit to receive.

The British army in Boston, at the time of Lexington battle, were about four thousand, under Gen. Gage, the governor of Massachusetts. He had served with eclat in Europe and America, had married an American lady, was popular in the country, and disposed to moderate expedients, until he sacrificed his own judgment to the advice of violent partizans. By the last of May, large reinforcements arrived, and the whole consisted of the following regiments: the 4th, 5th, 10th, 14th, 3 companies of the 18th, 23d, 35th, 38th, 43d, 47th, 52d, 59th, 63d, 2 companies of the 65th, and the 67th. These amounted to about 10,000 troops, under Gens. Gage, Howe, Clinton, Burgoyne, Pigot, Grant, and Robinson, Lords Percy and Rawdon; Col. Abercrombie, Williams, and others; the most distinguished officers and choicest troops of the British empire. The 52d, Royal Irish, and the 23d or Welsh fusileers,* had been the most signalized. There was also a squadron of cavalry, for whose use a house of God‡ was sacrilegiously assumed.

The light infantry were encamped on the heights of West Boston; there was a strong battery for cannon and mortars on Copps Hill, facing Charlestown, and strong lines and batteries across the neck on the side of Roxbury; a battery at the northern extremity of the town, another on Fort hill, one at Fox hill on the common, where the marines, artillery, and 6th Regt. were encamped, 3 on the western shore of the common facing Cambridge, where the Royal Irish were stationed, and there were troops at Barton's point.

The British were equally sanguine, and as confident of success as their enemy, for whom, as soldiers, they entertained a sovereign contempt. This opinion was nourished by their officers who had served with those of the Provincials, when they were degraded below British officers of similar commissions, and the generals were allowed no rank with those of the mother country. They were confirmed in the same opinion from the ordinary arms and uncouth dress of the American troops,† worn by them unchanged from the plough or the workshop,

* Prince of Wales's Regt. From a tradition that a former Prince had ridden to England on a goat; one, with gilded horns, was maintained by the corps, and they celebrated the anniversary of the feat.

‡ Old South.

† Many soldiers wore leather aprons on parade.

and the want of discipline and subordination which signalized their camp. They were also enthusiastic admirers of their government and constitution ; king and parliament they considered omnipotent, and the Americans ungrateful, unnatural rebels, on whom they burned to inflict exemplary punishment.

Their narrow quarters galled their pride ; Burgoyne declared they would have elbow room, and Gen. Gage proclaimed his mortification " that the Americans affected to hold the British army besieged." Notwithstanding the superior and increasing numbers of the foe, they determined to leave the town, and take Charlestown and Dorchester heights. The busy preparation had commenced to possess themselves of the latter on the 18th of June,* but the Americans before that provided other occupation for their arms.

The Americans were impatient to be led against the enemy. They were unable to appreciate the necessity of discipline, or to understand the unorganized state of the army in every department ; but the hardships and expense of service they sorely realized. Many of the officers were favourable to the wishes of the men. They had been used to the loose service of rangers, and could not weigh the requisitions of a regular army, and the country was growing dissatisfied with their inaction. Gen. Putnam, Col. Prescott, and other veterans, demanded that advantage should be taken of this disposition of the men. The utility of the frequent and successful skirmishes they had already engaged in was immense. They promised themselves still higher advantage from an affair more important, but short of a general engagement. They knew, that, could the enemy be induced to engage a formidable detachment, their inferiority with the musket would make them deeply rue any advantage they might gain, while it would convert our army into soldiers ; and these beneficial results would be doubled, could the Americans be covered by intrenchments. Putnam urged his favourite maxim, " the Americans are not at all afraid of their " heads, though very much afraid of their legs ; if you cover " these they will fight forever." Before the Council of War, in continual session, these arguments were under consideration.

The same momentous question had been debated in the Committee of Safety. They received information, from their emissaries, that the enemy intended to advance into the country, and possess themselves of the commanding heights of Charlestown and Dorchester. The necessity of anticipating them in a project so fatal to America for the purpose of pre-

* Burgoyne.

venting their advance into the country, destroying their shipping, and rendering the town too hot for them was strongly urged.

But this course was opposed by formidable, and almost insuperable difficulties. The army seemed called on to keep themselves rigidly on the defensive till they were better disciplined and prepared for battle ; and what was still more important, they had not gunpowder. There were eleven barrels only in the public depots, and but sixty seven in Massachusetts. These heights completely overlooked the town, and it was impossible for the enemy to suffer the Americans to keep them without the most desperate efforts ; and a general engagement. This and the cannonade they would be compelled to maintain to answer that of the enemy, (for if omitted it would betray their secret,deficiency of powder) were entirely beyond their means. Gen. Pomeroy, however, took council of his courage, and with unbounded confidence in the skill of his countrymen " would " fight the enemy with but five cartridges a piece. He was " practised in hunting, and always brought home two, and " sometimes three deer, with but three charges of powder ; the " men had generally supplied themselves with powder as mili- " tia, and the public could easily make good their deficiency." To Ward and Warren's objection, that the enterprize would lead to a general engagement ; Putnam answered, " we will risk only 2000 men, we will go on with these and defend ourselves as long as possible, and, if driven to retreat, we are more active than the enemy and every stone wall shall be lined with their dead, and at the worst, suppose us surrounded and no retreat, we will set our country an example of which it shall not be ashamed, and teach mercenaries what men can do determined to live or die free." Warren walked the floor, leaned on his chair, " almost thou persuadest me, Gen. Putnam," said he ; " but I must still think the project rash ; if you execute it, however, you will not be surprised to find me by your side." " I hope not," said Putnam, " you are young, and your country has much to hope from you in council and the field ; let us who are old and can be spared begin the fray, there will be time enough for you hereafter, it will not soon be over."*

To encourage discipline and emulation, and brave the enemy, Putnam marched in face of them with all the troops from Cambridge to Charlestown, about the 10th of June. And about the same time, to support the policy of engaging the enemy in an

* Gen. Putnam's statement to his son.

affair, he reconnoitred the country with other officers. A position perfectly suited to their purpose, which does honour to their coup d'œil and military skill, they found in the fields of Charlestown, and examined minutely.*

By the direction of Gen. Ward, Col. Gridley and Col. Henshaw, accompanied by Mr. Devens, had examined this part of the country in May, and reported in favour of fortifying Prospect Hill first, Bunker Hill next, and lastly Breeds Hill.†

The settlement of Charlestown and the fields are situated on a peninsula, with Charles River on the south, and Mystic river on the north. It is eleven hundred yards across from north to south, and one mile forty three rods in length from east to west, at which extremity the two rivers approach each other, and form a neck of land but one hundred and thirty yards over. Breed's Hill, 62 feet high, is long, the eastern end rather steep, the western sinking gradually; the south side is very steep, and at the bottom of it was Charlestown. The north side is steep, and protected at the bottom by a small impassable slough; beyond this, north, is a tongue of land, 20 feet above Mystic River, which bounds it on the north. This tongue of land runs east parallel with Breed's to within two hundred and fifty yards of Morton's Hill. Morton's Hill, 35 feet in height, lies northeast from Breed's. The ground between the tongue of land and Breed's Hill, and beyond the eastern end of it and Morton's Hill was low and marshy. On part of this low land, however, were a number of brick kilns, and a sluice way by which the whole might be inundated at high tide, which on the 17th June was at ½ past 9. The tongue of land at its western extremity terminates in Bunker Hill, which on this side has a considerable slope, and on all its other sides is exceedingly steep. It is 110 feet high, bears northwest from Breed's, which it completely commands; their summits being distant from each other one hundred and thirty rods only. A narrow road ran from the neck over Bunker Hill, between the tongue of land and Breed's Hill, and entirely round Breed's Hill, approaching very near its summit on the south.

Even the daring enterprise of Warren hesitated at the difficulties, apparently insurmountable, which opposed our taking and maintaining possession of the heights of Charlestown. But the Committee of Safety, of which he was chairman, and in which he opposed the measure, and the Council of War, adopted a different opinion. Like a genuine patriot, his own opinion

* Stephen Codman Esq. and Col. Putnam.
† Col. Henshaw.

was forgotten, and he joined heart and hand with his brethren to command success.

On the 15th of June, the Committee of Safety passed the following votes :

"Whereas this Committee lately applied to the Hon. the Congress of this colony, for an augmentation of the army now in the vicinity of Boston, and as some circumstances have since taken place, which strengthened the arguments then used in favour of the said augmentation; particularly that many of the then expected reinforcements for Gen. Gage's army are arrived ; that Gen. Gage has issued a very extraordinary proclamation, in which the inhabitants of Massachusetts are, in the most explicit manner, declared rebels ; and various accounts have been brought to this Committee of the movements of Gen. Gage's army, and that he intends soon to make another attempt to penetrate into the country : From the consideration of all which premises, together with that of our army, Resolved, that the good and welfare of the colony requires that there be an immediate augmentation of said army, that such soldiers in the army as be destitute of arms be immediately supplied therewith, that such regiments of militia as be destitute of officers be immediately filled up, in such manner as the Honourable Congress may direct ; and that all the militia in the colony be ordered to hold themselves in readiness to march, on the shortest notice, completely equipped, having thirty rounds of cartridges per man ; all which is earnestly recommended to the immediate consideration of the Honourable Congress, now sitting in Watertown. To which the Committee would beg leave to add a general recommendation to the people, to go to meeting armed on the Lord's day, in order to prevent being thrown into confusion." On the same day they passed the following vote, which, for secrecy, was not recorded until the 19th of June :—"Whereas it appears of importance to the safety of this colony that possession of the hill called Bunker Hill, in Charlestown, be securely kept and defended, and also some one hill or hills on Dorchester Neck be likewise secured, therefore resolved unanimously, that it be recommended to the Council of War that the above mentioned Bunker Hill be maintained by sufficient force being posted there ; and as the particular situation of Dorchester Neck is unknown to this Committee, they advise that the Council of War take and pursue such steps respecting the same, as to them shall appear to be for the security of this colony." On the same day it was

ordered, " thal Captain Benjamin White and Colonel Joseph Palmer be a committee to join with the committee from the Council of War, to proceed to the Roxbury camp, there to consult with the general officers on matters of importance, and to communicate to them a resolve this day passed, in this Committee, respecting Bunker Hill in Charlestown, and Dorchester Neck." The Provincial Congress prepared an eloquent and energetic answer to Gov. Gage's proclamation, to be issued on the 16th of June, in which Gov. Gage and Admiral Graves are excepted from the general amnesty, to respond to the proscription of Hancock and Adams ; but this paper contest was forgotten in the bloody battle which ensued.

THE BATTLE.

ON the 16th of June '75, the sun fell with its full force on the American camp,* the earth was parched up, but the vigorous frames and patriotic spirit of the soldiers were proof against its influence. With the advice of the Council of War, General Ward issued orders to Col. William Prescott, Col. Bridge, and the commandant of Frye's† regiment, to be prepared for an expedition, with all their men fit for service, and one day's provisions. The same order issued for one hundred and twenty of Gen. Putnam's regiment, and Capt. Gridley's company of artillery with two field pieces.

With these troops Col. Prescott was ordered to proceed to Charlestown in the evening, take possession of Bunker Hill, and erect the requisite fortifications to defend it. His orders were to be kept profoundly secret, and provisions and refreshments were to be sent in the morning, with as many more

* Gen. Ward's camp was the town of Cambridge and vicinity ; the soldiers were quartered in Colleges, and whatever buildings they could find to shelter them for a mile or two around, especially the country seats of refugees. The Episcopal church was used for barracks, and the organ pipes melted into bullets ; to our ancestors the whizzing of a ball against the enemy was more agreeable music than the profane strains of a church organ, they had quite as little respect for Episcopal churches as the enemy had for puritanical meeting houses.

† Col. Frye was ill with gout, Pres. of a Court Martial, and a much older officer than Prescott.

troops as should be necessary to reinforce him. Three of Bridge's companies did not join the detachment, but one or two small fatigue parties from other regiments joining, the whole amounted to about 1000 men.

They were assembled early in the evening and attended a solemn prayer on Cambridge Common, offered up by the Rev. President Langdon, of Harvard College.

Not an officer in the army could have been selected better deserving the honor of the appointment, or more able to execute the arduous enterprise, than Col. Prescott. In this veteran, age already began to display its ravages ; but the fire of his youth was undamped. He was of Pepperell, and early left in affluence by the decease of his father. He soon received a commission in the provincial army, and, with many of his neighbourhood, who enlisted, joined the forces under Gen. Winslow, and assisted in the conquest of Nova Scotia. His military talents attracted admiration, and he was urged by the British officers to accept a commission in the royal army. But he would not consent to be separated from his brave soldiers and countrymen, and returned to his estate. The soldiers, who had served under him, still continued to consider him their head. Like the chief of a feudal clan, he received them all with open doors at his hospitable mansion, and in the habits he had acquired in camps his property was expended for their relief, comfort, or entertainment, as freely as they were ready on every occasion to shed their blood under his command. He was now a member of the Mass. Congress.

His figure was tall and commanding, and his countenance grave, ardent, and impressive as his character. With this presence, and his formidable sword, he needed no uniform to distinguish him as a leader. In a simple calico frock he headed the detachment which left camp at dark, and proceeded to Charlestown. Col. Prescott led the way with two sergeants, having dark lanterns open only to the rear, about six paces in front of the troops.

Gen. Putnam, having the principal direction and superintendence of the expedition, and the chief engineer, Col. Gridley, accompanied the detachment. Putnam's eldest son was a Capt. under him ; his youngest, only 16 years old, a volunteer, tells us, " At sunset my father said to me, 'you will go to Mrs. Inman's to-night as usual ; stay there to-morrow, and if they find it necessary to leave town, you must go with them.'— From this order, and attending circumstances, I knew there was to be a military movement, in which my father would par-

ticipate. My imagination figured him as mangled with wounds, and no one to aid him ; and I earnestly entreated permission to accompany him. ' You, dear father,' I said, ' may need my assistance much more than Mrs. Inman, pray let me go where you are going.' ' No, no, Daniel, do as I have bid you,' was the reply, which he affected to give sternly, while, his voice faltered and his eyes filled, as if entering into my feelings, he added, ' You can do little, my son, where I am going, and there will be enough to take care of me.' " His son reluctantly obeyed.

Profound mystery hung over the object of the expedition till they crossed Charlestown neck and found the wagons loaded with intrenching tools, fascines, gabions, and empty hogsheads.

The officers were hastening to order arms to be stacked, and the fortifications commenced, when a most serious confusion arose as to the point to be fortified. None of the heights excepting Bunker's were yet distinguished by name, and this was expressly designated as the one to be fortified ; though the most commanding and defensible position, it was too far from the enemy to annoy their army and shipping ; Breed's Hill was far better adapted to the important objects of the expedition, and better suited the adventurous spirit of the commanding officers. Their most invaluable moments were wasted without coming to a conclusion, though the wary and scientific engineer again and again urged them to determine at once on the ground, or it would be impossible to complete the requisite fortifications.*

Breed's Hill was at length concluded on, and Gridley laid out the works immediately with skill which would honor any engineer in the highest advance of military science. The redoubt on the summit of the hill was about eight rods square. The strongest side, or front, in form of a redan, faced Charlestown, protecting the south side of the hill. The eastern side commanded a very extensive field, and a breastwork ran in a line with it north down to the slough ; between the south end

* Gov. Brooks's statement.

Mass. Congress, in the hurry of the times, say, Breed's Hill was taken by mistake. There could be no mistake. Putnam, as we know from his son and Stephen Codman Esq.,—and Gridley, as we know from Col. Henshaw,—had previously reconnoitred the ground. That Bunker Hill was ordered to be fortified is certain from Gov. Brooks and the vote copied from the records of Cong. on our 17th page. Congress meant to say, delicately, the order to fortify Bunker Hill was not complied with.

of the breastwork and the redoubt was a narrow passage way or sally port, protected in front by a blind, and an open passage way in the north side of the redoubt. It was determined, at the same time, that a work should be erected on Bunker Hill as a new post and rallying point to resort to, should the enemy drive them from the first, and for the protection of the rear.

A large guard, Capt. Maxwell and his company, some Connecticut and other troops were detached to the shore of Charlestown to observe every movement of the enemy.*

The works marked out, tools were distributed to the men; but midnight arrived before the first spade entered the ground.† These brawny yeomen, however, were working for their lives as well as their liberties, and performed prodigies of labour. They were instructed and stimulated by Putnam, Prescott, and other officers, among whom was Maj. Brooks, distinguished by the well deserved confidence of the army. Just entered on manhood, he relinquished a lucrative profession, commenced his military career at the battle of Lexington, as Maj. of Bridge's regiment, and received the same rank in the army. He had been called home by sickness in his family, and received no order to march with his regiment; but the danger of his fellow soldiers was a sufficient summons, and he hastened to join his corps, which he overtook at the neck.

It was clear starlight, and the proximity of the enemy demanded vigilant observation. Col. Prescott proceeded to the shore with Maj. Brooks to reconnoitre them. Every thing was quiet; they distinctly heard the enemy relieving guard, and were rejoiced at the welcome cry from the sentries, however unfounded, "All's well!"

The men quietly at their labours, Gen. Putnam repaired to his camp to prepare for the anticipated crisis, by bringing on reinforcements, and to be fresh mounted; his furious riding required a frequent change of horses.

Watchful as Argus, Prescott could hardly imagine that the enemy were so negligent of military caution, as to suffer his powerful force to approach their very threshold unobserved. He advanced anew to examine their situation; again all was quiet, and the guard from the shore of Charlestown was ordered in.

The blazing sun, however, began his approaches, and the grey of the morning was dissipated. The veil was lifted

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* The countersign this night was "Domingo."
† Mass. Cong.

from the astonished eyes of the British, but they would hardly credit their senses on perceiving their daring enemy above them, overlooking their position, with formidable works, which had sprung up as if by enchantment. The cannon of the Lively opened on the Americans, and roused their countrymen from secure repose, to participate in the same surprise and astonishment.

Gen. Gage was thunderstruck at the unwelcome information, and sent an immediate summons to his officers to meet him in a council of war.*

Some other frigates, floating batteries, the Somerset line of battle ship, a formidable battery of the heaviest pieces, and a mortar on Copps Hill, opened a tremendous fire on the Americans, sufficient to appal even veteran troops.

This fire was for some time without effect, but the men venturing in front of the works, one of them was killed by a cannon shot.† A subaltern informed Col. Prescott, and inquired of him what should be done. "Bury him," he was told.—"What," said the astonished officer, "without prayers!" A chaplain, who was present, insisted on performing service over this first victim, and collected many of the soldiers around him, heedless of peril. Prescott ordered them to disperse; but religious enthusiasm prevailing, the chaplain again collected his congregation, when the deceased was ordered to be taken and buried in the ditch. At this time a number of the men went off and never returned.

To dispel the terror which this death occasioned, Prescott mounted on the works, and directed the labor. Heedless of all the fire of the enemy, he was wrought up to the highest pitch of enthusiasm, and transferred his own exaltation into every private under him. Owing to the oppressive heat, and the vehemence of his address, his bald head was exposed entirely uncovered, waving his sword, he sometimes upbraided his men in anger, and sometimes encouraged them with approbation and humour. Perfectly understanding his countrymen, they were entirely under his control; the great Suwarrow was never more negligent of his personal appearance, and never inspired his faithful followers with a confidence more implicit or better deserved.

Gen. Gage, reconnoitring the enemy, handed his telescope to Willard, a mandamus counsellor, and inquired of him, "who

* In the old State house.

† Pollard, of Billerica.

" is that officer commanding ?" He instantly recognized *his brother-in-law, Col. Prescott.* " Will he fight ?" asked Gage. " Yes, sir, depend upon it, to the last drop of blood in him, " but I cannot answer for his men," was the reply.

When the patriotic priest found that his professional services were out of place, he bravely buckled on the armor of flesh, volunteered as a soldier in the ranks, and fought with distinguished bravery.*

The sufferings of the men were great ; the heat was excessive ; during a sleepless night they had unremittingly labored, without even water, and their small stock of provisions was exhausted. Their officers felt for them, and wished Col. Prescott to send to Cambridge a request to be relieved. He convened a council of war, but instantly crushed the slightest hope of a relief. " The enemy would not dare attack them, and if " they did would be defeated. The men who had raised the " works were the best qualified to defend them. They had al- " ready learned to despise the fire of the enemy. They had " the merit of the labor, and should enjoy the honor of the " victory." With renewed ardor the men continued their labors.

Capt. Nutting with some troops was ordered into Charlestown, near the ferry, by Col. Prescott, to guard against the enemy's approach on that side.

Gen. Gage met his officers in council. They did not hesitate as to the indispensable necessity of driving the enemy from their formidable position, but found it impossible to agree on the mode of attack. Gen. Clinton and Gen. Grant advocated attacking the enemy in rear. " Their men could embark at the " bottom of the common in boats, land at Charlestown Neck, " under protection of a fire from the floating batteries and fri- " gates, and would have the enemy in their power ;" and this appeared to be the prevailing opinion. But Gen. Gage would not adopt a measure so adventurous. It was perhaps opposed to well founded military rules and the dictates of prudence. They would have exposed themselves between two armies, one of them superior to their own in number, and the other strongly posted and fortified ; they might have been attacked in front and rear, and been completely surrounded indeed, without the possibility of a retreat being secured to them in case of disaster. It was finally determined to land and attack the enemy in front.

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* Rev. Jno. Martin, see note H.

At daybreak Putnam directed Lieut. Clark to send to Gen. Ward for a horse. The lieut. went himself, but the general's impatience could not await an answer. On his return he found him mounted and departing. The summons from the Lively had frustrated his intention of carrying on the reinforcement himself; he reminded Gen. Ward, however, that the fate of the expedition depended on his being reinforced immediately, according to the preconcerted plan, and flew to join his men on the hill.

The result of Gage's council of war soon became apparent. The enemy were observed moving with rapidity through the streets of Boston; a corps of dragoons, manœuvring within view of the Americans, suddenly galloped off their parade ground;* the rattling of artillery carriages and wagons was heard, and every note of preparation for a military movement. Prescott, then believing the enemy would hazard an attack, was delighted; "Now, my boys, we shall have a fight, and shall beat "them too," he observed. Fearless himself, he thought the world so too, and his confidence was too implicit in the raw troops and inexperienced commanders just collecting only, and hardly to be considered an army.

It was nine o'clock; the men were exhausted from hunger, thirst, fatigue, and want of sleep. Putnam had again repaired to Cambridge to procure provisions and a reinforcement become indispensable, but neither one nor the other had arrived. Col. Prescott called another council of war; he refused, as before, to hear a word about displacing his men, but consented to send again for refreshments and a reinforcement. Maj. Brooks was selected to proceed to Cambridge and wait on Gen. Ward for this purpose. For greater expedition he was directed to take one of the artillery horses, but the order was vehemently opposed by Capt. Gridley, who feared for the safety of his pieces. Prescott then directed him to proceed on foot, with as much despatch as possible. He arrived at head quarters about 10, and made known his instructions to Ward. The general hesitated as to the policy of sending reinforcements to Charlestown, and doubted whether the intention of the enemy was to make his attack on that point. The scanty depots of ammunition, ordnance stores, and materiel of every species belonging to the army, on which the salvation of the country depended, were at Cambridge and Watertown, and he presumed the ene-

* The scite of the present Hospital.

my designed to seize the present opportunity to make an attack at head quarters and gain possession of these stores.

The Committee of Safety were sitting at the same house* in which the general quartered, and he communicated to them the information and request brought by Maj. Brooks.—Richard Devens,† of Charlestown, was one of the committee; from deep anxiety for the success of the expedition and the protection of his native town from the inroad of the enemy, his importunity with the general and the committee for an ample reinforcement was impassioned and vehement, and his opinion partially prevailed; the committee recommended a reinforcement, and the general consented that orders should be despatched immediately to Cols. Reed and Stark, at Medford, to join Prescott's detachment with the New Hampshire troops.

Gen. Warren, Chairman of the Committee of Safety, was present. The day before he had officiated as President of Congress at Watertown, and had passed the night there in the accumulated concerns of the public. His friend, Hon. Elbridge Gerry, having learned the determination to occupy and fortify Bunker Hill, remonstrated with him against the glaring imprudence of the enterprize, with our feeble resources. "We had "not powder sufficient to maintain the desperate conflict which "must ensue, and should all be cut to pieces." Warren confessed he entertained the same opinion; but it was determined otherwise, and he was resolved to share the fate of his countrymen. His friend conjured him not to expose his invaluable life where his destruction would be useless and inevitable. "I know it," said the hero, "but I live within sound of the "cannon, and should die were I to remain at home while my "fellow citizens are shedding their blood for me." "As "sure as you go, you will be slain," repeated Gerry. Warren's final answer was, "Dulce et decorum est pro patria mori."‡ He arrived at Cambridge by daylight, sick with nervous headache, and threw himself on the bed. On receiving information that the enemy were coming out, Ward sent to notify him. He arose immediately, declared "his headache was gone," and after meeting with the Committee of Safety, mounted his horse, and with his fusil and sword repaired to the post of danger.

At eleven, the New Hampshire troops received orders from Cambridge; but not being provided with ammunition, were quite

* Now Dr. Holmes's house.

† Devens, afterward commissary general, mounted an officer's horse, and used his pistols to press teams to carry on provisions, but the British cannon prevented their arriving.

‡ Senior Pres. Adams.

unprepared to obey them. Every man was immediately supplied with two flints, and a gill of powder with fifteen balls to form into cartridges, but nearly all of them were destitute of cartridge boxes, employing powder-horns only ; and scarcely any two of their guns agreeing in calibre, they were obliged to hammer their balls to a proper size for the pieces. The companies posted at Chelsea, were immediately recalled.

About noon, at the long wharf in Boston, twenty eight barges were filled with the principal part of the first detachment of British troops, consisting of the 5th, 38th, 43d, and 52d battalions of infantry, ten companies of grenadiers, and ten of Lt. Infantry. Some of these troops were taken from the transports, and were to land now for the first time since their voyage, not like Antæus to gather new strength from the earth, but to shed their life's blood on her bosom. The barges formed in two parallel lines of single files, six resplendent pieces of cannon, and howitzers in the bows of the leading boats, with the gorgeous uniform, and brilliant armour of the troops, throwing back the splendour of the sun, as if in rivalry : they move in exact time and perfect order, and about one, land at Morton's point ; the novel and alarming spectacle filling the Americans with dismay.

Immediately on landing they discovered a disastrous mistake, most of the cannon balls sent over, were too large for the pieces ; they were immediately sent back, and a new supply obtained. At the same time, Gen. Howe, the commander, discovering on his near approach the formidable nature of the enemy's position, their present numbers and the troops marching on, requested a reinforcement of Gen. Gage. These first troops, while waiting for the remainder of the detachment, were entirely unmolested, and very quietly dined, most of them for the last time, from their crowded and cumbrous knapsacks. About two, the remainder of the forces leave Winnisimit ferry, in the same formidable array of barges, and land at Morton's Point ; and soon afterward the reinforcements, a few companies of grenadiers and light infantry, the forty seventh battalion, a battalion of marines, except a few of this corps who were preparing to embark, land under the eastern end of Breed's Hill, at Madlin's shipyard, the present navyyard. All these troops cannot be estimated at less than five thousand ; if the corps were but half full, there were four thousand three hundred and fifty. While the enemy were landing, Putnam ordered Capt. Knowlton, with the Connecticut troops, to take post behind a rail fence, which ran across the tongue of land, from Mystic river to the road, about two hundred and fifty yards. In front of this line of fence, were some

apple-trees, and a few also in the rear. These troops pulled up the neighbouring fences, and placing them near the one at which they were posted, threw in the new mown grass between. A small part of this fence, had stones under the rails, to the height of two feet; the whole formed only the shadow of a protection. This rail fence was 190 yards in rear of the breastwork, and 80 yards in rear of the slough, leaving a very extensive opening between the breastwork and rail fence, by which the left flank of the troops at the breastwork was exposed to the enemy's fire, and about 100 yards between the slough and rail fence, open to the advance of infantry; the only defence being a few standing trees, stones, or whatever could be found on the spot. This was the key of the American position.

The detachments in Charlestown were now recalled by Prescott, and took post at a cart way, which ran from the road to the southeastern angle of the redoubt. They placed the fences together, and threw in grass, as was done on the left.

The thundering cannonade of the enemy soon spread the information of an approaching engagement. The Americans in the neighbourhood flocked to the scene, and the soldiers voluntarily ran to arms, and entreated to be led against the foe. Col. Little's regiment had lately arrived from Essex and the officers were not commissioned; without awaiting orders, they left their quarters in Menotomy and Cambridge, marched to Gen. Ward and tendered their services. The Connecticut troops were equally anxious to join their general; they were all under arms, and sent to head quarters for orders. But Ward informed them, they had already the post of honor, as the British were expected to land near Inman's farm, their present position. The brave New Hampshire troops, at the same post, under Col. Sargent, were also as earnest to be led against the enemy, and the Col. sent the most pressing requests to Ward for permission to conduct them on.

Capt. Callender with his artillery company was ordered to the Hill, and, for greater caution, Gardner's Regiment was marched to Patterson's station, at the opening of the road to Lechmere Point, there to wait further orders. Doolittle's Regiment had been stationed on the Charlestown road the night before, and was a little in advance of them.

Prescott had stretched the endurance and exertions of his detachment to the utmost of the human constitution. They had thrown up a defence good against muskets, and most of it against artillery. But the commanding summit of Bunker Hill, of vital importance in case of a retreat, was not yet fortifi-

ed, though Putnam, mortified at the neglect of a position on which his success and reputation depended, had been incessant and unwearied in his efforts to have it accomplished ; but in vain, as no reinforcements arrived. At length he ordered off a large detachment from the Redoubt with the intrenching tools to break ground there. From experience, under the most distinguished masters of the day, he perfectly comprehended the importance of intrenching, seemed to have seized intuitively the learned maxims of Cæsar, and to anticipate the result of such modern defences as Jackson's. Most of the detachment, ordered off with the tools, never returned to the lines.

Putnam, on perceiving the preparations of the enemy for an attack, again hastened to Cambridge for reinforcements, and had to pass through a galling enfilading fire of round, bar, and chain shot, which thundered across the neck from the Glasgow frigate in the channel of Charles River, and two floating batteries hauled close to the shore. He learned from Gen. Ward the orders which had been sent to the New Hampshire troops at Medford, and immediately returned to his post.

At last, the New Hampshire troops arrived ; it was the policy of Stark to march his men slowly, observing, that " one " fresh man in battle is better than ten fatigued ones." Putnam reserved a part of this force to throw up the work on Bunker Hill, and ordered the remainder to press on to the lines as quick as possible, and join the Connecticut troops at the rail fence. Stark encouraged them by a short, spirited address, ordered three cheers to animate them, and they moved on rapidly to the line.

The intention of the enemy being now clearly pronounced by their landing in Charlestown, Gen. Ward, reserving still his own regiment, Putnam's, Sargent's, Patterson's, Gardner's and part of Bridge's, from his excessive caution lest an attack should be made at Cambridge, despatched the remainder of the troops* as a reinforcement to Charlestown. The enemy directed a schooner, with 5 or 600 men on board, to the Cambridge shore, as if aware of this tender point; but the wind and tide proving unfavorable to this landing, they returned.†

Near five thousand British troops had now landed, under the immediate command of Gen. Howe, distinguished, like all his

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* Gen. Ward had a hogshead of rum before his quarters, which was served to the soldiers before they left the common. By a resolve of Mass. Congress, spirit could be allowed the men by a Gen. officer only, and on extraordinary occasions.

† Col. P. D. Sargent.

family, for undaunted bravery. Under him were Gen. Pigot, Cols. Nesbit, Abercrombie, Clarke ; Majors Butler, Williams, Bruce, Spendlove, Smelt, Mitchell, Pitcairn, Short, Small and Lord Rawdon, all officers of renown. The troops were in columns, waiting the signal to advance. They and the enemy opposed to them, were in a vast amphitheatre of nature, formed by those lofty hills which rise from Boston bay and surrounded them. These towering heights overlooked both armies, and were covered by Americans, who had been brought from a distance, by their anxious curiosity, to witness a scene so sublime, and learn the event of a contest, on which the fate of a new world depended ; and many of them from a deeper interest in the fate of a parent, a brother or husband engaged. The heights and the steeples in Boston were crowded in the same manner, by the inhabitants and the British military ; and many a soldier's wife witnessed the events, with a melancholy foreboding that she was left a widow, and her home three thousand miles across the ocean. The prospect was rendered still more terrific by a tremendous cannonade and bombardment from Boston, which opened on the camp at Roxbury to contain the Americans at their post, who were there under arms. This, added to the continued roar of the batteries and shipping on the side of Charlestown, and the battle was commencing. The whole formed a scene beyond the reach of the human imagination.

The British artillery on Morton's Hill opened on the Americans ; Col. Prescott ordered the men to keep under cover of the works, but Lieut. Spaulding standing by his side, had his head completely shattered by a ball. Gridley's pieces which had fired a few useless shot from the redoubt against Copps Hill and the shipping, were now ordered out ; there were no embrasures, and the slight platform was broken. They were carried with Callender's to the space between the breastwork and rail fence, and returned the fire of the British, which served at least the important purpose of keeping the enemy in respect, who secured themselves under the eastern side of Morton's Hill. The artillery companies were just enlisted from the infantry, and grossly ignorant of their duty ; this arm requires science, experience, and knowledge of position. The officers complained that their cartridges were unsuitable for the pieces ; Gridley drew off his to the rear, one of them being already disabled in the unequal contest with the British batteries and field pieces ; and Callender was marching off over Bunker Hill to a secure place for preparing his ammunition in

safety, when Putnam met him and was fired with indignation at this appearance of a retreat. He ordered him instantly to his post; Callender remonstrated, but Putnam threatened him with instant death if he hesitated, and compelled him to return. His men, however, were disgusted with a part of the service they did not understand; most of them had muskets, and mingled with the infantry; the pieces were entirely deserted and left on Bunker Hill, from which position they were fired a few times on the enemy.

Col. Little arrived with his troops; Putnam ordered them to their posts, Captain Warner's company to the rail fence on the right of the redoubt, Captain Perkins' to the exposed position between the breastwork and rail fence on the left, the remainder found their places in the line. Col. Jonathan Brewer, who had been a ranger in the French war; Col. Nixon, who had served in the same war; Col. Woodbridge; and Maj. Moore of Doolittle's Regiment, the Col. and Lieut. Col. being absent,—brought on their troops, each about 300 men. Col. Woodbridge sent a detachment off to the right, in the main street of Charlestown, and carried orders to Maj. Moore to do the same, who accordingly sent one under Capt. Wheeler. Col. Reed sent a detachment also, under Capt. Crosby.

Col. Scammans, with a large Regiment from Maine,* was ordered by Gen. Ward to go where the fighting was;† he accordingly marched to Lechmere point, understanding from some one on the Charlestown road that the enemy were landing there. On his arrival, he was undeceived by Gen. Whitcomb, who advised him to march to the Hill. From an egregious error, or deficiency of spirit, he went to Cobble Hill instead of Breed's, and took post in that perfectly useless position.‡

The veteran Gen. Pomeroy heard the pealing artillery, which seemed to invite him to battle; he was a soldier too brave, and a patriot too ardent, to resist a summons so agreeable. He requested a horse of Gen. Ward, to carry him to the field; delighted at an aid so important, one was instantly supplied. With his musket, he repaired immediately to the

* Whom he called "Yorkshire Boys." He came from Saco, but, before this, had belonged to Haverhill.

† Jer. Hill, Esq. of Saco, heard the order.

‡ Lieut. Morgan Lewis belonged to this Regt. since then a Gen. of the army in the late war, and Gov. of the State of New York.

neck ; inquiring of a sentry posted there, and viewing the ground and the tremendous fire across, he was alarmed, not for himself but for the horse he had borrowed ; he delivered him to a sentinel, and coolly marched across. He advanced to the rail fence, his approach gave new confidence to the men ; they received him with the highest exultation, and the name of Pomeroy rang through the line. In early life he had been an ingenious mechanic, and many a soldier was supplied with arms of his manufacture. Had Vulcan supplied the Grecians with armor, and appeared in their ranks, they could not have been more certain of victory.

The British now formed their columns, with their field train in centre, ready to advance on the American line.

Capt. Ford arrived with his company. He served under the veteran Lieut. Col. Parker and Maj. Brooks, had learned the duties of a soldier, and signalized himself in Lexington battle by killing five of the enemy. He was proceeding down Bunker Hill, when Putnam met him and was delighted with an aid so opportune ; Callender's deserted cannon were on the hill, and he ordered Capt. Ford with his company to draw them to the line. The captain remonstrated that " his men were " entirely ignorant of the discipline and management of artil- " lery." But the general persisting in his order, he obeyed ; his company moved with the cannon, accompanied by the general himself, to the rail fence.

Putnam was now joined by Warren, to whom he observed, " I'm sorry to see you here, Gen. Warren. I wish you had " left the day to us, as I advised you, from appearances we " shall have a sharp time of it ; but since you are here, I'll " receive your orders with pleasure." Warren replied : " I " came only as a volunteer ; I know nothing of your disposi- " tions, and will not interfere with them ; tell me where I can " be most useful," Putnam, intent on his safety, directed him to the redoubt, observing, " you will be covered there."— " Don't think," said Warren, " I come here to seek a place of " safety ; but tell me where the onset will be most furious."— Putnam again pointed to the redoubt ; " that," said he, " is the " enemy's object, Prescott is there, and will do his duty, and " if it can be defended, the day is ours ; but, from long experience " of the character of the enemy, I think they will ultimately " succeed and drive us from the works, though, from the " mode of attack they have chosen, we shall be able to do them " infinite injury, and we must be prepared for a brave and or- " derly retreat when we can maintain our ground no longer."

Warren assented to his opinions, and, promising to be governed by them, went to the redoubt. The soldiers received him with loud hurras. Prescott offered him the command ; but he had not yet received his commission, and tendered his services to the Col. as a volunteer, observing, " He was happy to learn " service from a soldier of experience."*

The field-pieces of the enemy opened furiously† on the works, the signal for their army to move. Their columns advanced slowly, aud halted at intervals, to give the artillery an opportunity to render a passage over the works practicable.‡ Howe, remarkably tall, and a prominent mark, advanced two hundred yards in front of the troops to reconnoitre.‖

The American drums beat to arms. Putnam left his works, commenced on Bunker Hill, and led the troops into action. The tune of the Americans at Bunker Hill was Yankee Doodle, it was now first employed by them, but was to become their favourite national air, and the far-famed harbinger of victory on the land, the lake, and the ocean.‡

Capt. Walker,§ one of the bravest of the brave, beat up for volunteers to accompany him down into Charlestown to hang on the left flank of the enemy. He had been detailed for guard duty the day before, and his company had been sent on without him under the Lieut. The picket guard, of which he was the commander, had not been relieved on the day of the battle, and he could not brook the misfortune of being drawn for a place of safety, when his country required his services in the place of death. He made use of the most earnest persuasions with his Lieut. by repeated messengers, to exchange places with him, till at length he succeeded. He now collected about 50 kindred spirits, whom he led down as a forlorn hope on the enemy's left, and gave them five or six rounds with the most deadly execution. But the little desperate band were soon driven in with severe loss. The Capt. however escaped, and was determined to tempt fate again by another daring attack on the opposite flank of the enemy. He had the sagacity to discover the danger of their turning our left, by the shore of the Mystic, and changed his attack to that quarter ; but was wounded and taken prisoner with Frost, one of his company,

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* This conversation we have from Col. Putnam, and most of it likewise from Dr. Jeffries, to whom it was related by Lieut. Col. Parker, dressed by him at the redoubt, the next day, on a fascine.

† Stedman, Marshall, Gage, and all authorities.

‡ Note K. ‖ Dr. Jeffries. § Of Chelmsford.

who was very badly wounded at the same time. They were carried to Boston jail, where the Capt. died of his wounds; but Frost has escaped through all his perils, and yet *lives to tell us.**

The British right wing, consisting of the fifth regiment, one of grenadiers, and another of light infantry, move under cover of the tongue of land, at the foot of it display, and advance in front toward the rail fence; excepting nine of the light companies, who move by the right flank on the shore of the Mystic to turn the American left. This attack was led by Gen. Howe.†

The left wing, composed of the fifty-second regiment, thirty-eighth, thirty-fifth, forty-seventh, three grenadier and three light companies, and the marines, under cover of Breed's Hill, display, and are led by Gen. Pigot against the redoubt and breastwork.

On a sudden, as they were advancing, the fire from their artillery ceased; Howe sent to inquire into the cause of this ill-timed remission, and learned, that owing to a fatal blunder, the cannon-balls sent over, were too large for the pieces; but that they had grape-shot; and he ordered them forward to maintain their fire with grape.‡

The British lines soon opened to view, and the American marksmen are with difficulty restrained from firing. Putnam rode through the line, and ordered that no one should fire till they arrived within eight rods, nor any one till commanded. "Powder was scarce and must not be wasted. They should "not fire at the enemy till they saw the whites of their eyes, "and then fire low, take aim at their waistbands. They were "all marksmen, and could kill a squirrel at a hundred yards; "reserve their fire, and the enemy were all destroyed. Aim "at the handsome coats, pick off the commanders." The same orders were reiterated by Prescott at the redoubt, by Pomeroy, Stark, and all the veteran officers.

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* Col. James Varnum, now of Dracutt, a serjeant in Coburn's company, was one of the volunteers with Walker on his first attack, and had the top of his hat shot off, and two bullets through his jacket. See Note L.

† De Berniere, Conduct of the War by Howe, and all authorities.
At this time, in front of the cannon, the air was filled with innumerable swallows. Another sight at this time was most tantalizing to the parched lips of the Americans---the enemy were supplied with large tubs of drink to prepare them for the onset.

‡ Conduct of the War, by Howe, p. 13.

Putnam now, with the assistance of Captain Ford's company, opened his artillery upon them. He had on this day performed every species of service, and now turned cannonier, with splendid success, and to the highest satisfaction of his countrymen. Each company of artillery had but twelve cartridges, and these were soon expended. He pointed the cannon himself, the balls took effect on the enemy, and one case of canister made a lane through them. As in Milton's battle,

"Foul dissipation followed and forced rout."

With wonderful courage, however, the enemy closed their ranks, and coolly marched on to the attack.

The enemy were within gunshot of the redoubt; a few of the sharp shooters could not resist the temptation and fired.—Prescott was indignant at this contempt of his orders; waving his sword, he swore instant death against the first who should disobey; appealed to their well-known confidence in him, and promised to give them orders at the proper moment. His Lt. Col. Robinson, who, with Col. Buttrick, had gallantly led the troops at Concord, ran round the top of the parapet, and threw up the muskets.

The enemy now at eight rods distance only, the deadly muskets were levelled. Prescott commanded his men to take good aim, be sure of their mark, and fire. He was effectually obeyed. Nearly the whole front rank was swept away, and many a gallant officer laid low.

As the cloud of smoke passed away, the ground was seen covered with dead, and the wounded and dying exerting their last, feeble remains of strength to crawl out of the line, many on their hands and knees, to save themselves. The enemy, however, were countrymen of those who gave the fire, and received it with the same cool courage with which it was given. Rank succeeded rank, and returned the fire, but the odds was fearful; the Americans were well protected by the works; the efforts and courage of the enemy were in vain, and with surly reluctance they were at last compelled to retreat, as they were commanded to do by Gen. Pigot himself.*

Warren animated and encouraged the men, and with the rest of the officers, set them an example with his musket; there was scarcely an officer of any rank, excepting Putnam and Prescott, without one.

* Conduct of the War by Gen. Howe, p. 13.

The British right wing arrived, about the time of this attack on the redoubt to within one hundred yards of the Americans. They were throwing down a fence,* when a few marksmen fired on them. Putnam was enraged at this disobedience of an order on which the salvation of the army depended ; he rode to the spot, with his drawn sword threatening to cut down the first who dared to fire again without orders. The discharge from these few muskets, however, drew the fire from the enemy's line,† which continued moving on, and when about eight rods from the fence, the fatal order was given ; the fire of the Americans mowed them down, with the same terrible severity, as at the redoubt, the officers especially fell victims to their deadly aim.

During this tremendous fire of musketry and roar of cannon, McClary's gigantic voice was distinctly heard, animating and encouraging the men as though he would inspire every ball that sped, with his own fire and energy.

The British fired their heaviest vollies of musketry with admirable coolness and regularity, but without aim, at the Americans, and almost every ball passed harmless over them. Their artillery had stopped in the marsh near the brick kilns,‡ and produced little effect. This wing of the army having covered the ground with their dead, were at length compelled to retreat ; and the hurra of victory re-echoed through the American line. So thorough was the defeat of the enemy, that many of them repaired to their boats. Fortunately for the Americans, the enemy neglected to charge with the bayonet ; if, instead of displaying and firing, they had filled the intervals between their columns with light troops to keep the Americans under the works by an incessant fire and rushed on at the charge, they must have secured an easy victory, especially as the Americans almost to a man were destitute of the bayonet.

General Ward had by this time despatched reinforcements from Cambridge, but many of them did not reach the field. The fire across the neck wore an aspect too terrific for raw troops to venture in it. Putnam flew to the spot to overcome their fears and hurry them on before the enemy returned. He

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* The fences were a formidable obstacle to the enemy's advance, a very great portion of the housekeepers in Charlestown having separate pastures here.

† Dr. Dexter.

‡ These were numerous, for the sake of employing the poor of Boston and Charlestown, and doubtless prevented the advance of the cannon.

entreated, encouraged, and threatened them ; lashing his horse with the flat of his sword, he rode backwards and forward across the neck, the balls threw up clouds of dust about him, and the soldiers were perfectly convinced that he was invulnerable, but were not equally conscious of being so themselves.* Some of these troops, however, ventured over.

The battalion of artillery under Maj. Gridley had proceeded but a few hundred yards down the road to Charlestown when they were halted, and this officer determined not to proceed to the hill, but wait and cover the retreat, which he considered inevitable. He was young, inexperienced, and totally inadequate to the important command which had been conferred on him in compliment to his father, Col. Gridley. He was confounded with the dangers and difficulties of his situation, and never recovered his self possession during the day. With his two famous brass pieces, which alone had horses attached to them, he advanced farther down the road. While the artillery was halted in this situation, Col. Frye, (who was absent from his regiment on duty the day before, but the battle approaching, had found his way to the field,) riding from Charlestown galloped up to them, and demanded of the senior captain,† "why this unseasonable halt!" He was astonished at the reply, and ordered them instantly to the field. This veteran also animated their courage by the glorious recollection "this day thirty "years since, I was at the taking of Louisbourg when it was "surrendered to us ; it is a fortunate day for America, we "shall certainly beat the enemy."

The artillery proceeded. Gridley joined them ; but his aversion to entering into the engagement was invincible, and he ordered them on to Cobble Hill to fire at the Glasgow and floating batteries. The order was so palpably absurd, with their three pounders, that Capt. Trevett absolutely refused obedience, ordered his men to follow him, and marched for the lines. Gridley was sensible his artillery would be hazarded without infantry to cover them. Col. Mansfield had been ordered with his regiment to reinforce the troops at Charlestown, but being peremptorily commanded by Gridley, whom he considered high military authority, to cover his pieces, he complied in violation of his orders.

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* The principal fact here is proved by the deposition of Mr. Samuel Bassett ; the other circumstances by oral testimony.

† Capt. Trevett, from whom we have this account.

Putnam left the neck for Bunker Hill, to bring up the reinforcements. He there found Col. Gerrish with part of his regiment and other scattered troops. Gerrish had been a captain in the provincial army of '56, and was unwieldy from excessive corpulence; the fatigue from his oppressive march, and active exertions to carry on his troops, was too great for the faintness of his military ardour to overcome; he declared that he was completely exhausted, and lay prostrate on the ground. The men were disorganized and dispersed on the west side of the hill, and covered by the summit from the fire. Putnam ordered them on to the lines; he entreated and threatened them, and some of the most cowardly he knocked down with his sword, but all in vain. The men complained they had not their officers; he offered to lead them on himself, but "the cannon "were deserted and they stood no chance without them." The battle indeed appeared here in all its horrors, the British musketry fired high and took effect on this elevated hill, it was completely exposed to the combined fire from their ships, batteries, and field pieces, and their attention was forcibly attracted to it from a strong apprehension of its being fortified.

The British General had now rallied and reorganized his heroic troops, who with undaunted bravery and firm unwavering step appeared again before the murderous lines which had already compelled them to retreat. They had nearly the same obstacles to overcome as before, their cumbrous knapsacks arms and accoutrements of 125lb weight,* tall unmown grass, and the sun blazing in front of them, they had to contend against, as well as an enemy their equals. One new obstacle, they had to pass, the dead bodies of their fellow-soldiers, which covered the ground; but this served rather to stimulate them to still more daring efforts to revenge their fall, and some of them, with terrible desperation, piled up these dead bodies into a horrid breastwork to fire from.†

Maj. Small, who had been sent to Boston for the purpose, returned with the last of the reinforcements, a few companies of the Marines, and was accompanied by an eminent surgeon Doct. Jeffries.

The Americans were now more confident and perfect than before in a manœuvre which had been crowned with success. It was indeed perfectly simple, but equally fatal to the foe.

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* Stedman.

† This fact is unquestionable; we have it from a most respectable eye witness, Mr. Smith, of Salem.

They received orders to reserve their fire till the enemy approached still nearer than before. At six rods only they were permitted to return the fire. The British artillery approached by the narrow road between the tongue of land and Breed's Hill, within three hundred yards of the rail fence,* and almost in a line with the redoubt, and opened on the lines to prepare a way for their infantry.

To add new horrors to the scene, vast columns of smoke were now observed over Charlestown, and passed to the north over the American lines.† General Howe on his first advance had sent word to General Burgoyne and General Clinton on Copps Hill, that his left flank was annoyed by musketry from Charlestown, and desired them to burn it down. A carcass was fired, but fell short near the ferry way ; a second fell in the street, and the town was on fire. The conflagration was completed by a detachment of men who landed from the Somerset. The whole town was combustible. The flames ascended to heaven on the lofty spire of the church, and resembled the eruptions of a vast volcano in solemn grandeur and sublimity. The advance of the enemy, however, was not obscured by the smoke from Charlestown ; they were in full view of the Americans, who suffered them to approach still nearer than before. They soon commenced a regular and tremendous volley by platoons, and their fire became general. But unfortunately for them, though perfect in drill discipline, and regular movements of parade, they were as grossly deficient in what was a thousand times more important, a knowledge of their weapons. Their aim was too elevated, and the enemy were hidden behind the works. Some of their balls however took effect, and a number of the privates fell victims. Col. Brewer was wounded, and Col. Nixon very badly wounded, and carried off. Lt. Col. Buckminster was crippled for life by a ball through the shoulder, and the brave Maj. Moore received a ball through his thigh, and as he was carried to the rear by his men, another ball through the body which proved mortal ; faint from loss of blood, and with the terrible death thirst upon him, which is ever the consequence, not a drop of water even could be found for him nearer than Charlestown neck, to which place two of his youngest men were immediately despatched.

The Americans were at length permitted to throw in their murderous blaze of fire on the foe, it fell on them like lightning,

* Stedman's map and others.
† Gen. Winslow, Capt. Bullard.

prostrating whole ranks of them, officers and men, in promiscuous heaps. The British bore the fatal fire with astonishing fortitude, but it could be withstood by man but a few moments only, their most daring efforts were in vain against the insuperable difficulties they encountered.* Nearly a thousand of their number had fallen, with an incredible proportion of the bravest officers.

The undaunted Howe still led on his men in the hottest of the battle. His aid de camp Balfour's life was saved only by the ball which passed through him, being slightly diverted by his canteen. His volunteer aid, Gordon, and Capt. Addison, a descendant from the author of the Spectator, were slain, and almost every other officer of his staff or near him was shot. Mortified and indignant at so much blood wasted in vain, he seemed to court an honourable death to hide him from the disgrace of a second defeat by an enemy he despised as peasants and rebels. But his life seemed charmed, and he was compelled to follow his army, who again retreated, and yielded their enemy a second time the joys of victory.

The gallant Maj. Small was left standing alone, every one shot down about him. The never-erring muskets were levelled at him, and a soldier's fate was his inevitable destiny, when Putnam at the instant appeared. Each recognized in the other an old friend and fellow soldier ; the tie was sacred ; Putnam threw up the deadly muskets with his sword, and arrested his fate. He begged his men to spare that officer, as dear to him as a brother. The general's humane and chivalrous generosity excited in them new admiration, and his friend retired unhurt.

Col. Little in the redoubt was covered with blood from one of his men† shot by his side.

The exultation of the Americans was glorious and well deserved, but alas, short lived. They had leisure to realize the entire hopelessness of their situation. Their ammunition was expended, and they were as destitute of every offensive weapon

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* The history of this reserved close fire is remarkable, it was employed by Gen. Wolfe, and probably taught the Americans by his provincial officers. De Berniere, sent by Gage to reconnoitre the country in the spring of '75, satirically describes the earnestness with which it was enjoined on the Yankees. It has ever since been their favourite and successful mode of fighting by sea and land. De Berniere says, " at Framingham a company of militia came and excrcised under our windows, one of their commanders spoke a very eloquent speech, recommending patience, coolness, and bravery, (which indeed they much wanted) particularly recommended to them *to charge us coolly, and wait for our fire, and every thing would succeed.*"

† Story of Ipswich.

as the naked savages, their predecessors. Prescott found a few artillery cartridges, which he distributed to his men, and they determined to show a resolute front to the enemy, to club their muskets, and even employ the stones thrown up with the parapet against them. Their only hope, however, was from a want of fortitude in the foe, who had already twice proved any such expectation absolutely groundless.

Ward was without staff officers to bear his commands, excepting one aid and a secretary, who were the whole day on full speed between Breed's Hill and head quarters. Loss and neglect of orders were the inevitable consequence. Gardner's regiment and others who had been left between Cambridge and Charlestown, to wait further orders, were overlooked. The battle was raging, and no orders arrived. The colonel was a gentleman of rank, had been a member of the legislature, and commanded a regiment of militia, which, marching to Lexington to join in the engagement there, suddenly opened on the British artillery ; being entirely void of cover they dispersed. His gallant soul felt their conduct as a stigma on himself, and he resolved on the earliest opportunity to wipe the spot from his escutcheon. A glorious opportunity was before him, and he panted to embrace it—to reap the honour of victory, or death and lasting fame. The latter fate was decreed him. He called his officers together, and offered to lead them into battle ; they consented to follow him with about 300 men. The Col. marched them on to Bunker Hill, where they were met by Putnam, whose anxiety concerning this neglected post, never slept for a moment, he ordered them to take up the intrenching tools and complete the works he had commenced there, declaring, however, his conviction that the enemy would not rally again, they had been twice so thoroughly beaten.

Col. Scammans still remained inactive on Cobble hill, and contented himself with sending a serjeant and other messengers to Gen. Putnam, to see if he was wanted in the battle.

The detachment of Gerrish's regiment from Cambridge marched down and ascended Ploughed hill, under Mighill, the oldest Captain, but the Adjutant Ferbiger, a Danish soldier of experience, assumed the command, called on the men to follow him, and marched for the lines.

Charlestown being burnt, the detachment there perceiving the enemy could not march up on that side, quitted their post, and joined the troops at the lines.

Howe gave his men orders to prepare again to advance. Some of the officers remonstrated, that it would be mere butch-

ery to lead them on again, but the generals, and nearly every officer, were indignant at the most distant suspicion of their yielding the victory to these rebels, an undisciplined rabble, of inferior numbers, against whom they had poured out every epithet of contempt. To conquer or die was their resolve.

Bloody experience at last opened their eyes to their egregious errors. Their overweening confidence was laid aside, and a deliberate and judicious plan of attack adopted. The overloaded knapsacks were relinquished ; firing with musketry was prohibited, and a charge with the bayonet resorted to. The attack was to be more concentrated ; while the troops at the rail fence were amused by a show of force, the grand effort was to be against the redoubt and breastwork, and especially on the right flank.

The accomplished and chivalrous Gen. Clinton now joined his countrymen, bringing his splendid talents into the council, and his distinguished gallantry into the field. Immediate and inconceivable was the sensation his appearance produced at this moment of deep despondence. From Copps Hill he had observed, with shame and indignation, the double rout of his countrymen, and particularly that the two celebrated battalions, the marines and forty-seventh, were staggered and wavering. Without waiting for orders, he threw himself into a boat, passed over, and soon breathed into them his own exalted heroism.

Howe again commanded a forward movement to scale the works, and rush on the enemy with the bayonet. He came to the left to lead on to the redoubt himself. Clinton joined Gen. Pigot and the marines on the left to turn the right flank of the enemy. Howe at last discovered the most vulnerable point, and the key of the enemy's position ; the artillery were ordered to advance still farther than before on their old route, and turn the left of the breastwork, to enfilade the line.

The Americans made every preparation possible to repel this last desperate effort of the enemy. Putnam again rode to the rear, and exhausted every art and effort to bring on the scattered reinforcements. Capt. Bayley, only, of Gerrish's regiment, reached the lines. The General ordered Colonel Gardner's Regiment into action, the Colonel commanded his men to throw down the intrenching tools, and rush on, viewed unconcerned the battle scene before him, terrible as Sinai, and was just descending into the engagement, when a musket ball entered his groin, which proved mortal. He gave his last solemn injunction to his men, to conquer or die ; and a detachment were just carrying him off the ground, when he was met by his

son, 2d Lieut. of Capt. Trevett, marching on, a mere youth of nineteen, and the interview which ensued between them, was melancholy and heart-rending, though at the same time heroic. The affectionate son in agony at the desperate situation of his father was anxiously desirous to assist him off the field, but was prohibited from doing this by his father, who notwithstanding he was conscious that his wound was mortal, yet encouraged his son to disregard it, reminding him that he was engaged in a glorious cause, and whatever were the consequence, must march on, and do his duty. The distracted son obeyed his parent's last command, and in the battle, now raging, proved himself worthy of him, by a fearless imitation of his example, and afforded him his highest consolation in the hour of death. In consequence of the loss of the Col. his Regiment did not reach the lines. Capt. Harris's company only with a few others of the troops on the left, went to the rail fence. Capt. Trevett who had lost one of his pieces on Bunker Hill, by a cannon shot, marched to the rail fence with the other.

The enemy stripped off their knapsacks, and many of them their coats ; the artillery pushed on by the road on the north, the forty-seventh and marines near the road on the south side of the hill, and the remains of the royal Irish and other regiments, and part of the grenadiers and light infantry in front. Their past efforts had exhausted the strength and spirit of many of the soldiers who lingered in the rear, and their gallant officers were compelled to urge them on with their swords. Some of the less resolute fired their pieces, but the great masses obeyed their orders, and with firmness moved on to the charge. They arrived under the fire of the Americans, who improved to advantage their last opportunity for vengeance. Every shot took effect. The gallant Howe at last received a ball in the foot,* where only like Achilles he seemed to be vulnerable, but continued to animate his men.

The distinguished Col. Abercrombie, who commanded the grenadiers, Majors Williams and Spendlove† were slain ; and to the noble heart of Abercrombie, Putnam was so dear as a soldier, patriot, and friend, that dying he remembered him, and enjoined it on his surrounding countrymen, " If you take Gen. Putnam alive, don't hang him, for he's a brave fellow."‡

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* Dr. Jeffries.

† Much distinguished for 40 years in the 47th Reg. and 4 times in the Gazette for wounds in America, from Wolfe's battle to the present.

‡ From a Lond. paper, see N. E. Chron. Nov. '75.

Near the top of Breed's Hill were a few houses, which escaped the general conflragation of the town ; these were judiciously manned by the Americans, who, from this cover, annoyed the British extremely on their advance, and made great havoc on their left flank, before they were able to surround the redoubt.

The artillery advanced toward the open space between the breastwork and rail fence ; this ground was defended by some brave Essex troops, covered only by scattered trees. With resolution and deadly aim they poured the most destructive vollies on the enemy. The cannon, however, turned the breastwork, enfiladed the line,* and sent their balls through the open gateway or sally port, directly into the redoubt, under cover of which the troops at the breastwork were compelled to retire.

The enemy bravely bore the deadly fire, and continually closing his broken ranks, deliberately advanced on every side of the redoubt except the north. They were now under the eastern side of the redoubt and covered from the fire. The Americans retired to the opposite side to take them as they rose. Lieut. Prescott, nephew of the colonel, received a ball through the arm ; it hung broken and useless by his side. The colonel ordered him to content himself with encouraging his men. But he contrived to load his piece, and was passing by the sally port to rest against the enemy, when a cannon ball cut him to pieces. A few only of the Americans had a charge of ammunition remaining. They had sent for a supply in vain ; a barrel and a half only were in the magazine. They resorted next to stones, but these served only to betray their weakness, and lent new energy to the foe.

Young Richardson, of the royal Irish, was the first to mount the works, and was instantly shot down ; the front rank which succeeded shared the same fate. Among the foremost of the leaders was the gallant Maj. Pitcairn, who exultingly cried " the day is ours," when Salem† a black soldier, and a number of others, shot him through and he fell. His agonized son received him in his arms and tenderly bore him to the boats. It was he who caused the first effusion of blood at Lexington. In that battle his horse was shot under him, while he was separated from his

* Marshall, Capt. Bancroft, Mass. Cong.
† Note M.

troops ; his pistols* were taken from his holsters, and he was left for dead, when he seized the opportunity and escaped.

The heroic but diminutive Pigot ran up the southeastern corner of the redoubt, assisted by a tree left standing there, and desperately led on his men. Troops succeeded troops over the parapet, and Prescott exhausted every resource to repel them, even with the buts of his guns.

But he had now his last great victory to achieve, to which all his past toils, dangers, and privations, were nothing. He had twice conquered the enemy ; he had now, a more difficult task, to conquer himself, to bend down his lofty soul, and turn his back to the enemy. Perfectly careless of his own life, he had no right to trifle with the lives of his men. It was a sacred deposit they had entrusted to his honor, a bond which he never forfeited. Instead of an useless waste of life, with a " nil desperandum," he quelled his revolting spirit, and ordered a retreat.

It was not till the battle was near over, that Gen. Ward ordered down his own regiment, Putnam's, and Sargent's, to assist their countrymen at their utmost need ; but before they could arrive, the battle ended. Capt. Clark, of Putnam's regiment, had, before this, joined in the battle, and Durkee's impatience had brought him mounted to the field, to join his old commander and comrade of former wars.† Putnam's imagination had already inscribed the victory of Bunker Hill on his coat of arms, when the retreat of the right wing burst upon him, and his hopes were blasted.

The veteran Gridley now received a ball through the leg, and was carried off. He had served all night at the entrenchments, and assisted all day in defending his own works, and proving their excellence. Prescott's troops fought their way through the surrounding enemy. The veteran Capt. Bancroft was charging his piece, a British soldier leaped from the parapet, touching him as he came to the ground, and levelled at him, they fired together, the captain tore him to pieces and escaped unhurt. One of the men without ammunition perceived Lieut. Prescott's loaded musket by its deceased owner ;

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* These with the initials on them, belonged afterward to Putnam, and are yet in his family. Gage says the horse was shot, the other facts come from the man who brought in the pistols.

† In the journal of the famous Ranger, Maj. Rob. Rogers, is recorded an instance of the adventurous bravery of Putnam, his capture by a party of savages, and the desperate resistance of Durkee, who, though mangled with a number of wounds continued fighting till he conquered. Lond. 1765, p. 118.

one of the enemy opposed his passage ; seizing the musket he brought his antagonist to the ground. Col. Bridge, who came with the first detachment, was one of the last to retreat, and was twice severely wounded, in the head and neck by a broad sword. His lieut. colonel, the veteran Parker, who had escaped through the whole war of '56, in which he had signalized himself, especially at the desperate siege of Fort Frontinac, received a ball in the thigh, and was left mortally wounded in the redoubt.

Moore's soldiers found no one at the neck to supply them with drink for him ; they entered a store, the owner was in the cellar to secure himself from the cannonade, and refused to come up, finding spirit and water however, they hastened back to witness only that all their efforts were labor lost, the enemy being in the redoubt, and Moore in the last extremity ; his men made every effort to remove him, but he ordered them to leave him, and save themselves, as he had but a moment to live ; they were immediately compelled to do this by the enemy, in the midst of whom, they saw him for the last time, as they retired, on the ground.

"On the bare earth exposed he lies,
With not a friend to close his eyes."

The British now enjoyed the satisfaction of responding to the hurras of victory, which had been twice enjoyed by the enemy, and expressed their melancholy exultation by a feeble hurra.

The chivalrous Warren lingered to the last. His exalted spirit disdained as a disgrace a retreat the most inevitable. He animated the men to the most desperate daring ; and when hope itself had fled, he still disdained to fly. With sullen reluctance he slowly followed his countrymen, and seemed to court death from the enemy, to hide him from shame.

As he left the redoubt he was recognized by his friend Maj. Small, who honorably repaid the debt of gratitude he owed the enemy, he called to Warren for God's sake to stop and save his life, Warren turned and seemed to recognize him, but still continued on. Small ordered his men not to fire at him, and threw up the muskets with his sword, but in vain, the fatal ball had sped ; eighty yards from the redoubt Warren received a musket ball through the head, which killed him instantly, securing to him immortal fame, and the eternal gratitude of his country.*

* Putnam remarked on the similarity of Lord Howe's fate, who fell by his side 17 years before, and Gen. Warren's, both he had entreated in vain to keep out of the engagements in which they fell.

Col. Scammans arrived at last on Bunker Hill with part of his Regiment, the remainder yet kept aloof under Maj. Wood, Putnam ordered these troops into action, but it was too late, and they joined in the retreat.—Col. Whitcomb's men under Maj. Sawyer yet remained in the rear. Capt. Foster arrived on the top of Bunker Hill with his field pieces, but rapidly retreated to save them from the enemy.

Gardner's Reg. had now approached near the fort ; Major Jackson, who had served in the former war with the British, and was well aquainted with their officers, being in advance was immediately recognized by one of them as they issued from the redoubt, who indignantly accosted him with " what, you damn'd Rebel are you here," and levelled his piece at him, Jackson at the same instant levelled at his antagonist, and they fired together ; the ball passed through Maj. Jackson's side, though his life was preserved by his sword belt, which partially glanced the ball, but nothing could save a British officer, fairly pitted against an American as a marksman, he was slain.

The British came on, exhausted by their desperate efforts, under a blazing sun, and broken by the well diretced fire. They had not force to employ the bayonet, and were too much broken and mingled with the enemy to fire their pieces. Their right and left wings were indeed facing each other, with the Americans between ; their fire would have cut down both friend and foe. While they formed themselves anew, the Americans collected, and made a brave and orderly retreat. Putnam put spurs to his foaming horse and threw himself between the retreating force and the enemy, who were but twelve rods from him ; his countrymen were in momentary expectation of seeing this compeer of the immortal Warren fall. He entreated them to rally and renew the fight, to finish his works on Bunker Hill, and again give the enemy battle on that unassailable position, and pledged his honor to restore to them an easy victory. Lieut. Col. Ward reached the rail fence with a few troops, while some of his companies under Capts. Cushing, Smith, and Washburn, between Bunker and Breed's Hills, courageously covered the retreat by a brave and well directed fire, they were joined by Capt. Lunt of Little's Regiment, just arrived, Capts. Chester and Coit with fresh troops, and other soldiers, whose ammunition was not expended. This desperate devoted rear guard, effectually kept the enemy at bay, but the laurels gained by them, were by no means bloodless, a great number of these troops were killed or wounded.

The Americans had retreated about twenty rods before the the enemy had time to rally and pour in a destructive fire on them, which destroyed more than they had lost before during the day. Prescott's adjutant was shot and crippled, his Capts. Maxwell, Dow, and Farwell, badly wounded, the latter carried off for dead ; Lt. Fawcett mortally wounded and fell into the hands of the enemy. Capt. Bancroft had a part of his hand carried off and his Lieut. Brown was wounded.

The American left wing were congratulating themselves on their victory, when their flank was opened by the retreat of the right. The enemy pressed on them, and they were in their turn compelled to retire. Putnam covered their retreat with his Connecticut troops and others just arrived, and, in the rear of the whole, dared the utmost fury of the enemy, who pursued with little ardor, but poured in their thundering vollies, and showers of balls fell like hail around the general. He addressed himself to every passion of the troops, to persuade them to rally, to throw up his works on Bunker Hill, and make a stand there, and, threatened them with the eternal disgrace of deserting their general. He took his stand near a field-piece, and seemed resolved to brave the foe alone. His troops, however, felt it impossible to withstand the overwhelming force of the British bayonets ; they left him. One serjeant only dared to stand by his general to the last ; he was shot down, and the enemy's bayonets were just upon the general, when he retired.

Gen. Pomeroy continued to animate the men, and cut down the enemy himself, till a well hove ball shattered his musket. The retreat having commenced, he disdained to turn from the enemy ; but with backward step and lowering front shouldered the fragments of his piece, and carried off his men, encouraging them to pour in their formidable fire on the foe.

Capt. Trevett, like Callender, was deserted by his men. His lieutenants, Swasey and Gardner, stood by him, with but seven others, one of whom was Moses Porter, already a promising artillerist. He persuaded about thirty of the infantry to join in saving one of his pieces. the other he was compelled to abandon. A British company noticed the piece, and determined to seize the prey ; they pursued, on the top of Bunker Hill were within thirty yards of them, levelled their muskets and fired. The captain gave up all for lost, when but one dropped dead, and another wounded, the remainder rapidly descended the hill, and carried off with honor the only piece saved out of six taken to the field, Putnam ordered it to Cambridge.

The Charlestown company of Gardner's regiment was the last to retreat. They were fighting at their own doors, on their own natal soil. They were on the extreme left, covered by some loose stones thrown up on the shore of the Mystic, during the day, by order of Col. Stark. At this most important pass into the country, against which the enemy made the most desperate efforts, like Leonidas' band, they had taken post, and like them they defended it, till the enemy had discovered another.

One piece of cannon at the neck opened on the enemy and covered the retreat.* But these were in no condition, and discovered no inclination to renew the engagement, or pursue their advantage, except by a formidable fire from their field pieces on Bunker Hill,† where they remained, and lay on their arms during the night. The same was done by most of the Americans on Prospect Hill, directly in the face of the enemy, and by Reed's and Starks' troops on Winter Hill.

Maj. Brooks was retained at Cambridge by Ward, till the last reinforcements were sent to Charlestown, when he marched with the two remaining companies of his regiment, and met at the neck the Americans retreating. Benjamin Thompson, better known as Count Rumford, attended him as a volunteer. He was assisting the army by his mathematical learning, his estimates and surveys, but had solicited an appointment in vain, and had made great but fruitless interest for the commission in the artillery which was bestowed on Maj. Gridley.‡ For this gross injustice done to his distinguished merit, his country suffered well deserved punishment in the misconduct of his rival, and by the final loss of his services, except what they received, in common with all mankind, from his splendid philosophical discoveries, his glorious and beneficent political labors.

Henry Knox, afterward the distinguished General, assisted Ward, as a volunteer, in reconnoitring the enemy's movements during the day.

M'Clary, as attentive to the wants of his men as desperate in fighting them, galloped to Medford, and returned with dressings for the wounded. He ordered Capt. Dearborn to advance toward the neck with his company, while he crossed over to reconnoitre the enemy. He was returning with Lieut. Col. Robinson and others, and observed that the shot commissioned to kill him was not yet cast, when a cannon ball from the Glas-

* Gov. Brooks. † Dr. Dexter. ‡ Gov. Brooks.

gow tore him to pieces. No smaller weapon seemed worthy to destroy the gigantic hero.

The veteran Col. Gridley entered his sulky at Bunker Hill to be carried off. The enemy shot the horse, and riddled the sulky with balls ; but their rage was impotent ; meeting some obstruction in the road, he had left the carriage a moment before.

Prescott repaired to Cambridge, furious as a lion driven from his lair, foaming with indignation at the want of support when victory was in his grasp,—a victory dearly purchased with the precious blood of his soldiers, family, and friends. He demanded but two fresh regiments of Ward, and pledged his life with these to drive the enemy to their boats. He had not yet done enough to satisfy himself, though he had done enough to satisfy his country. He had not indeed secured final victory, but he had secured a glorious immortality.

Two young men in Boston were employed in taking the wounded from the boats to the hospitals ; and a young lieutenant, shot through the body, was carried by them in a chair to his encampment, passing the streets, pale and faint with loss of blood, he attracted the humane and generous compassion shown by the inhabitants to the wounded ; enmity forgotten, they were all at their doors with refreshing drink for them. At the encampment they met Capt. Pitcairn covered with blood. Struck with the appearance, the lieutenant inquired of him the cause, but his grief was too big for utterance, " vox faucibus hæsit." A serjeant informed him, the captain's father was shot at the breastwork, and carried by his son to the boat, where he died in his arms. The hospital they found was established in a different place,* to which they repaired, and witnessed a scene to melt the most obdurate enemy. Not only the hospital but the yard was overloaded with wounded, praying in vain for the surgeons to arrest the current of life, fast ebbing from their wounds, which, from their numbers, it was impossible, for a long time, to dress.

Loud and melancholy wailings for the dead, from widows of the common soldiers, were heard in every street, and struck on the heart of the passenger.

The American surgical department was quite unorganized,†

* In the old factory opposite the granary.

† The hospital was in the house now A. Bigelow, Esq.'s. Soon afterward it was removed to Mr Fairweather's, and put under the superintendence of the poet and traitor, Dr. Church, who in one of his intercepted letters attributes the loss of the battle, to the cowardice of the clumsy Col. Gerrish and Col. Scammans.

The above account of Maj. Jackson p. 46, is from Mr. Baldwin see Notes p. 18.

Doct. Foster, of Charlestown, was principal surgeon ; many of the wounded were carried to a place of safety on the backs of their comrades, and the best litter for the highest officer was a blanket and rails. Doct. Eustis,* of the artillery, Doctors Thos. Kitteridge, Walter Hastings, Thos. Welsh, David Townsend, and Jno. Hunt, were in attendance this day, principally at a house under the western side of Bunker Hill ; they were joined by Lieut. Col. Bricket† a physician, who came off with the first of the wounded. Doct. Welsh was afterwards near Winter Hill, by which route the troops, who went to Cambridge, retreated ; he and Sam'l Blodget assisted in arresting the retreat of the N. Hampshire troops. Col. Gardner was overtaken here by the flying soldiers, which roused him to make his last effort for his country ; with his feeble remains of strength he raised himself up by the rails on which he was carried, and beckoned them back to the fight.

The number of the Americans during the battle was fluctuating, but may be fairly estimated at 3500 who joined in the battle, and 500 more who covered the retreat.‡ Their loss was one hundred and fifteen killed and missing, three hundred and five wounded, and thirty captured, in all four hundred and fifty.§ The following was the estimated loss of the respective corps :

Regiments.	Killed.	Wounded.
Colonels Stark and Reed	15	45
Colonel Scammans	0	2
——— Gerrish	3	2
——— Whitcomb	5	8
——— Brewer	7	11
——— Little	7	23
——— Gardner	6	7
——— Gridley	0	4

* Afterwards Secretary of War, Minister to Holland, and Gov. of Mass. of urbane manners and respectable talents.

† It is said Warren, as he went on, obtained his arms from him.

Dr. John Warren, brother to the General, hearing a rumor of an approaching engagement, came from Salem to join the army as a soldier on the day of the battle, was engaged as Hospital Surgeon, and much distinguished as such during the war.

‡ The average numbers in a Regt. according to the returns of 17 the author has, were 469. Great allowance must be made for those unable, and those unwilling, to go on ; the men went on or off as they pleased, and when they pleased.

§ Gen. Ward's ord. book.

Regiments.	Killed.	Wounded.
General Putnam's regiment, Captain Coit, and Captain Chester's companies,	15	30
General Ward	1	6
Colonel Bridge	16	29
——— Prescott	42	28
——— Frye	15	31
——— Nixon	3	10
——— Woodbridge	1	5
——— Doolittle	0	9

Providence newspaper, July 15, 1775.

The British loss was about 1500,* Gage acknowledges but 1054 ;† including eighty-nine officers ; two hundred and twenty-six killed, including nineteen officers, and eight hundred and twenty-eight wounded, seventy of them officers. The 52d regt. lost 5 officers, four of them the highest in the regiment ; their only complaint was that they were wounded in the back. The marines lost six, and Howe's aid-de-camp ; and had 12 wounded. The grenadiers of the Welsh fusileers were reduced to eight, and twenty-two out of thirty-nine grenadiers of the fifty-second regiment were killed. All the grenadiers fo one company were shot storming the works except five, and these were led on by the oldest soldier.‡ Lord Rawdon, afterwards Earl of Moira and Marquis of Hastings, led on a corps of grenadiers, and escaped with a ball or two through his cap.§

Stark's Capt. Baldwin, who had been in twenty actions, Nixon's Capt. Moses, and Lieuts. Dix of Gerrish's, West of Whitcomb's, and Bailey of Bridge's regiments, were killed ; Ward's Capt. Wood, Putnam's Lieut. Grosvenor, Stark's Lieut. Scott,‖ and Little's serjeant afterwards Lieut. Pearson, wounded. Capt. Warner carried on but 23 men, 17 of them were killed or wounded. He received a ball through his hat, another through his waistcoat pocket which destroyed his knife handle, one through his coat, and, by a fourth, lost his gun, easily replaced now from those which had lost their owners. Capt. Coburn had two balls through his jacket, and five through his shirt ; and Capt. Bullard's clothes were cut as remarkably, both were

* Mass. Cong.

† His crafty expression that he sent over, *something above* 2000 has deceived many.

‡ Gentleman's Magazine for 1775 p. 397.

§ Burgoyne says, " he behaved to a charm, his name is established forever."

‖ Not called Lieut. on record, but doubtless the same who was taken prisoner.

unhurt. After the retreat, Col. Sargent was slightly wounded by a cannon ball, which carried off Lieut. Col. Ward's cartridge box and knocked down a subaltern. Many were injured, and Capt. Bancroft lost an eye, from the percussion of the air by cannon balls. Col. Nixon's life was saved by a dollar in his pocket, Judge Winthrop and James Swan, Esq. volunteered in the battle, fought valiantly with their muskets, and the former was wounded.*

Thirty-one Americans, taken prisoners, were confined, officers and men, in Boston jail. Washington complained to Gage of their treatment, who declared they fared as well as the British,‡ though destined to the cord by the laws of the country; but that, not acknowledging rank unless derived from the crown, he made no distinction in favour of officers.

In this battle the British gained a nominal victory, but the Americans the only prize contended for; they destroyed entirely the physical and moral force of the British army, imprisoned them within their narrow limits, and prevented their excursions. The enemy never after recovered their enterprise and confidence in America, and by this single battle the final success of the American revolution was secured.

The Rev. Doct. Saml. Macclintock of Greenland, Chaplain of Stark's Reg. and in the war of '56 Chaplain of Goffe's Reg. was in the battle of Bunker Hill, intrepidly by "his exhortations prayers and example encouraging and animating them to the unequal conflict."

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* Philip Johnson, Esq. then of Little's regiment, was wounded. His Capt. Perkins, finding it waxed warm when they arrived at the neck, threw away his wig, and led his men over at single file, the mode generally adopted.

Mr. Abbot, now postmaster at Andover, received a ball through his leg; Mr. Barker carried him off ½ a mile on his back. A ball passed through the body of one man and wounded another in the knee; the first recovered, the latter died. Braddish received a ball in the back of his head or neck, which came out through his forehead, was cured, and served again. Gates's jaw was broken by a ball; he served a year or two, till sent home as disabled, and has been compelled to dress his wound every day for ½ a century. Another has worn a bullet in his leg the same length of time. The heart of Pollard, the first killed, continued beating for some time after it was cut out of him by the cannon ball.

Capt. Wheeler, going on, a 24-pound cannon shot passed between his legs on top of Bunker Hill, threw him into the air, prostrated him, and broke his waistband string; his leather smallclothes secured him from further injury.

Fear fastened on Capt. *** like night-mare; heartily inclined to fight in the cause, and deeply mortified, it was impossible for him to break the spell. He honestly confessed his weakness; a serjeant led on the company; and, against their unanimous wish, he resigned.

† Boston suffered extremely from want of fresh provisions; owing to which many of the prisoners and British died. A present, from Putnam to Gen. Gage's lady, of a quarter of veal, was of consequence enongh to be recorded in the newspapers. The respected Master Lovell was imprisoned, and afterwards carried to Halifax, on account of his letters found on Gen. Warren.

The Americans used no colors, and the British neither colors nor music.

SUPPLEMENTARY CHAPTER.

Ward was appointed by the National Congress first major general and second in command of the army. He assumed the command of the right wing at Roxbury on the arrival of Washington, 2d July, by whom his disposition of the troops around Boston was approved.* From ill health he resigned his commission in April. '76, but continued in command at the request of Washington and Congress till March '77. He was afterwards in Congress under the old confederation and present constitution, and died in 1800, aged 73.†

Thomas was appointed first Brig. Gen. under the United States; in '76 Maior Gen. and on the death of Montgomery repaired to Canada to command the army before Quebec. He found their situation desperate; but was too adventurous to relinquish the enterprise without one attempt to secure the favours of fortune. He endeavoured to burn the enemy's naval force before the city by a fire ship, designing to attack the place during the conflagration; the fire ship miscarried, he was compelled to retreat, and died of the small pox at Chamblee.

Pomeroy expressed his strong sense of the blindness of fortune, that, of the two volunteer generals in the battle, Warren, the young and chivalrous soldier, the eloquent and enlightened legislator, should fall, and he escape, old and useless, unhurt. From age he declined the honourable appointment of first Brig. Gen. of the U. S. army, and retired from service. But, like the veteran war horse, when the echoes of his majestic Connecticut rang with the clarion of battle, he spurned the peaceful retreat which his long life and long services demanded. He preferred even a regiment to inaction, and as a colonel marched to join the kindred spirits who composed our army in the Jerseys. His exposures produced a pleurisy, which proved

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* Marshall, 242.

† Two days after the battle he informed Mass. Congress, that spears might have saved the redoubt, the army were immediately supplied with them; and they were kept greased to prevent their being effectually grasped by the enemy. Ward's Aid de camp was Saml. Osgood, his Secretary Jos. Ward, afterwards a highly respected Muster-master-general during most of the war under Washington.

fatal at Peekskill in New York, where his country owes him a monument, and bravery and patriotism perennial fame.

When Putnam* was ordered on what may well be styled a forlorn hope, to land with a detachment at Boston, in face of the army and batteries of the enemy, Prescott solicited of him the honor of participating the desperate enterprise, which was arrested however by a hurricane, and the enemy were expelled from a different quarter. The Col. continued in service, accompanied Washington to New York, and on the disastrous retreat through the Jerseys, was the only officer able to keep his men in the ranks. They proved worthy the hero of Bunker Hill, and kept the enemy in respect; Washington applauded them as an example to the army, and tendered his thanks to the Col. in general orders. In '77 he joined Gen. Gates with a corps of volunteers, and continued with him till the capture of Burgoyne.

On the return of peace he again entered the state legislature, and distinguished himself in '87 as a magistrate, as he did in '75 as a warrior. From the miseries and poverty produced by war, many of the sufferers in Massachusetts were driven to an armed opposition to government; this enlightened patriot employed his powerful influence to stay the torrent of insurrection; he collected his friends and proceeded to Concord armed to protect the court there against the insurgents. He was religious and died, 1790, in the 70th year of his age.

Immediately after the battle, the rank of major general was conferred on Gridley. America commenced her revolution with but four pieces of cannon, and to his mechanical science and ingenuity she was indebted for the first mortars and cannon ever cast in the country. After being confined some months by his wound, he repaired to Cambridge and superintended the fortifications erecting round Boston. On the 4th March, '76, he was again engaged in erecting fortifications in the night, and the address, science, and prodigies of labour, displayed at Dorchester Heights, were perhaps never exceeded, except on Breed's Hill. These works compelled the enemy to evacuate Boston, the heights and the islands of which, were fortified by Gridley. Washington urged him to accompany the army, but his advanced age forbade, and he retired on half pay. In '95 he assisted in laying the corner stone of the state house, as in laying that of the state in '75, and lived to the age of 86, a

* Putnam commenced the fortifications at Prospect Hill, and after Washington's arrival, at Lechmere Point likewise, and Cobble Hill, the work at the last place was named Putnam's impregnable Fort.

model of courtliness, beneficence, and hospitality, as well as military excellence.

Stark will be recognized as the hero of Bennington, where he practised an ingenious deception to strike a panic into the enemy. He had one iron cannon, but neither powder sufficient for it, nor balls ; he ordered an officer to load it, who objected the want of balls ; " no matter," said the colonel, " load it " with blank cartridge, and let the discharge be the signal for " all the troops to rush on." The Hessians were panic-struck at the thundering report, his troops rushed on with loud hurras, and the victory was complete.*

The veteran Col. Jos. Frye, brother to James, had served with reputation in the wars of '45, and '56, commanded all the Mass. forces in '57,†was captured at fort Wm. Henry, stripped naked, and gashed with tomahawks‡ in the subsequent massacre ; was appointed Maj. Gen. by Mass. Congress, 21 June '75, served some time afterwards, and died very old at Fryeburgh, named after his family.

Col. Gardner lived a few days after the battle, being asked if he was well enough to see his son, " yes," answered the hero, " if he has done his duty." He had the satisfaction to see him, and learn that he bravely distinguished himself.

The life of Brooks since the battle of Bunker Hill has been far too distinguished in the military and political history of America to be noticed satisfactorily in a supplement. His regiment, when Washington arrived at Cambridge, was distinguished for its superior discipline, and Gates pronounced him one of the first disciplinarians in service. He was appointed first inspector of the army under Steuben, and afterwards Adj. Gen. for the army on the North River, and was distinguished in nearly all the important battles of the revolution. He was in the battle on Long Island with the reinforcement, and in that of White Plains ; history has recorded him among the most distinguished commanders in the army which captured Burgoyne ; and he was in the battle of Monmouth as Adj. Gen. From their earliest acquaintance, he was a favourite of Washington, enjoyed his uniform friendship, and was honourably distinguished, from being selected by him as one of the general officers, to serve with him again in '98. During the last war he had the su-

* His statement to Hon. Tim. Bigelow.

† Minot 2. 16.

‡ He was opposed to the surrender, and his officers presented him a piece of plate for his courage and conduct on this occasion.

perintendence of the militia of Mass. and secured the country from inroads of the enemy. For many years he was elected governor and commander in chief of Massachusetts, to the universal satisfaction of all parties. Over the liberties and free constitutions he established as a warrior, he presided as a legislator with distinguished ability. In 1823 he declined a reelection, and died in '25 universally lamented.

The brave Knowlton, from the first moment of the battle to the last of the retreat, showed himself worthy the honour of being selected as the first among the Connecticut captains. He was promoted, and on the night of 8th of Jan. went, in command of 200 men, directly under the enemy's batteries, and burned some houses left standing near the neck, killed or captured the British in them, and came off without loss under a heavy fire. He was afterwards Lieut. Col. and at the battle of Harlem heights, was sent by Washington to gain the enemy's rear ; a bloody action ensued ; Knowlton and his men fought the whole force of the enemy, of vastly superior numbers, before the Americans could attack in front, and gained the advantage. By this gallant affair, he restored to the army, a glorious moral force, nearly extinguished by disasters ; but at the expense of many of his brave men in the unequal contest ; his Major Leitch was slain, with three balls through him, and the victory was dearly purchased with his own invaluable life. Washington paid due honour to his memory in general orders, declaring, "he had died a glorious death, which every soldier "ought to wish for, and would have been an honour to any "country on earth."

The indignation felt by Prescott, at the loss of the battle, was general, in the army and throughout the country ; a scrutiny, severe and unrelenting, was instituted into the conduct of every one who could be suspected. Even the dangerous and honourable wounds of Bridge were insufficient to secure him from passing the ordeal of a court ; from whose relentless severity he narrowly escaped condemnation, on the charge of keeping under cover too cautiously in the redoubt.

Notwithstanding this severe inquisition, and the great number of Americans engaged, most of them for the the first time, five only were discovered guilty of misconduct. Of these, Maj. Gridley was tried for neglect of duty, Gen. Green presiding, the court "find him guilty of breach of orders, and there-"fore dismiss him from the Massachusetts service ; but on ac-"count of his inexperience and youth, and the great confusion "which attended that day's transaction in general, they do not

" consider him incapable of a Continental commission, should " the general officers recommend him to his Excellency."*

Mansfield was obviously guilty of an error only, arising from inexperience; he was cashiered. Col. Gerrish evinced certainly a want of military ardor and activity, but this was in part a constitutional defect. He was not accused before the committee of Congress by Gen. Putnam, and in the opinion of the highly respected judge advocate of the court was far too harshly treated.†

A complaint was lodged against him with Ward immediately after the battle, who refused to notice it on account of the unorganized state of the army. He was stationed at Sewall's point, which was fortified; in a few weeks a floating battery made an attack on the place, which he did not attempt to repel, observing, " the rascals can do us no harm, and it would " be a mere waste of powder, to fire at them with our 4 " pounders;" it was evening, the lights were extinguished, and all the British balls flew wide of the fort. For his conduct on this occasion, and at Bunker Hill he was arrested immediately, tried, found guilty of " conduct unworthy an officer," and cashiered.

Capt. Callender apparently guilty of cowardice is a glorious instance of the buoyancy of genuine heroism, and the redeeming efficacy of the " mind conscious of rectitude." The furious denunciation of Putnam, the sentence of court, and thundering proscription of Washington, would have crushed any one forever, not armed with a panoply so divine. A committee of Congress appointed to inquire into the truth of a report, that some officers of the army had been guilty of misconduct; report, that they had made inquiry of Gen. Putnam and other officers who were in the hottest of the battle, and that the general charged Capt. Callender and another artillery officer, with infamous cowardice, one of the principal causes of the defeat, and informed them that he would quit the service if these officers were not made an example of, and that one of them ought to be shot. The court martial condemned Callender, and Washington approved the judgment, " not only from the particular guilt of Capt. Callen- " der, but the fatal consequence of such conduct to the army, " and to the cause of America in general."

Notwithstanding this, our hero resolved to compel the world to acknowledge, by his future conduct, that his past had been mistaken. He continued with his corps as a volunteer, and desperately exposed himself in every action. The brave and beneficent Knox extended to him his friendship. At the battle on Long Island, the Capt. and Lieut. of the artillery company, in which he served, were shot; he assumed the command, and refusing to retreat, fought his pieces to the last;

* Ord. Book. † Judge Tudor.

the bayonets of the soldiers were just upon him, when a British officer, admiring his chivalrous and desperate courage, interfered and saved him. Washington expressed the highest approbation of his conduct, gave him his hand and his cordial thanks; ordered the sentence of the court martial to be erased from the orderly book, and restored him his commission. He held this during the war, and left service at the peace, with the highest honour and reputation.*

Capt. Dearborn was afterwards distinguished during the revolutionary war for his bravery and enterprise. He volunteered at the head of a company of men, selected from the regiment to accompany Arnold, in the winter of '75, through the trackless wilds, to Quebec; an enterprise, which, in daring hardihood and courage, is not surpassed by Hannibal's passage of the Alps. He commanded a battalion of Lt. infantry at Saratoga, and his services were acknowledged by Gates in the highest terms of approbation. Cilley's regiment in which he was Lieut. Col. was highly distinguished in the battle of Monmouth, and the salvation of the army was owing to their courage. Washington acknowledged the service, and sent to inquire what regiment it was. "Full blooded yankees by . . . sir," was the answer of the commander. Dearborn was afterward secretary at war under Jefferson; and during the last war first major general and senior officer of the army.

Porter, who stood by his captain and cannon to the last, rose through every grade of office, to be a distinguished Gen. in the army. He was intrusted with the command at Norfolk, the last war, and in 1818 was at Boston in command of the district which in '75 as a private he so bravely defended.

Howe, notwithstanding his wound, remained on the field the whole night, watching the movements of the enemy; supporting himself against some hay, he ordered his attendants to prevent him from falling asleep.

In the morning young Winslow† of Boston, recognised the body of Warren, and announced the fact. Howe would scarcely credit the account; it was so improbable that the president of Congress was in the battle. Dr. Jeffries was on the field dressing the British wounded, and the wounded American prisoners, with his usual humanity and skill. Howe inquired of him if he could identify Warren; he recollected that he had lost a finger nail and wore a false tooth, and informed the general that Warren had five days before ventured over to Boston in a canoe to get information, invited Jeffries to join the Americans as surgeon, and informed him that he was himself to receive a commission in the army. Warren was instantly recognised, and the enemy declared this victim alone was worth five hundred of their men.

* Lt. Woodward was also found guilty of misconduct. † Gen. Winslow.

NOTES

TO HIS

SKETCH

OF

Bunker-Hill Battle.

By S. SWETT.

BOSTON:

MUNROE AND FRANCIS, 128 WASHINGTON,

CORNER OF WATER STREET.

Dec. 1825.

To Medford

To Cambridge

Americans

BUNKER HILL
height 110 feet

Mill Pond

Causeway

Ground

Landing of British Troops

Morrens Point

height 35 feet

Ground

Entrenchment

Falcon

B.REED'S HILL
height 62 feet

CHARLESTOWN burned down

Lively

Somerset

COP'S HILL,
BOSTON
height 58 ft.

Shot from the Glasgow

SKETCH OF BUNKER HILL BATTLE

BY

Scale, 800 feet
100 200 300 400

Annin & Smith Sc.

NOTES

TO THE

SKETCH OF BUNKER-HILL BATTLE.

Note A.

Conduct of Gen. Putnam during the battle.

Gov. Brooks's statement. The author being in the staff of Gov. Brooks and enjoying his friendship, received every assistance from him he could desire in writing an account of the battle. This battle was probably never understood by any one better than by him. Meeting the troops who went on, over night, at the neck ; continuing with them on duty as a field officer till the forenoon following, when he was despatched to head-quarters at Cambridge, where he arrived at 10 o'clock and was retained till permitted to rejoin the troops at the neck on the last of the retreat ; solicitously inquiring at the time, and ever after, into the occurrences, nothing important could have escaped him : and the author is without apology if, with the information derived from him, he has committed a single mistake of the slightest consequence.

Gov. Brooks stated,* he was informed by Col. Webb, a distinguished Connecticut officer, who signalized himself in Bunker-Hill battle, that Gen. Putnam (whose Aid he was afterwards) on the retreat, remained in the rear by a cannon, with a serjeant, the only man he could persuade to stand by him, till the enemy were just upon them with their bayonets, when the serjeant was shot down and he was compelled to retire. Gov. Brooks, going to Cambridge in the forenoon, met Gen. Putnam riding toward Bunker Hill.

* This, and every other statement referred to by the author, were taken down in writing at the time; any person who pleases may have copies taken of any documents in his possession.

The following testimony is from the Boston Centinel.

As the original documents have long been lost from the Boston Athenæum, we can only say, the copies in the Centinel and N. A. Review are known to have been made by two gentlemen of as high honour and integrity as our country ever produced.

JUDGE GROSVENOR says, under the immediate superintendence of Gen. Putnam, ground was broken and a redoubt formed. The next day Gen. Putnam was extremely active and directed principally the operations. After the British landed, a detachment of four Lieutenants and 120 men of Gen. Putnam's Regt. under Capt. Knowlton were by the Gen. ordered to take post at a rail fence on the left of the breastwork. The Gen. inspired confidence by his example; of the officers the most active were Putnam, Prescott, and Knowlton.

ABNER ALLEN, of Western, deposes before a Judge of the Supreme Court:—was in Grosvenor's company; went on the night before the battle; Putnam was then and there called Gen. and acted as such. I was at the rail fence, and do know that Gen. Putnam was in the engagement. I saw him on horseback urging the men *to fight* with great earnestness; he was as much exposed as any man engaged.

JOSIAH HILL, Tyringham, Putnam's Regt. testifies: "I know that Gen. Putnam was in the battle, took part in the engagement, and was as much exposed as any body in the battle."

The Rev. ARMY CHAPLAIN.—Gen. Putnam did all that man could do to induce the men to go on to the Hill. He led on Capt. Knowlton with part of a Connecticut Regt. [After adding some other facts,] I was the intimate friend of Col. Prescott and Lt. Col. Robinson, and from the mouths of those heroes I had this account.

He adds in his letter, which we have,

Thos. Cooke, Esq. member of Mass. Congress, signer of *sword in hand* money, says: he went to one of the neighboring hills to view the battle; saw Gen. Putnam, who did all that man could do to get on the men to Breed's Hill; he appeared firm, resolute, thoughtless of personal danger; his praise was in the mouth of every one at that time, he never heard a disrespectful word against him.

REUBEN KEMP, Brooklyn, Con. Stark's Regt. testifies: "arrived at the high grounds over the neck; were furnished with intrenching tools and began to throw up a breastwork; in ten or fifteen minutes the drums beat to arms, and we were marched immediately. Gen.

Putnam seemed to have the ordering of things. He charged the men not to fire till the enemy came close to the works, and to take good aim and make every shot kill a man. A few pieces were discharged before the order, Gen. Putnam passed along the lines quickly and threatened to stab any one who fired without order. The enemy got pretty near the works, we were ordered to take good aim and fire. At this time Gen. Putnam was constantly passing backward and forward from right to left."

Isaac Bassett, Killingley, Gen. Putnam's Regt. deposes: was at the redoubt and breastwork just as the action commenced; saw Gen. Putnam there with his sword drawn, encouraging and animating the troops. My father was going off with a wounded man, Gen. Putnam stopped him, pricking his arm with his sword, and told him not a soldier should leave the ground. I saw Gen. Putnam in the hottest of the fight, calling on the men to stand their ground; I am sure he was at the same post when the enemy scaled the walls of the redoubt.

Ebenezer Bean, Conway, Stark's Regt. at the Redoubt, about 12. Gen. Putnam was there and very active, was urging the men on, giving orders, riding from one end of the line to the other as far as I could observe, and continued active through the action; in my opinion fought with great bravery.

Judge Advocate Tudor: soon after the arrival of Gen. Washington, courts-martial were ordered for trial of officers for misbehavior 17th June. In the inquiry which those trials occasioned, I never heard any insinuation against the conduct of Gen. Putnam.

Pres. Adams, senior. "This I do say without reserve, I never heard the least insinuation of dissatisfaction with the character of Gen. Putnam during his whole life."

Capt. John Barker, formerly of Pomfret, "knew Putnam perfectly; between the first and second attacks he came on foot to about the centre of ours (Reed's N. H. Regt.), warmly praised the men for their bravery and encouraged them to fight well should the enemy come again.

Major Elihu Lyman, Greenfield, a Lieut. in the battle, deposes: well remembers, Gen. Putnam was present directing the retreat, riding backward and forward between us and the British, and appeared cool and deliberate, frequently speaking to the men. He continued with us till we were out of the reach of small arms. I now perfectly remember, that I then expected every moment to see Gen. Putnam shot from his horse. I knew Gen. Putnam perfectly, was in the army with him in the French war, and 5 years in the revolutionary war.

ANDERSON MINER, Maj. Lyman's company : saw Gen. Putnam riding through the American ranks amidst showers of balls undaunted, with his sword drawn, exhorting the troops 'in the name of God' to form and give the British one shot more, and then they might retreat.

GEN. KEYS, many years adjutant-general of Conn. 1st Lieut. Putnam's Regt. : saw Putnam after the repulse of the enemy near the field-pieces deserted by Callender, as I was going towards the Redoubt, very active, found our troops giving way and immediately retreated.

ABIEL BUGBEE, Pomfret, Putnam's Regt. : posted on left of the line behind rail fence ; Gen. Putnam was riding backward and forward encouraging the men during the fight ; when we retreated, Gen. Putnam was on horseback within ten rods of the enemy, and ordered us to take some tools as we retreated.

JOHN DEXTER, Pomfret, Vt. Putnam's Regt. : knew him well ; saw him on the hill the night before the action ; heard him tell the officers they must exert themselves, for the British would fire as soon as light appeared. Saw him there again in the morning. One of the centinels jumped from his post on the fort ; he ordered another to be placed there who was not a coward. The fire from the British was very severe, the Gen. appeared unintimidated, as if they had not fired a gun.

ALEXANDER DAVIDSON, Edgecombe, Ford's company, deposes : Putnam ordered our company to carry the cannon, deserted by Callender, to the rail fence ; he accompanied the pieces himself, saw to the placing them and *until they commenced firing them.* I well recollect his expression at the second firing of one of the pieces, it was loaded with cannister and seemed to make a lane through them. What time Putnam left our company I cannot say, but he was with us at the rail fence when the battle began, animating the men and telling us not to fear.

EBEN'R. BANCROFT, Esq. Tyngsborough, Capt. in Bridge's Regt., Lieut. with Putnam when a Maj. in the French war, together several campaigns : has seen him often in the midst of danger ; his courage could not be doubted, nor his character impeached.

Was at the laying out of the works on Breed's Hill, the lines were marked out by Putnam. A party of Connecticut men under the direction of Gen. Putnam formed the rail breastwork, and lined it. Cannon were used on both sides. I loaded one piece myself twice ; we received from the field pieces of the enemy several shot through our gateway at time of the retreat.

He remarks, I believe (in a lost letter) that Col. Prescott and some of his officers informed some southern gentlemen, that in time of the action Putnam placed himself on the top of the hill where he could see the whole of the action.

JAS. CLARK, Capt., Gen. Putnam's Regt. : commanded 100 men, arrived at rail fence ten minutes after the action began, and before Charlestown was burnt. On the retreat saw Gen. Putnam for the fourth time that day, actively engaged in managing the retreat. Whenever I saw him on Bunker Hill, he appeared like a good soldier, firm, composed, vigilant, active, undaunted, in the discharge of the important duties of his station.

17th June last, he says, he was ½ mile from the Hill when small arms began.

Major JOHN BURNHAM, Londonderry, Lieut. in Little's Regt. : when arrived near the rail fence, saw Gen. Putnam. He appeared busily engaged in giving directions to the troops as they came up. He ordered my Capt. to get to the fort if he could ; passed by the fort and went to the *south* of it till we saw enemy's left flank ; Webber of my company was there with me and wounded.

A Committee of Mass. Congress report : we applied to Gen. Putnam and other officers who were in the heat of the engagement for further intelligence. Gen. Putnam informed us, as he was riding up Bunker Hill, he met an officer in the train drawing his cannon down in great haste ; he ordered the officer back, who replied he had no cartridges. The Gen. dismounted and examined his boxes, and found a considerable number of cartridges, upon which he ordered him back ; he refused until the Gen. threatened him with instant death, but soon deserted his post and left his cannon. Another officer, who had direction of another cannon, conducted much in the same way. Gen. Putnam declared one of these officers ought to be punished with death, and that unless exemplary punishment was inflicted he would assuredly leave the army. That on the defect of these officers, the reinforcements ordered up the Hill could not be prevailed on to go ; the plea was, the artillery was gone, and that they had no chance for their lives, declaring they had no officers to lead them.

Col. Putnam informed me,* that about this time his father offered to lead them on himself, entreated, threatened, and broke his sword over them knocking down a non-commissioned officer.

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* His letter.

The following statements were published in the Patriot, by Gen. Dearborn.

GEN. M. M'CLARY, Epsom, was in the battle from beginning to end; on the retreat saw Gen. Putnam on top of Bunker Hill with a spade in his hand; has no recollection of seeing him in the battle.

GEN. PEIRCE, Hillsborough, Ford's company, went on to the Hill about 11; Putnam requested our company to drag Callender's cannon down Bunker Hill; at Capt. Ford's persuasion, drew them to rail fence; thinks he saw Gen. Putnam at that place, looking for some part of his sword; did not hear him give any orders or assume any command except on top of Bunker Hill.

17*th June last he says*, he thinks Putnam was as brave as any man.

In a letter to Alden Bradford, Esq. he adds,

He thinks the action began a little before 1; thinks 15 or 1600 men were in Redoubt; there was but one N. H. Regt. in the engagement, of which Poor was a field officer with Stark and M'Clary; this Regt. left Medford at 10, and was on the battle ground one hour or more before action.

We need not say how worthless his recollections are.

Capt. S. R. TREVETT, Marblehead, Capt. Art.—About 1, the 17th, left Cambridge; saw Putnam riding toward Cambridge, and back toward Charlestown in 10 or 15 minutes; when arrived at the N. W. side of Bunker Hill,

[*This was some time after the battle commenced, and after the first retreat of the British, as Capt. Trevett has very often informed me.*]

saw Gen. Putnam dismounted and several others; went to select a station for my pieces, saw Gen. Putnam on my return, the engage- was then going on; arrived at rail fence when retreat commenced; descending N. W. side of Bunker Hill, again saw Gen. Putnam in the same place putting his tent on his horse, asked him where I should carry my field piece, he said to Cambridge.

Maj. CALEB STARK, son of the Col.: arrived at top of Bunker Hill, saw Gerrish, and Putnam I was told it was, standing together. Gen. Putnam performed no part in the operations at Breed's Hill,

his station was Bunker Hill. The battle commenced about the middle of the afternoon.

I believe Col. Reed was not in the action.

[Witnesses to prove Putnam was not in the action, because they did not see him in a line of ¾ of a mile! Could not see Col. Reed, who was fighting and commanding beside them, as well known and as easily proved as that Col. Stark was there!]

According to Dr. Snow [Bost. Centinel], there was the same rivalry and jealousy between Reed and Stark, as appears on the side of Stark and his officers against Putnam; the latter, Judge Advocate Tudor attributed to Gen. Putnam's interference with the irregularities of the N. H. troops, particularly some violence committed by Stark and his Regt. against Col. Hobart, the N. H. paymaster, on which a court was held under Gen. Green, which reported unfavorably to Col. Stark;* but the matter, I believe, was adjusted by the parties.

Rob. K. Wilkins, Concord, [*after a ridiculous peregrination*]—saw Putnam and Gerrish about a hundred rods from our line, as I was going to rail fence, before firing with small arms commenced; just before the retreat of the enemy from the fort, passed on to Bunker Hill, where I found Putnam and Gerrish again.

Rev. Wm. Bentley. Col. Stark said: "My Chaplain—Had he [Gen. Putnam] done his duty, he would have decided the fate of his country in the first action." He then described the "pen," as he called the inclosed works, and *the want of judgment* in the works."

Was this all he blamed Putnam for?

Abel Parker, Esq. Jaffrey. At the breastwork till wounded by the enemy, who flanked it; then went into the fort; remained till Prescott ordered a retreat. Has no hesitation in declaring Col. Small's story totally unfounded.

Hon. Thos. Kittredge, surgeon. About 11, going off, saw Putnam at the foot of Bunker Hill; heard him request some of the men to go the fort and see if they could get some of the intrenching tools.

Rev. Dan'l Chaplin, D.D. Groton, and Rev. John Bullard, Pepperell. Were intimate with Col. Prescott; he told us repeatedly, that when the retreat was ordered and *commenced*, and he was *descending* the Hill, he met Gen. Putnam and said to him, "why did you not support me, General, with your men, as I had reason to ex-

* Gen. Ward's Ord. Book.

pect according to agreement?" Putnam answered, "I could not drive the dogs up." Prescott pointedly said to him, "if you could not drive them up, you might have led them up."

It is well known, as Hon. Mr. Webster observes in N. A. Review, that Putnam and Prescott were on terms of respectful friendship as long as they lived.

Deacon LAWRENCE, Groton. Gen. Putnam was not present either while the works were erecting, or during the whole battle. I continued in the redoubt during the whole of it; I could see distinctly the rail fence and the troops stationed there during the battle, but Gen. Putnam was not present as I saw. I saw Warren shot, and from that time till he expired.

This gentleman's memory is so impaired, that he has stated Col. Prescott to have been in a blue coat, and Warren in a blue coat and killed in the redoubt.

The following evidence is from the statements taken down in writing by Gen. Sullivan and other Directors of the Bunker Hill monument, assisted by Judge Thacher and one or two other gentlemen, at the request of the Directors, from surviving soldiers of the battle present at the celebration the 17th June last.

JOSHUA YEOMANS, Norwich, Gen. Putnam's Regt.—Helped build the fort the night before the battle, led on by Gen. Putnam. Was well acquainted with Gen. Putnam; saw a great deal of him in the action encouraging the men. I saw Gen. Putnam split a field-piece in the fort; he could not get the ball into the piece. He went to his saddle-bags [haversack] and took a canvas bag of musket balls [grape], loaded the cannon, and fired it at a number of officers who were consulting under a row of trees. I then went to rail fence; there saw Gen. Putnam riding along the whole line and crying out, "stick to your posts, men, and do your duty;" he was greatly exposed.

RICH'D GILCHRIST, Dublin, Stark's Regt. At the rail fence the whole action. Putnam rode up as we went on, said, "push on, Col. Stark, the enemy have landed and formed." I saw Gen. Putnam several times on foot encouraging the men.

BENJ'N MANN, Capt. in Reed's Regt. Was stationed at rail fence; was at dinner when the alarm was first given, and orders to march.

In the latter part of the engagement I saw Gen. Putnam on my right, toward the redoubt.

Israel Hunt, Dunstable, Bridge's Regt. Gen. Putnam and Capt. Ford brought an iron field-piece to the rail fence, and fired it a number of times.

Joseph Trask, Billerica, Gardner's Regt. Gen. Putnam ordered us down to right of fort; rode back of our Regt. and said, "if any one offered to desert, run him through."

Francis Davidson, Londonderry, Ford's company, at rail fence. The enemy marched toward us under a heavy fire from their ships and their field pieces. We were ordered to lie down till the enemy were near enough to be within good gun shot; this order was given by Gen. Putnam, who was near us at the time.

Job Spafford, Berlin, a Serjeant, Gen. Ward's Regt. We went to the rail fence. Gen. Putnam was employed in different places; but the first time I remember distinctly to have seen him was about the time the retreat was ordered. He ordered us to retreat, by speaking, and by motion of his sword. He seemed to have the chief command on the hill and where we were.

Jesse Smith, Salem, *(a respectable Merchant,)* was at rail fence; fired 16 rounds: went off to get his musket fixed. Going up Bunker Hill saw Col. Gardner wounded, and saw Gen. Putnam on his horse riding about frothing at the mouth, urging the men there down to the line of battle; returning to the line, retreat began.

A. Dickerson, Amherst, Woodbridge's Regt. This and Col. Brewer's Regt. were led on by Gen. Putnam as a reinforcement.

Wm. French, Dunstable. By order of Putnam and Pomroy, we carried tools to neck; heard British were coming; some slunk off, a number went on. I went to rail fence, and was there all the action. I saw Gen. Putnam a number of times.

Russell Dewey, Westfield, went on just after action commenced; saw Gen. Putnam urging the men into the action with his drawn sword.

Benj'n Bullard, Hopkinton, Capt. in Brewer's Regt. was in fort; heard Putnam say, "Gods curse you," and saw him riding up and down; knew him in French war.

Enos Lake, Ringe, Reed's Regt. Went on just as battle began; fired all my cartridges; was at rail fence; saw Putnam behind me once.

Wm. Low, Gloucester. Putnam ordered us to carry off intrenching tools; our company went, followed him in Indian file down the Hill; the shot flew as thick as hailstone. Putnam was as cool as ever man was. News came the British were landing; Putnam then said it was too late, ordered every man to take a rail on his back, took one himself, went to the other rail fence, and we worked at doubling it. Fired 18 out of my 19 cartridges.

Philip Bagley, *(a respectable Dep. Sheriff at Newburyport, for nearly 30 years past,)* Frye's Regt. Went over night; fought at the breastwork till they turned the corner of the rail fence and began to rake the whole breastwork. Saw Putnam pass up and down the line on horseback during the battle, encouraging the soldiers. The shot were very thick where he was; he had a very calm, encouraging look. Knew him because I had seen him at Cambridge.

Thos. Davis, Holden. Saw Gen. Putnam on Bunker Hill; he told a negro he would cut him down if he attempted to run; he tried to get past, and Putnam struck him down with his sword.

John Holden, Leicester, Doolittle's Regt. Capt. afterwards in the army. In his statement and letter to the treasurer he says:— Early in the morning Putnam came to our Regt. stationed the night before near Prospect Hill, and ordered it on to the Hill by 9 o'clock. We went, and soon took post on left of Col. Stark by rail fence. During the action I often saw Gen. Putnam come up to our Regt.; he appeared very actively engaged in the action. One of the Regt. got down behind a haycock; Gen. Putnam rode up and cried, "Gods curse him! run him through if he won't fight!" gave him one or two blows with his sword and drove him into the ranks.

Sam'l Jones, Sudbury, Doolittle's Regt.

[*This gentleman, and the next witness of E. Sudbury, are well known by Dr. Bigelow the distinguished Botanist*, as witnesses of the highest respectability.]

Was at the rail fence; saw Gen. Putnam and spoke with him, he encouraged us very much, and rode up and down behind us, his horse was all of a lather, and the battle was going on very hotly at the time.

Mr. Jones has since informed me,

Our cannon were brought down behind the rail fence; "I recollect with perfect distinctness they were fired a number of times."

NATHANIEL RICE, E. Sudbury. Was in the fort; fired a musket I took from the British at Concord 26 times. Saw Putnam riding round, encouraging the people to the utmost, before the battle and during the battle.

JOSIAH CLEVELAND, of Canterbury, Conn. in '75, Putnam's Regt. Helped build Redoubt; fought at rail fence. [In a detailed statement before Wm. Stevenson, Esq. he says:] Went night of 16th; halted at neck by Gen. Putnam and ordered to load with 2 balls; to march in profound silence; Gen. Putnam at our head. There was a consultation of officers on Bunker Hill. Gen. Putnam was advanced to front; suppose he led us to Breed's Hill. Saw him soon after arriving there. He ordered out a guard to the shore; I went; returned at daylight; found Putnam and others directing the works. He was doing this most part of the time till enemy landed; he then ordered Conn. and part of Mass. troops to make the breastwork at rail fence. Before fire of muskets began, Putnam ordered us to lie down, and not to fire till we saw their buttons An old soldier wanted to go off, he said, for water. Gen. Putnam told him, he depended on him as one of his best soldiers; he persisted, and Gen. Putnam ran his sword through or into his arm and made him return to his duty. Fired 40 cartridges, borrowed 3 more. British had several pieces of field artilllery; one of our pieces was used at the rail fence. Knew Gen. Putnam very well.

SIMEON NOYES, Salem, Little's Regt. was in the fort. He deposes before B. Merrill, Esq. Salem:—The bell was ringing, I know not whether for 1 o'clock, or the alarm. Adjutant Jenkins rode up and hallooed, "Turn out! the enemy 's all landed at Charlestown." Col. Little and our Capt. went into the fort. Gen. Putnam rode up on his old white horse, and said to Lieut Whitmore, the Capt. being out of hearing, "Draw off your men here (pointing to the rail fence,) and man the rail fence; the enemy are flanking us fast." I was an eye-witness of this. Gen. Putnam was not in the fort during the engagement; he was riding to and fro in all parts of the line, encouraging the men, pressing them forward, and giving orders to the officers. He did not stop long in any one place. I saw him several times during the battle. When we were retreating, he rode up to us with his tent and tent-poles on his horse, and asked why we were retreating. He said, we had been wishing to have the enemy come out, and now we had retreated, and had left the tools for them to fortify with;—that we ought to be ashamed of such conduct. But our officers thought he was too fiery, and refused to go back as he wished.

Wm. Marden, Portsmouth, Gerrish's Regt. deposes before N. A. Haven, Esq. On reaching the top of Bunker Hill, saw Gen. Putnam on horseback, riding backward and forward, urging the men onwards to the charge, and presently saw him ride down the hill toward the enemy. Before we reached breastwork, retreat commenced.

The statements of the two following witnesses were taken by the Author.

Amos Foster, Tewksbury. Putnam came and ordered some men to take tools, and he took some and went to Bunker Hill to fortify. The enemy's fire was so hot to the top of the hill, they had to leave and retreated to us. While we were firing at the enemy, heard Putnam tell us, to fire low. He was on horseback. I was at the rail fence; near breastwork. Two of our field-pieces were near me and fired a number of times. Hill, a British deserter, said we fired too high. The pieces were lowered; he said, with an oath, "you have made a furrow through them." He watched British field-pieces, and, when they were about to fire, we all laid down. One man was burned very badly by a cannon cartridge. I knew Putnam soon after Lexington battle.

Col. Wade, of Ipswich, Treasurer of Essex county, Capt. in Little's Regt. "The British field-pieces fired a great deal before small arms. I was at the rail fence. I saw Putnam, while we were engaged with the enemy, riding down Bunker Hill toward the rail fence. He was the only officer I saw on horseback. He seemed busily engaged bringing on troops. One of our cannon, deserted by Callender, was fired a number of times at rail fence very near me; two men in our Regt. Halliday and Dutton, of Newburyport, fired one of the cannon 3 or 4 times and hurraed very loud. On the retreat, I saw Putnam on Bunker Hill; there were intrenching tools there, and he tried to stop our troops to throw up works there. He said, 'make a halt here, my lads, and we can stop them yet.'"

The following statements were made at Adj. Gen. Sumner's office.

John Stevens, Andover, Frye's Regt. went over night. Was in the fort. Saw Putnam in the fort before small arms fired; told them, not to fire till they saw the white of their eyes. Threatened to kill some who fired too soon.

George Leach, Salem, Whitcomb's Regt. Our company detached to the hill in the evening. Was at rail fence. Saw Putnam

repeatedly during the march to the Hill, urging and directing the men where to station themselves. In the height of the action, saw Putnam again at the fence encouraging the men.

DAVID BREWER, Framingham. Our Captain, afraid to go on, was marching off, when Putnam met us at the neck, and turned us back on to the hill.

Jos. TRASK, Billerica, Gardner's Regt. Putnam ordered them to make a breastwork on Bunker Hill, which they commenced. A short time afterwards, Putnam came back, and ordered the Col. to march and take a position. Saw Putnam repeatedly at the fence during the action, encouraging the men and officers, calling out to the officers to drive the men up, and not let them flinch. Knew Putnam well; for some time one of his guard.

Before publishing the Sketch, the Author received the following testimony.

A Certificate from THOMAS DAY, Esq. Secretary of the State of Connecticut, that, from the records of that State, it appears, Gen. Putnam was in April, 1775, appointed by the General Assembly of Connecticut, Brigadier-General, Colonel of the second Regt. and Capt. of the first company of that regiment.

ELIJAH JOURDAN, Bucksfield, *deposes before a very respectable Magistrate, Sam'l F. Brown, Esq. who certifies, with another person, that Jourdan possesses an unblemished character:*

"Helped build the intrenchments, and fought within the intrenchment till the British took possession of our fort; during which time, I perfectly well remember that Gen. Putnam was in the said intrenchment [breastwork] very frequently during the engagement, giving orders as commander in chief; and I perfectly recollect, that he was in the fort* when the reinforcement of the British came up. While we were waiting for the British to come up the Hill, orders were given to us not to fire till we could see the whites of their eyes; and this order, I was then told, came from Gen. Putnam; but I did not hear it from him. I knew Gen. Putnam's person perfectly well at that time, having frequently seen him before."

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* This was a little before the battle; during the battle the distinguished hero and patriot Col. Prescott had the entire and uncontrolled command in the Redoubt.

Col. J. PAGE, of Atkinson, stated before John Vose, Esq. :

"Was in the action. Saw Gen. Putnam, before the action commenced, conducting cannon to the fort; saw him after the firing commenced. Well recollects he thought Putnam did not want courage."

AARON SMITH, Shrewsbury; statement before S. D. Ward, Esq.

"I assisted in preparing the intrenchment at the rail fence, under Putnam's orders; and was, during the whole battle, at that place. Putnam was active, so far as I saw, in discharge of his duty. Though I served a considerable length of time, never heard that he was chargeable with any misconduct. He appeared to me to have, and I always understood he had, the command of the troops."

EZRA RUNNELS, Middleborough, deposes before Wilkes Wood, Esq.

"I belonged to Capt. Gridley's artillery company. Went on to the Hill with the company, and 2 small pieces, the evening before the battle; and was at and near the redoubt during the battle, until our party retreated. I well remember of seeing Gen. Putnam at the breastwork during the battle. Before that time, residing in Groton, Connecticut, was personally acquainted with him. I repeatedly saw him during the action walking upon the breastwork and animating the men to exert themselves. Capt. Gridley, having received some cartridges which were too large for our pieces, said that nothing could be done with them, and left his post, and our company was scattered. General Putnam came to one of the pieces, near which I stood, and furiously inquired where our officers were? On being told our cartridges were too big, and that the pieces could not be loaded, he swore, and said they could be loaded, taking a cartridge, he broke it open, and loaded the pieces with a ladle, which was discharged; and assisted us in loading two or three times in that manner."

Col. Jos. WHITMORE, Newburyport, Lieut. in Little's Regt. well known as a most respectable witness, a native of Charlestown, brought up as an apprentice by Richard Devens, Esq. stated before a Magistrate, Hon. Ebenezer Mosely. "Went with part of his company down to the left of Redoubt, near some trees which were standing, and there received the attack. On the retreat, Col. Whitmore was wounded in his thigh. The Col. states, that, at the very moment he was wounded, Gen. Warren fell, and was within six feet of him. As it respects Gen. Putnam, Col. Whitmore states, that he knew Gen. Putnam perfectly well; that he was well acquainted with him in the

old French war; that he saw Gen. Putnam on Breed's Hill when he went on with his company, and also on the retreat soon after he was wounded, on the side of the Hill. He says, that, well knowing Gen. Putnam and the Gen. knowing him, he said, " General, shan't we rally again ?" Gen. Putnam said, " Yes, as soon as we can, are you wounded ?"

PHILIP JOHNSON, Esq. of Newburyport, same company, states before same Magistrate :

Was at the rail fence. While there, just before the action began, he saw Gen. Putnam on horseback very near him, and distinctly heard him say, " Men, you know you are all marksmen, you can take a squirrel from the tallest tree. Don't fire till you see the whites of their eyes." Immediately after the first retreat of the British, Gen. Putnam rode up and said, " Men, you have done well, but next time you will do better, aim at the officers." The British entered the redoubt without much firing, and the retreat commenced. Just as Mr. Johnson left his place at the rail fence, about half a gun shot from the redoubt, General Putnam rode up, his horse covered with foam, and said something, he does not distinctly know what, and rode off. " The balls were flying as thick as peas." More unexceptionable witnesses than these two never testified.

COL. SMALL. Col. PUTNAM, son of the General, states, that, soon after the battle, Col. Small sent a present to his father by a flag, with warm acknowledgments for the great obligation he was under. Col. Putnam requesting an explanation, his father said, he had long been an intimate friend of Small, and loved him as a brother. That, after the enemy were repulsed from the left and centre where he was, the firing continued brisk on the right, to which he rode quickly ; the enemy were just retreating. The smoke and dust clearing off, the first thing he saw was Small, standing alone, close to the breastwork, deserted by his men. An American drew up his piece to level at him ; Putnam prevented him, and hallooed aloud to those near who were preparing to fire : " don't fire, he's a friend of mine." He was obeyed, and Small, thanking him, escaped.

Small, in a subsequent billet, invited Putnam to meet him. By Washington's advice, he complied ; received pressing invitations to join the British, and promise of high rank and emolument for himself and sons if he would. These offers were spurned, and communicated to Washington, who advised him, as the times were jealous, to say nothing of it.

Col. afterwards Gen. Small, and Governor of the Island of Guernsey, declared to Col. Trumbull and Maj. Garden, at different times that Gen. Putnam was in this situation, and in this manner saved his life. Col. Small stated this as a motive, which should have induced him to attempt, as he afterwards did, to save the life of his friend Warren. He stated to Dr. Jeffries of Boston, a surgeon in the British army, that, when he entered our redoubt, he saw Warren retiring, and called to him, for God's sake, to stop, and save his life. Warren looked and seemed to recognize him, but kept on, and was killed by a ball through his head. These facts Dr. Jeffries related to the Author, referring to his journal in confirmation of them. That Warren fell in this situation we know from Gen. Dearborn's statement to Wilkinson, Gen. Winslow, Col. Whitmore, Col. Bridge, Dr. Jeffries, and many others. We learn from the Dr. and Hon. Perez Morton, that he and Small were very intimate.

Small and Putnam were likewise intimate friends. Gov. Brooks informed the author, that when they met at Charlestown, on the exchange of prisoners, they ran into each other's arms and kissed each other, to the great diversion and astonishment of the country people of the army.

Samuel Bassett, Stark's Regt. His deposition, lost, was, we believe :—His company left Medford later than the rest, was at Ploughed hill about ½ past 2, a little before the fire commenced. In about 15 minutes, Gen. Putnam came on the gallop, and said, "up, my brave boys, for God's sake ! we drive them."

Deacon Millar, of Charlestown [we have his written certificate,] states, he was in Gardner's Regt. and just over the neck at the foot of Bunker Hill when the musketry fire began, and did not see Gen. Putnam till he was half way up Bunker Hill, when he ordered them to carry on intrenching tools.

Though this statement can be reconciled with the numerous witnesses, who saw Putnam at the American line when the battle began, supposing, while Millar's Regt. marched up to the tools, Putnam left the lines and rode back to this Regt. about ¼ of a mile, the ride of a minute for him, yet Deacon Millar is mistaken, and did not see Putnam till the action was half over. We offer the statement of Mr. Enoch Baldwin, of Milton, at Gen. Sumner's office, and more particularly taken by his son Aaron Baldwin, Esq. and myself :

"Was in the same, Gardner's Regt. and serjeant of the leading company. Marched to corner of road to Lechmere's Point to a fort

where Patterson's Regt. was posted. Gen. Ward's Aid D. C. came some time after battle commenced with orders for us to march to Bunker Hill. Passed the Neck by files ; helped drag some cannon to the top of the Hill. Gen. Putnam rode up to the Col. full gallop, and advised him to let his men carry on some intrenching tools ; and said, we should not have any more fighting, as the British had been beaten twice and had retreated the second time. Near top of the Hill, we found large stacks of tools, and took some ; but action re-commenced, and the Col. said, drop the tools and push on. When about a rod from the Redoubt, retreat commenced."

Judge Winthrop* says, he was coming off, the last of the battle, and met this Regt. which did not display. [The Col. being wounded, the right did not.]

John Hopkins, Templeton, in his statement, 17th June last. Same Regt. Came upon the Hill just as they left the Redoubt.

Mr. Thompson, of Charlestown, same Regt. Heard the small arms long before we arrived at Bunker Hill, and near Milk Row ; they sounded, compared to the cannon, like the crackling of fagots.

Wm. Dickson, same town and Regt. Before we took up our march for Bunker Hill, and before we reached Prospect Hill, I am sure I heard the musketry fire. Battle began a great while before we reached Bunker Hill. The musket balls flew very thick where Putnam was, nearly or quite on top of Bunker Hill. He did not seem to mind it. The balls pierced a cartridge-box, a hat, and breech of a gun. Putnam had his sword in his hand, and hallooed to us to drive up.

Maj. Dan'l Jackson, of Newton, Serjeant then in Foster's artillery company, kept a written journal. On the 17th June, '75, he entered :—" Bunker Hill fight was this day. Capt. Foster's company " was ordered down ; but they did not get there time enough to " do the good they ought, nor Col. Gardner's Regt." [They were together.]

Capt. Francis Green, one of the Boston Assessors, of the highest respectability, was a Serjeant in the same Regt. afterward a Capt. in the army. " The battle was nearly over when we arrived at the rail fence. It began, I think, when we were at Patterson's station. One of our men was wounded by a musket-ball on top of Bunker Hill. On our retreat, saw Putnam on Bunker Hill ; he was in danger from the balls flying there ; he tried to stop us, and to make us take up intrenching tools, as I understood him to throw up a breastwork there."

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* An. Rev.

[N.B. There is no difficulty in reconciling the foregoing testimony, as to Putnam's being at the Breastwork when the action began there, as it did first, and at the rail fence when it commenced there, afterward, if they were 40 rods apart ; but if necessary, to reconcile witnesses, we may suppose, with Stedman and other high authorities, that the rail fence and breastwork approached very near each other, and were even in contact.

Note B.

The hot fire to the top of Bunker Hill.

The musketry fire appears sufficiently from the evidence immediately preceding, though we have more ; and from Col. Gardner's mortal wound from a musket-ball, when Capt. Trevett states he was beside him, on top of Bunker Hill. We know that British muskets, elevated, will carry near a mile, from our own experience ; and, from the opinion of Gen. Millar, Gen. Boyd, and Maj. Brooks, the distance here was little more than $\frac{1}{4}$.

The formidable cannonade is asserted by Benj'n Butman, Postmaster of Dixmont, Amos Foster, before mentioned ; Capt. Trevett lost a gun carriage and one of his men by it. Dr. Dexter says, this fire kept the top of the Hill clear of troops after 12 o'clock.

Note C.

Gen. Putnam's command in the Battle.

No orders for the conduct and command of this expedition can be found. Gen. Ward's orderly book is silent in regard to it. They must be gathered from circumstantial evidence and parol testimony. Gen. Putnam's papers were destroyed by his son emigrating to the western country. The only orderly books I find of his troops commenced directly after the battle.

Putnam, according te the official certificate of Mr. Day, Secretary of the State of Connecticut, was appointed Brig. Gen. by that colony in April, '75. He came to Cambridge immediately after Lexington battle. 27th April. '75, Col. Huntington, of the Conn. troops, writes Gov. Trumbull, from Cambridge (Mass. Hist. Lib.), " Gen. Ward being at Roxbury, Gen. Putnam is Commander in Chief at this place." His son, who was then with him, states, he had a separate command of 3 Regts. near the place where the British landed pre-

vious to Lexington battle. Maj. Daniel Jackson, the 16. June, '75, made the following entry in a journal kept by him at the time :— " Gen. Putnam with the army went to intrench on Bunker Hill."

Capt. Trevett, senior Capt. of artillery, on the day of the battle inquired officially of his commanding officer, Maj. Gridley, then in command of all the artillery at Cambridge, and whose father, Col. Gridley, was inferior to no one in the councils of war, " who had command of the troops ?" and was informed by him, " Gen. Putnam ;" he observed at the time, " then there is nothing to fear." He consequently applied to Gen. Putnam for orders, and received them.

Doctor Aaron Dexter, in a statement from written memoranda, made at the time and preserved by him, says : That, the day after the battle, he was at Gen. Ward's quarters, and was informad by the officers there, that Gen. Putnam had command of all the troops which were sent down over night, and which might be ordered there the next day.

Col. Humphreys, in his life of Putnam, says, Gen. Warren went to Breed's Hill over night, and had the command. We learn from Col. Putnam, that all the biography of his father, during our revolution, was written at Mount Vernon, without any communication with Gen Putnam on the subject, and without his knowledge. An account of Gen. Putnam's life, preceding the revolution, was communicated to Col. Humphreys, by Dr. Waldo, a man of genius, who obtained his information from the Gen. at Col. Humphreys' request.

On the statement of Col. Humphreys, the Rev. Mr. Whitney, in a note to his funeral discourse on Gen. Putnam, remarks. " The true " state of the case was this : The detachment was at first put under " the command of Gen. Putnam ; with it he took possession of the " Hill, and ordered the battle from the beginning to the end. These " facts Gen. Putnam himself gave me soon after the battle, and also " repeated them to me after his Life was printed."

Gen. Putnam made these same declarations to his son. In support of his declarations we have his unsuspected honor and scrupulous religious principles. The Rev. Mr. Mosely states, he was one of the main pillars of Mr. Whitney's church ; on account of the profanity he had committed during the war, he made a public confession and humiliation before the whole church and congregation, though his pastor deemed it needless.

The only tittle of evidence we know of, in opposition to this testimony, is, that Col, Scamman published in a newspaper the report of a Court Martial, held on him, and to the very unfavorable testimony of Col. Whitcomb, as he is called by the Court, (who remark that the witnesses call him Gen.) Scamman, undoubtedly, if not, the printer, by way of revenge annexes the following " N. B. *Col. Whitcomb* " *acted as a Gen. Officer, and as there was no Gen. Officer who com-*

*"manded on Bunker Hill, was it not his duty to have been there?"**

It appears from the witnesses in this trial, under oath, that Col. Scamman, while the battle was going on, *sent to Gen. Putnam at Bunker Hill* to see if he was wanted, (his Serjeant swears he was thus sent, and it is not denied,) and that the Regt. went to the top of Bunker Hill; "after which Gen. Putnnm came up and ordered "the Regt. to advance, within hearing of Col. Scamman."

We can only say, 3000 of our ancestors would never have gone out to battle without some one to command the whole.

The conduct of Gen. Putnam the night before the battle, and during the engagement, has been sufficiently detailed and proved.

Note D.

The number of the British was about 5,000.

This is stated in the Pennsylvania Packet, July 3d, '75, from a number of authorities; the N. H. Gazette, June 27, '75, from a number of authorities. In a letter from Capt. Job Bradford, a near relative of Alden Bradford, Esq. 19th June, '75, published in those papers, he says: he came out of Boston the 18th, and the British troops, which went over the day of the battle, were 5000. The corps of the enemy sent over can't be estimated at less; they can be ascertained from various sources, especially De Berniere's plan of the battle, of the highest authority. His high standing appears from Gen. Gage's employing him, (with another distinguished officer, Capt. Brown, son-in-law of the patriot James Otis, afterwards wounded in the battle,) on the dangerous and difficult service of reconnoitring Suffolk and Worcester counties, preparatory to hostilities. His opportunities for gaining information from the battle ground, and other sources, were the best which existed.

Note E.

Duration of the Battle an hour and a half or two hours.

Penn. Packet, June 26, '75: "An express says, the battle lasted about two hours. This account is from Elijah Hyde, a spectator of the battle the whole time from Winter Hill." N. H. Gazette, 27. June, '75: "Bore as heavy a fire as was ever known of musketry and cannon, for 2 hours." Capt. Mann, 17. June last, states: Battle began about 3, and retreat about 5. Gen. Winslow

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* Scamman met Whitcomb early in the day, near Lechmere Point. Perhaps he knew that Putnam was absent from the Hill at that time, and meant Whitcomb ought then to have been there.

stated, the reinforcement arrived a little before 3. [battle began soon after.] Gov. Brooks met the troops retreating about 5.

Note F.

No Battery in Mystic River.

Gov. Brooks; also Dr. Dexter, who was very advantageously situated on Chelsea marshes to view the engagement, is confident of this. We might add a multitude of names; but this point is almost the only one on which witnesses disagree, except as to the time of the clock when any thing occurred, in respect to which the mistakes of the soldiers are almost ludicrous.*

There are authorities, perfectly decisive and satisfactory against the presence of a battery in the Mystic. In a very valuable work, "Detail and Conduct of the American War under Sir Wm. Howe," &c. praised in the Monthly Review, and which rapidly passed to a third edition, it is adduced as gross neglect, in the British commander that no such battery was placed there. The same charge is repeated in the history of Stedman, a British officer. There was not any, or the Mass. Cong. would have mentioned it, in their official account. The mistake arose from the profusion of balls which flew in so many directions, and from a floating battery's going up the river directly after the battle.

Note G.

Cannon were employed a great deal on both sides.

Although this has been formally denied, it would be as ridiculous gravely to prove a fact so notorious, by accumulating the vast mass of uniform testimony on this point, as to show that the breastwork did not point up toward Cambridge, but ran down toward the Mystic. We might dwell on the emphatic declarations in the official accounts of both belligerents, the indisputable testimony of De Berniere, Stedman, and the mass of evidence preceding; we merely add, Capt. Ford himself stated to Professor Stearns of the University, that Putnam gave him orders concerning Callender's cannon; his men carried them to the rail fence; and that he fired one of them a number of times himself.

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* They were very much in the situation of the king of Prussia's serjeant, who wore a bullet for a watch, and when his majesty who had learnt this, asked him the time of day by his watch, he answered that his only reminded him that he was to be ready to die at any time in his Majesty's service. The king presented him his own watch; our ancestors gained a greater reward.

Gen. Winslow stated to me, he was informed by the British officers that the mistake as to the oversized cannon balls was rectified, and a new supply sent over before the engagement. From subsequent evidence, however, it appears that they were not there in season to be employed on the first attack.

Dr. Jeffries informed me, that the mistake in sending over cartridges too large for the British cannon was committed by a young son of Master Lovell, who received his appointment in the ordnance department from old General Cleveland the head of it, who was in love with his sister. This mistake perhaps, which rendered the first attack by their field pieces faint, was decisive of our success on their two first attacks, and secured to us all the advantages of a victory throughout the engagement. The very authentic and satisfactory work we quoted above, "the Conduct of the War by Gen. Howe, &c." observes on this subject, "The wretched blunder of oversized "balls came from the dotage of an officer of rank in that corps, who "spends all his time with the schoolmaster's daughters. God knows "he is old enough; he is no Samson, yet he must have his Dalilah."

Note H.

We related in the first edition of our Sketch, a remarkable anecdote of a Clergyman, who was on the battle-ground at Bunker Hill, and extremely desirous of saying prayers over the body of Asa Pollard, the first victim who fell. We did so on the authority of Col. Prescott himself, and one of his Capts. as reported to us by Hon. Wm. Prescott, of Boston, the only son of Col. Prescott, and who has ever worthily supported the honour of his name. To those, who have taken trouble to peruse the newspapers of that period, it is perfectly well known, that the Clergyman, who was present and highly distinguished himself in Bunker hill battle, by valiantly fighting the foe, was the Rev. John Martin.* He was justly rewarded for his gallantry by a chaplaincy in a Rhode Island Regt.; and soon after the battle he preached a discourse from the following very appropriate text. Neh. 4. 14. "And I said unto the nobles, and to the rulers, "and to the rest of the people, Be not ye afraid of them: remember "the Lord *which is* great and terrible, and fight for your brethren, "your sons and your daughters, your wives and your houses." This text and chapter were selected with peculiar happiness for the occasion, and the application was peculiarly congenial with the taste of our ancestors.

P. S. The minute occurrences of Bunker hill battle have never been published. This will be done by the author, if the Public can tolerate any further notes on the subject.

* N. H. Gazette, 18 July 1775.

Gen. Winslow stated to me, he was informed by the British officers that the mistake as to the oversized cannon balls was rectified, and a new supply sent over before the engagement. From subsequent evidence, however, it appears that they were not there in season to be employed on the first attack.

Dr. Jeffries informed me, that the mistake in sending over cartridges too large for the British cannon was committed by a young son of Master Lovell, who received his appointment in the ordnance department from old General Cleveland the head of it, who was in love with his sister. This mistake perhaps, which rendered the first attack by their field pieces faint, was decisive of our success on their two first attacks, and secured to us all the advantages of a victory throughout the engagement. The very authentic and satisfactory work we quoted above, "the Conduct of the War by Gen. Howe, &c." observes on this subject, "The wretched blunder of oversized "balls came from the dotage of an officer of rank in that corps, who "spends all his time with the schoolmaster's daughters. God knows "he is old enough; he is no Samson, yet he must have his Dalilah."

Note H.

We related in the first edition of our Sketch, a remarkable anecdote of a Clergyman, who was on the battle-ground at Bunker Hill, and extremely desirous of saying prayers over the body of Asa Pollard, the first victim who fell. We did so on the authority of Col. Prescott himself, and one of his Capts. as reported to us by Hon. Wm. Prescott, of Boston, the only son of Col. Prescott, and who has ever worthily supported the honour of his name. To those, who have taken trouble to peruse the newspapers of that period, it is perfectly well known, that the Clergyman, who was present and highly distinguished himself in Bunker hill battle, by valiantly fighting the foe, was the Rev. John Martin.* He was justly rewarded for his gallantry by a chaplaincy in a Rhode Island Regt.; and soon after the battle he preached a discourse from the following very appropriate text. Neh. 4. 14. "And I said unto the nobles, and to the rulers, "and to the rest of the people, Be not ye afraid of them: remember "the Lord *which is* great and terrible, and fight for your brethren, "your sons and your daughters, your wives and your houses." This text and chapter were selected with peculiar happiness for the occasion, and the application was peculiarly congenial with the taste of our ancestors.

P. S. The minute occurrences of Bunker hill battle have never been published. This will be done by the author, if the Public can tolerate any further notes on the subject.

* N. H. Gazette, 18 July 1775.

Note K.

Robert Steele (of Dedham) drummer, beat yankee doodle on the day of the battle, was drum major during the war, instructed by Steuben, received two badges of merit, and had the honour of carrying every flag while the army were opposed to Burgoyne. On 17th June last, he had the satisfaction of beating the same tune, on the same spot, for the procession which laid the corner stone of a monument to commemorate the engagement, and of meeting 200 of his surviving companions in the battle on the same day, who all declared it the happiest of their lives. Parks, (of Cambridge) who blew the ear-piercing fife for Gardner's reg., afterwards fife major in the army, says yankee doodle was first employed at this time, being introduced by the British to ridicule the yankees. Parks' talents are still in requisition as an accomplished fifer, and by labour and industry he has honorably educated and maintained his family of 25 children.

Note L.

Frost says, we fought behind some stones we threw up, on the shore of the Mystic ; I received a ball through the hip, and could not retreat, but crept in among the British wounded. In the morning I was discovered, and an officer ordered me to be carried to the fort ; the soldiers damned me and threatened to run me through if I did not rise and walk, but I was too stiff to move. They hauled me about till I became more limber, I took hold of their shoulders, hopped to the fort, was confined in Boston jail, and carried to Halifax ; in about a year, broke jail and went to R. Island to enlist again, but they would not accept me on account of my lameness.

Note M.

Gen. Winslow stated, a contribution was made in the army for Salem and he was presented to Washington as having slain Pitcairn, who was killed on the British left, according to all authorities. De Berniere places his marines there opposed to some houses near the redoubt and the "Conduct of the war, &c." says he was shot from some Charlestown houses. Four balls were lodged in him. He was much beloved in Boston, and the English papers contain the highest eulogies on him as a gentleman, soldier, husband and father. When slain, his son in agony exclaimed "I've lost my father," his soldiers ceased firing, and responded with that most eloquent eulogy "we've all of us lost a father." His family were pensioned, and his son promoted before his turn in his father's corps.

Many northern blacks were excellent soldiers, but southern troops could not brook an equality with negroes. Nov. 15, 1775, Washington prohibited their enlistment. Besides Salem, Cuffee Whittemore fought bravely in the redoubt. He had a ball through his hat on Bunker Hill, fought to the last, and when compelled to retreat, though wounded, the splendid arms of the British officers were prizes too tempting for him to come off empty handed, he seized the sword of one of them slain in the redoubt, and came off with the trophy, which

n a few days he unromantically sold. He served faithfully through he war, with many hair-breadth 'scapes from sword and pestilence.

It was not till the 29th June, that some other coloured allies joined the Americans, principally out of respect to Putnam, some Indian warriors from Canada; but they were unmanageable and soon dismissed.

Col. James Reed, a highly respectable officer, was stationed at Ticonderoga, in '76, and took the small pox, by which he lost his eye-sight for life. Col. Stark was dissatisfied at Col. Poor's being promoted to a brigadier gen. over him, and his letter to congress, complaining of it, not being noticed, he left the service, joined the N. H. militia as Brig. Gen. marched with these troops to protect the frontiers, independently of the national army, and gained his famous victories. Congress had resolved that the instructions which he had received were destructive of military subordination, but they now inquired of him why he did not inform them of his success. He answered that his correspondence with them was closed, as they had not attended to his last letters; they presented their thanks to him, his officers and troops, and promoted him to a Brigadier General.

The excessive variations in the military career of Col. Nixon are scarcely paralleled; those only of Col. Morgan perhaps can be compared with them. We believe, when he first entered service, a mere lad, he was tempted by two other soldiers much older than himself to desert, they were taken and condemned to be shot, but on account of his youth the platoon was ordered to fire at the two others only, and spare him. He fell senseless at the shock, and was afterward a brave Brig. Gen. But in the new organization of the army, at the latter part of the war, was left out of service.

Putnam's Capt., now Col. Clark, having been promoted, is the oldest surviving soldier of the battle, being 95, his bodily and mental powers are in astonishing preservation, he was one of the most lively of those at the celebration in June last, and his son, 64, was kept away by old age.

The oath for Off. and men was to serve faithfully in the Mass. army for defence and security of estates, lives and liberties of the good people of this and sister Colonies against ministerial tyranny, and to all other enemies and opposers, &c. to adhere to rules and regulations of army, obey officers over them, and disclose to said officers any conspiracies, attempts, &c. against said army or colonies.

Besides the N. H. troops already mentioned, a large company, 110, went from Exeter the day after Lexington battle, and staid at Cambridge 10 days, till recalled to guard the seaboard. John T. Gilman, afterward in the continental congress, and for 14 years Governor of N. Hampshire, went with these troops.

Gov. Brooks's declaration, page 23, line 5, was not taken in writing.

Wounded and made Prisoners. Serjeant Robt. Phelps, Phineas Nevers, Oliver Stevens, Danl. M'Grath, John Perkins, Amasa Fisk, Daniel Sessions, Jona. Norton, Philip J. Peck, Benj. Bigelow, Benj Wilson, Archibald M'Intosh, David Kemp. John Deland, Lawrence Sullivan, Timothy Kettle, Wm Robinson, Benj. Ross, John Dillon, Wm. Kench, Jas. Dodge, Wm. Rollinson, John Lord, Jas. Milliken, Steph Foster.

[Mass. Officers, probably in the battle, from a list on files of Congress endorsed as of those commissionated 19 May '75, probably a very few officers were added before 30th June, when the Com. of Cong. certify they delivered commissions to those on the list.]

GEN. WARD'S Regt.

Capts.	*Lieuts.*	*Ens. or 2d. Lieuts.*
Josiah Fay		
Seth Washburn	Jos. Livermore	Loring Lincoln
Job Cushing	Ezra Beman	Asa Rice
Danl. Barnes	Wm. Morse	Paul Brigham
Jas. Millan	Abel Perry	Aaron Abby
Luke Drury	Asaph Sherman	Jonas Brown
Jonas Hubbard		Wm. Gates
Saml. Wood		Thos. Sever
Moses Wheelock		Obadiah Mann
—— Smith	Moses Kellog	Elisha Lyman
		Jas. Hart

Adjt. Wm. Boyd, Qr. Mr. Ed. Flynt.

PRESCOTT'S.

Henry Farwell	Levi Whitney	Benj. Ball
Hugh Maxwell	Jos. Stebbins	
Jno. Nutting	Nathl. Lakin	Jno. Mosher
Josh. Parker	Amaziah Fasset	Thos. Rogers
Asa Parker	Ebenr. Spalding / Jos. Spaulding	
Saml. Gilbert	Jos. Gilbert	
Ol. Parker	Ephraim Corey	Jno. Williams
Jos. Moors	Zaccheus Walker	Thos. Spaulding.
Abijah Wyman	Joshua Brown	Jos. Baker
Samuel Patch		
Reuben Dow	Jno. Goss, a N. Hampshire Company.	

FRYE'S.

Benj. Ames	David Chandler	Isaac Abbott
Jno. Davis	Nathl. Herrick	Elipht. Bodwell
Wm. Pearley,	Jno. Robinson	Benj. Pearley
Thos. Stickney	Eliphalet Hardy	
James Sawyer	Timo. Johnson	Nathl. Eaton
Jona. Evans	John Merrill	Reuben Evans
John Currier	Wells Chase	Theoph. Gould
Benj. Varnum	Samuel Johnson	Cyrus Marble
Wm. H. Ballard		

Capts.	*Lieuts.*	*Ens. or 2d Lieut.*
Jona. Richardson	Josha. Reed	
Adjt. Daniel Hardy,	Qr. Mr. Benj. Foster.	

BRIDGE'S.

Benj. Walker	John Flynt	Ebenr. Fitch
John Batchelder	Ebenr. Dammon	James Bancroft
Ebenr. Bancroft	Nathl. Holden	Samuel Brown
Peter Coburn	Josiah Foster	Ebenr. Varnum
John Ford	Isaac Parker	Jonas Parker
John Rowe	Mark Pool	Ebenr. Cleaveland
Charles Forbush	Daniel Silver	Benj. Blanchard
Adjt. Joseph Fox,	Qr. Mr. John Bridge.	

LITTLE'S.

Jacob Gerish,	Silas Adams	Thomas Brown
Nathl. Warner	John Barnum	Daniel Collins
Nathl. Wade	Jos. Hodgkins	Aaron Parker
Abraham Dodge	Ebenr. Low	Jos. Lord
John Baker	Caleb Lamson	Daniel Dresser
Ezra Lunt	Moses Kent	Nathl. Montgomery
Benjamin Perkins	Jos. Whittemore	Wm. Stickney
Gideon Parker	Jos. Eveley	Moses Trask
Jos. Roby	Shubael Gorham	Enoch Parsons
Timo. Barnard	Paul Lunt	Amos Atkinson
Stephen Jenkins, Adjt.	Thomas Hodjkins, Qr. Mr.	

BREWER'S.

Isaac Gray	Thos. Willington	—— Wilson
Edward Blake	Abrm. Tuckerman	John Eames
John Black	Benj. Gates	John Patrick
Aaron Haynes	Elisha Brewer	
Daniel Whiting	Zebediah Dewey	
Benj. Bullard	Aaron Gardner	
Thaddeus Russell	Nathl. Maynard	Nathl. Reeves

GARDNER'S.

Joshua Harris,	Bar. Trace	Thomas Miller

NIXON'S.

	Silas Walker	Edwd. Richardson
Abisha Brown	Daniel Taylor	Silas Mann
	John Heald	John Hartwell
Micajah Gleason	James Kimball	Wm. Ryan
Moses M. Farland	David Bradley	Jacob Quimby

Capts.	*Lieuts.*	*Ens. or 2d Lieuts.*
David Moore	Micah Goodenow	Jona. Hill
Thomas Drury	Wm. Maynard	Joseph Mixer
Samuel M. Cobb	Benj. Pattie	John Riggs
Ebenr. Winship.	William Warren	Rich. Buckminster
Adj. Abel Holden.	Qr. Mr. John White.	

WOODBRIDGE'S.

Reuben Dickinson	Zaccheus Crocker	Daniel Shays*
Noadiah Leonard	Josiah Smith	Samuel Gould
Stephen Pearl	Aaron Rowley	Abner Pease
David Cowden		
John Cowls		
Ichabod Dexter,	Itha. Goodenough	John Mayo
John King	Wm. Smith,	Oliver Hagget
Seth Murray		
Asa Barnes	Caleb Smith	Timo. Reed

DOOLITTLE'S.

Joel Fletcher	John Wheeler	Jonas Proctor
Adam Wheeler	Elijah Stearns	Adam Maynard
Jona. Holman	John Bowker	David Pair
John Jones	Saml. Thompson	
Robert Oliver	Thomas Glover	Abraham Pennel
Abiel Wilder	Jonas Allen	Daniel Pike
John Leland	Saml. Burbank	[Oliver Work]

WHITCOMB'S.

	Jona. Guild	Timo. Boutelle
	Ebenr. Wood	—— West

Gerrish has no Capt. Bayley on record, our informant probably mistook the name, see p. 41.

Connecticut Officers appointed April '75, from the State Records.

Capts.	*1st Lieuts.*	*2d Lieuts.*	*Ensigns.*
Gen. Putnam	Jona. Knight	Th. Grosvenor	Elij. Loomis
Lt. Col. Storrs	Jas. Dana	Ebenr. Gray	Isc. Farewell
Maj. Durkey	J. Huntington	Jacobus Dellet	L. Bingham
Maj. Johnson	Eph. Lyon	Mills Clipp	Isc. Hill Jr.
T. Knowlton Jr.	Reub. Marcy	John Keyes	Dan. Allen Jr.
James Clark	Dan. Tilden	And. Fitch	Thos. Bill
Eph. Manning	Steph. Lyon	Asa Morris	Wm. Frissell

* Leader of the Insurgents.

Jos. Elliot Benone Cutler Danl. Waters Comfort Day
Ebenr. Mosely Steph. Brown Mel. Bingham Nath. Wales
Isr. Putnam Jr. S. Robinson Jr. Amos Avery Caleb Brady
John Chester Barnah. Dean Step. Goodrich Ch. Butler 2d
Wm. Colt Jed. Hide Jas. Day Wm. Adams Jr
Rev. Abiel Leonard, Chap. John Spalding, Surg

New Hampshire Officers from the State Records in service before the Battle, and according to pay rolls, till after it.

REED'S Regt.

Capts.	*Lieuts.*	*Ens. or 2d Lieuts.*
Hez. Hutchings	Amos Emerson	John March
Jacob Hinds	Isaac Stone	Geo. Aldrich
Levi Spaulding	Joseph Bradford	Thomas Baffe
Ezra Towne	Josiah Browne	John Harkness
Jona. Whitcomb	Elijah Cleaves	Stephen Carter
William Walker	James Brown	Wm. Roley
Philip Thomas	John Harper	Ezekiel Rand
Benj. Mann	James Brewer	Saml. Pettingale
Josiah Crosby	Danl. Wilkins	Thomas Maxwell
John Marcey	Isaac Farwell	James Taggart
Adjt. Steph. Peabody.	Qr. Mr. Isaac Frye.*	

* Parker Hills, John Dane, David Carlton, David Scott, Jona. Lovejoy, Geo. Carlton, Isaac Adams, Ebenr. Blood, Jos. Blood, John Cole, James Hutchinson, Jos. Farwell, privates killed.

STARK'S Regt.

Geo. Reid	Abraham Reid	James Anderson
	Amos Morrill	Michael M'Clary
Dan. Moore	Ebenr. Frye	John Moore
Joshua Abbott	Saml. Atkinson	Abiel Chandler
Gordon Hutchins	Joseph Soper	Danl. Livermore
Aaron Kinsman	Ebenr. Eastman	Samuel Dearborn
Elisha Woodbury	Thomas Hardy	Jona. Corliss.
Saml. Richards	Moses Little	Jesse Karr
John Moore	Thos. M'Laughlin	Nathl. Boyd
Isaac Baldwin	John Hale	Stephen Holt
Adjt. Abiel Chandler.	Qr. Mr. Henry Parkenson.†	

† Wm. Mitchell, Geo. M'Shannon, John Manuel, Moses Poor, Thomas Collins, Caleb Dalton, privates killed.
Rev. David Osgood was N. Hampshire Chaplain.

GAGE'S OFFICIAL ACCOUNT.

An alarm was given at break of day, on the 17th inst. by a firing from the *Lively* ship of war; and advice was soon afterward received that the rebels had broke ground, and were raising a battery on the heights of the peninsula of Charlestown, against the town of Boston. They were plainly seen at work, and, in a few hours, a battery of six guns played upon their works. Preparations were instantly made for landing a body of men to drive them off; and ten companies of the grenadiers, ten of light infantry, with the 5th, 38th, 43d, and 52d battalions, with a proportion of field artillery, under the command of major general Howe, and brigadier general Pigot, were embarked with great expedition, and landed on the peninsula without opposition, under the protection of some ships of war, armed vessels, and boats, by whose fire the rebels were kept within their works. The troops formed as soon as landed; the light infantry posted on the right, and the grenadiers upon their left. The 5th, and 38th battalions drew up in the rear of those corps, and the 43d and 52d battalions make a third line. The rebels upon the heights were perceived to be in great force, and strongly posted. A redoubt was thrown up on the 16th, at night, with other works, full of men, defended with cannon, and a large body posted in the houses in Charlestown, covered their right flank; and their center and left were covered by a breast-work, part of it cannon-proof, which reached from the left of the redoubt to the Mystick or Medford river. This appearance of the rebels' strength, and the large columns seen pouring in to their assistance, occasioned an application for the troops to be reinforced with some companies of light infantry and grenadiers, the 47th battalion, and the 1st battalion of marines; the whole when in conjunction, making a body of something above 2000 men. These troops advanced, formed in two lines, and the attack began by a sharp cannonade from the field pieces and the howitzers, the lines advancing slowly, and frequently halting to give time for the artillery to fire. The light infantry was directed to force the left point of the breast-work, to take the rebel line in flank, and the grenadiers to attack in front, supported by the 5th and 52d battalions. These orders were executed with perseverance, under a heavy fire from the vast numbers of the rebels; and notwithstanding various impediments before the troops could reach the works, and though the left, under brigadier general Pigot, was engaged also with the rebels at Charlestown, which, at a critical moment, was set on fire, the brigadier pursued his point, and carried the redoubt.

The rebels were then forced from other strong holds, and pursued till they were driven clear off the peninsula, leaving five pieces of cannon behind them. The loss the rebels sustained must have been considerable, from the great numbers they carried off during the time of action, and buried in holes, since discovered; exclusive of what they suffered by the shipping and boats; near 100 were buried the day after, and thirty found wounded, in the field, three of which are since dead. I inclose your lordship a return of the killed and wounded of his majesty's troops. This action has shown the superiority of the king's troops, who, under every disadvantage, attacked and defeated above three times their own number, strongly posted and covered by breast-works.

The conduct of major general Howe was conspicuous on this occasion, and his example inspirited the troops, in which maj. gen. Clinton assisted, who followed the reinforcement. And in justice to brig. gen. Pigot, I am to add, that the success of the day must, in great measure, be attributed to his firmness and gallantry. Lieut. cols. Nesbitt, Abercrombie, and Clarke; Majors Butler, Williams, Bruce, Spendlove, Smelt, Mitchell, Pitcairn and Short, exerted themselves remarkably; and the valour of the British officers and soldiers in general, was at no time more conspicuous than in this action.

Killed and wounded. 1 Lieut. col., 2 majors, 7 captains, 9 lieutenants, 15 serjeants, 1 drummer, 191 rank and file, killed. 3 Majors, 27 captains, 32 lieutenants, 8 ensigns, 40 serjeants, 12 drummers, 700 rank and file, wounded.

MASSACHUSETTS CONGRESS ACCOUNT.

In obedience to the order of the general congress, this committee have inquired into the premises, and, upon the best information obtained, find, that the commanders of the New England army had, about the fourteenth ult. received advice that general Gage had issued orders for a party of the troops under his command to post themselves on Bunker's hill, a promontory just at the entrance of the peninsula at Charlestown, which orders were soon to be executed; upon which it was determined, with the advice of this committee, to send a party, who might erect some fortifications upon the said hill, and defeat the design of our enemies. Accordingly, on the 16th ult., orders were issued that a detachment of one thousand men should that evening march to Charlestown, and intrench upon that hill. Just before nine o'clock they left Cambridge, and proceeded to Breed's Hill, situated on the further part of the peninsula, next to Boston, (for by some mistake this hill was marked out for the intrenchment instead of the other.) Many things being necessary to be done preparatory to the intrenchments being thrown up, which could not be done before, lest the enemy should discover and defeat the design, it was nearly twelve o'clock before the works were entered upon. They were then carried on with the utmost diligence and alacrity; so that by the dawn of day they had thrown up a small redoubt about eight rods square. At this time a heavy fire began from the enemy's ships, a number of floating batteries, and from a fortification of the enemy's, upon Copp's Hill, in Boston, directly opposite our little redoubt. An incessant shower of shot and bombs was rained by these upon our works. The Americans continued to labour indefatigably till they had thrown up a small breast-work, extending from the east side of the redoubt to the bottom of the hill, but were prevented completing it by the intolerable fire of the enemy. Between twelve and one o'clock, a number of boats and barges, filled with the regular troops from Boston, were observed approaching towards Charlestown; these troops landed at a place called Moreton's Point, situated a little to the eastward of our works. This brigade formed upon their landing, and stood thus formed till a second detachment arrived from Boston to join them; having sent out large flank guards, they began a very slow march towards our lines. At this instant, smoke and flames were seen to arise from the town of Charlestown, which had been set on fire by the enemy, that the smoke might cover their attack upon our lines, and perhaps with a design to rout or destroy one or two of our regiments who had been posted in that town. If either of these was their design, they were disappointed; for the wind shifting on a sudden, carried the smoke another way, and the regiments were already removed. Our troops, within their intrenchments, impatiently awaited the attack of the enemy, and reserved their fire till they came within ten or twelve rods, and then began a furious discharge of small arms. This fire arrested the enemy, which they for some time returned, without advancing a step, and then retreated in disorder and with great precipitation to the place of landing, and some of them sought refuge even within their boats. Here the officers were observed by the spectators on the opposite shore, to run down to them, using the most passionate gestures, and pushing the men forward with their swords. At length they were rallied, and marched up, with apparent reluctance, towards the intrenchments; the Americans again reserved their fire until the enemy came within five or six rods, and a second time put the regulars to flight, who ran in great confusion towards their boats. Similar and superior exertions were now necessarily made by the officers, which, notwithstanding the men discovered an almost insuperable reluctance to *fighting in this cause*, were again successful. They formed once more, and having brought some cannon to bear in such a manner as to rake the inside of the breast-work, from one end of it to the other, our troops retreated within their little fort. The ministerial army now made a decisive

effort. The fire from the ships and batteries, as well as from the cannon in the front of their army, was redoubled. The officers in the rear of their army were observed to goad forward the men with renewed exertions, and they attacked the redoubt on three sides at once. The breast-work on the outside of the fort was abandoned; our ammunition was expended, and but few of our troops had bayonets to affix to their muskets. Can it then be wondered that the word was given by the commander of the party to retreat? but this he delayed till the redoubt was half filled with regulars, and our troops had kept the enemy at bay some time, confronting them with the butt end of their muskets, the retreat of this little handful of brave men would have been effectually cut off, had it not happened that the flanking party of the enemy, which was to have come upon the back of the redoubt, was checked by a party of our men, who fought with the utmost bravery, and kept them from advancing farther than the beach; the engagement of these two parties was kept up with the utmost vigour; and it must be acknowledged that this party of the ministerial troops evinced a courage worthy of a better cause: all their efforts however were insufficient to compel their equally gallant opponents to retreat, till their main body had left the hill; perceiving this was done, they then gave ground, but with more regularity than could be expected of troops who had no longer been under discipline, and many of whom never before saw an engagement.

In this retreat the Americans had to pass over the neck which joins the peninsula of Charlestown to the main land. This neck was commanded by the Glasgow man of war, and two floating batteries, placed in such a manner as that their shot raked every part of it. The incessant fire kept up across this neck had, from the beginning of the engagement, prevented any considerable reinforcements from getting to our troops on the hill, and it was feared it would cut off their retreat, but they retired over it with little or no loss.

With a ridiculous parade of triumph, the ministerial generals again took possession of the hill which had served them as a retreat in flight from the battle of Concord. It was expected that they would prosecute the supposed advantage they had gained, by marching immediately to Cambridge, which was distant but two miles, and which was not then in a state of defence. This they failed to do. The wonder excited by such conduct soon ceased, when, by the best accounts from Boston, we are told, that of 3000 men who marched out upon this expedition, no less than 1500 (ninety-two of whom were commissioned officers) were killed or wounded; and about 1200 of them either killed or mortally wounded. Such a slaughter was perhaps never before made upon British troops in the space of about an hour, during which the heat of the engagement lasted, by about 1500 men, which were the most that were at any time engaged on the American side. The loss of the New England army amounted, according to an exact return, to 145 killed and missing, and 304 wounded: thirty of the first were wounded and taken prisoners by the enemy. Among the dead was major general JOSEPH WARREN, *a man whose memory will be endeared to his countrymen, and to the worthy in every part and age of the world, so long as virtue and valour shall be esteemed among mankind.* The heroic colonel Gardner, of Cambridge, has since died of his wounds; and the brave lieutenant colonel Parker of Chelmsford, who was wounded and taken prisonor, perished in Boston gaol. These three, with major Moore, and major M'Clary, who nobly struggled in the cause of their country, were the only officers of distinction which we lost. Some officers of great worth, though inferior in rank, were killed, whom we deeply lament. But the officers and soldiers in general, who were wounded, are in a fair way of recovery. The town of Charlestown, the buildings of which were large and elegant, and which contained effects belonging to the unhappy sufferers in Boston, to a very great amount, was entirely destroyed, and its chimnies and cellars now present a prospect to the Americans, exciting an indignation in their bosoms, which nothing can appease but the sacrifice of those miscreants, who have introduecd horror, desolation, and havoc into these once happy abodes of liberty, peace, and plenty. We wish for no farther effusion of blood, if the freedom and peace of America can be secured without it; but if it must be otherwise, we are determined to struggle. We disdain life without liberty.

Oh Britons! be wise for yourselves before it is too late; and secure a friendly intercourse with the American colonies; disarm your ministerial assassins; put an end to this unnatural war, and suffer not any rapacious despots to amuse you with the unprofitable ideas of your *right to tax and officer the colonies*, till the most profitable and advantageous trade you have is sacrificed. Be wise for yourselves, and the Americans will contribute to and rejoice in your prosperity.

J. PALMER, *per order.*

CELEBRATION

OF THE

BATTLE OF KING'S MOUNTAIN,

OCTOBER, 1855,

AND THE

ADDRESS

OF THE

Hon. JOHN S. PRESTON.

TOGETHER WITH

THE PROCEEDINGS OF THE MEETINGS AND ACCOMPANYING DOCUMENTS.

YORKVILLE, S. C.
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King's Mountain Celebration.

PRELIMINARY MEETINGS.

From the Yorkville Enquirer, June 7, 1855.

In another column of to-day's issue will be found the proceedings of the meeting held on the 4th instant, in relation to the King's Mountain Celebration. From unforseen circumstances, the day was rather unfavorable to a large concourse of persons. During the last two or three weeks the rains have been almost incessant, and farmers were of course eager to embrace the first opportunity of bestowing necessary attention to their farms. Yet it was gratifying to the friends of the project to see such a goodly number in attendance. All portions of the district were well represented; and we doubt not the action of the meeting was a faithful reflex of the opinion of the entire district. It was truly encouraging, too, to witness the harmony that prevailed in the meeting. All present seemed to take a deep interest in the move, and the feeling as far as manifested was very decidedly in favor of the celebration, and that, too, on as grand a scale as possible. Quite a broad platform has been erected; but, from the character of the celebration in contemplation, it was important to provide sufficient room for all whom we earnestly desire to participate. It must be borne in mind that it should be a jubilee not of the district or state alone, but of the several states whose historic connection with the battle entitles them to full and equal participation with ourselves. The glory of the achievement is as much their heritage as ours.

The battle-ground is in our district, and the other districts of the state, properly enough, expected that we should take the initiative. But the whole plan and scope of the meeting was to make it a state affair, and committees were appointed in reference to that fact. Our citizens must not suppose that they will have to bear the whole burden of the day. The state would not be willing to accord to them such pre-eminent distinction, even if they were ambitious or presumptuous enough, as our neighbors would suppose, to aim at it. We have sufficient guarantees from numerous districts in the state to warrant us in the conclusion that they will gladly come to our assistance. We believe, too, our sister states—Virginia, North Carolina, Tennessee, and Kentucky—will cheerfully respond to the call that has been made upon them, and take up the line of march on a pilgrimage to the Mecca of their liberties. A general committee has been appointed on the part of the state, to solicit the co-operation of these states in the proposed celebration. We have an abiding hope that this committee, composed as it is of the most talented and influential men in the state, will exert themselves in promoting the object for which they were appointed. With our worthy chief magistrate as marshal, and the Hon. John S. Preston one of the orators of the day, by proper exertion on the part of the state committee the celebration will be alike creditable to themselves and the state they represent, and worthy the great event to be commemorated.

From recent demonstrations, we know the press will co-operate with us in this great undertaking. A number of the editors of this state, as well as North Carolina, have placed us under renewed obligations to them, for their zealous advocacy of the measure. If they continue to sustain it, with might and main, as we know they will, we have no fear of the result.

The re-union of the states on the ever-memorable spot, whose history covers with such peerless lustre their heroes and patriots, will open a well-spring of gladness deep and exhaustless. We meet as children of the same family, as joint possessors of the same heritage of fame. It should be a source of gratulation, that here all party bickering and dissension may cease, and no political commotion mar the interest and pleasure of the scene. Sordid and corrupt ambition would stand rebuked and abashed in the presence of the divinity of the place. We must yield to the more ennobling feelings of our nature while contemplating the

purest models of patriotism. The moral sublimity of the achievement is, beyond doubt, the most attractive feature in this splendid panorama of events. Occurring, as it did, so opportunely for the success of the cause then pending, it is invested with the semblance of divine ordination, and its claim is vindicated to be considered one of the most distinguished events in the annals of our revolutionary history. Defeat and disaster had weakened and dispirited the American forces—gloomy forebodings were entertained of disgraceful termination of the struggle after so many well-fought conflicts. But the victory of King's Mountain changed completely the tide of battle. These gloomy apprehensions were dissipated, desponding patriotism was cheered, victory after victory attended our arms, until at last the grand result of the battle of King's Mountain reached its culmination in the surrender at Yorktown.

PUBLIC MEETING.

In obedience to the call for a public meeting, a goodly number of the citizens of York district assembled in the court house, on Monday, the 4th instant, to take into consideration the project of a celebration of the next anniversary of the battle of King's Mountain. Hon. I. D. Witherspoon was called to the chair, and Samuel W. Melton appointed secretary. In a few pertinent and well-timed remarks the chairman stated the object of the meeting—that the citizens had been called together with the view of taking whatever preliminary action might be requisite to enlist the co-operation of the districts in this state, and the sympathy of the people of those states most intimately identified with the occasion, in order to the consummation of a celebration worthy of the day, and in keeping with the results attendant upon it—and in a truthful and forcible manner urged the adoption of measures best calculated to effect the purposes in contemplation. On motion of Colonel W. B. Wilson, a committee was appointed to report resolutions for the action of the meeting, and after a consultation, submitted the following:

Resolved, That it is expedient and proper to celebrate the anniversary of the battle of King's Mountain, on Thursday, the fourth day of October next.

Resolved, That each district in this state be earnestly solicited to co-operate with us in effecting this end, and that they be requested to appoint committees whose duty it shall be to receive and forward whatever contributions may be placed in their hands; and that the districts of Chester, Union, Spartanburg, and Lancaster, in this state, and the adjoining counties in North Carolina, be also requested to appoint committees, to act in concert with the committee of arrangements to be constituted by this meeting.

Resolved, That our fellow-citizens of the states of Virginia, Tennessee, North Carolina, and Kentucky, and especially the descendants of those who took part in the battle, are cordially invited to be present; and that a committee on the part of the state, consisting of fifteen, be appointed to solicit the co-operation of the people of these states in the proposed celebration.

Resolved, That the president of the United States and his cabinet, Lieutenant-General Scott, and the governors of Virginia, North Carolina, Tennessee, and Kentucky be specially invited to attend.

Resolved, That the Hon. John S. Preston, of this state, and Hon. George E. Badger, of North Carolina, be appointed orators of the day.

Resolved, That his Excellency Governor Adams be requested to act as marshal of the day, and Adjutant-General Dunovant as assistant marshal; and that Rev. Dr. Thornwell be invited to officiate as clergyman on the occasion.

Resolved, That a committee of arrangements be appointed, consisting of sixty members, ten of whom shall constitute a quorum; that a committee on finance, consisting of eight, shall be charged with the duty of collecting funds, and receiving contributions from abroad, to defray the expenses of the celebration; that a committee of nine be appointed, whose duty it shall be to act in concert with and under the direction of the marshal of the day, in making the proper military arrangements, and in extending all necessary assistance in reference thereto; that a committee on toasts be appointed, consisting of five; and that a committee of invitation and correspondence be directed to invite distinguished gentlemen from all parts of the Union, and to conduct all correspondence pertinent to the celebration, said committee to consist of three.

Resolved, That a special committee be appointed to inform his Excellency Governor Adams of his appointment as marshal of

the day, and to solicit in behalf of the celebration the aid of his official and personal influence.

Resolved, That the committee of invitation and correspondence inform the orators elect of their appointment, and confer with them in relation thereto; and in case either should be prevented from accepting, that they have power to appoint a substitute.

The resolutions were considered separately, and unanimously adopted, after which the chairman announced the following committees:

COMMITTEE OF ARRANGEMENTS.

John S. Moore, Chairman,
Samuel Rainey, sr.,
W. A. Latta,
Dr. D. H. Thomasson,
Col. R. G. McCaw,
Thomas S. Pagan,
Dr. A. I. Barron,
Capt. Wm. McGill,
Wm. Moore, sr.,
Madison Hambright,
Joseph Whisenant,
John Whisenant,
Robert Whitesides,
Rev. S. L. Watson,
Joel Barnett,
Abram Hardin,
Maj. Gazaway Wilson,
Alexander Fewell, jr.,
Capt. John Massey,
Capt. S. Anderson,
John Roddy,
Dr. R. H. Hope,
L. H. Massey,
John S. Bratton,
Wm. E. White,
A. B. Springs,
J. J. Watson,
Dr. Samuel Wright,
Capt. Elijah Feemster,
Maj. Myles Smith,
John G. Enloe,
B. T. Wheeler,
W. I. Clawson,
J. H. Walker,
S. L. Love,
H. F. Adickes,
W. E. Rose,
A. S. Wallace,
W. C. Black,
Michael Hambright,
Wm. McGill, jr.,
J. N. McElwee, sr.,
G. W. Mason,
Col. Arthur McKenzie,
J. Durham Currence,
Rev. A. Whyte,
Allen Robertson,
W. P. Thomasson,
Capt. D. D. Moore,
Dr. C. P. Sandifer,
Chesley Gwinn,
S. G. Brown,
Simpson Hemphill,
A. G. Lawrence,
Wm. F. Oates,
Capt. Hugh Borders,
Theodore Fulton,
James Moore,
J. Leander Adams,
Col. J. W. Rawlinson.

COMMITTEE ON FINANCE.

Col. William Wright,	James Jeffreys,
Rev. J. M. Anderson,	T. J. Bell,
G. W. Williams,	J. C. Chambers,
Edward Moore,	Wilson Rice.

MILITARY COMMITTEE.

Gen. John A. Alston,	Col. J. F. Walker,
Col. W. H. McCorkle,	Capt. M. Bird,
Col. L. P. Sadler,	Capt. A. Coward,
Col. J. B. Jackson,	Capt. M. Jenkins.
Col. Thomas Sturgis,	

COMMITTEE ON TOASTS.

Edward Moore,	Col. R. G. McCaw,
Col. W. C. Beatty,	J. C. Chambers.
W. A. Latta,	

COMMITTEE ON INVITATION AND CORRESPONDENCE.

Col. W. B. Wilson,	Samuel W. Melton.
John L. Miller,	

STATE COMMITTEE.

Ex-Gov. Manning,	Hon. W. W. Boyce,
Hon. A. P. Butler,	" Wm. Aiken,
" J. J. Evans,	" J. L. Orr,
" R. W. Barnwell,	" James Chesnut, jr.,
" F. W. Pickens,	" N. R. Eaves,
" R. F. W. Alston,	Col. John D. Williams,
" James Simons,	Capt. James U. Adams.
" T. J. Withers,	

SPECIAL COMMITTEE.

Samuel W. Melton,	Dr. Wm. Moore,
W. B. Wilson,	John L. Miller.

On motion of Mr. Miller, it was unanimously resolved that the name of the chairman of the meeting, Col. I. D. Witherspoon, be added to the state committee.

Mr. Moore submitted the following resolution, which was adopted:

Resolved, That the papers of this state, and the states of North Carolina, Virginia, Tennessee, and Kentucky, favorable to the

object, be requested to copy so much of the proceedings of this meeting as may be deemed necessary, and otherwise extend their influence towards the accomplishment of the proposed celebration.

On motion, the meeting then adjourned.

I. D. WITHERSPOON, Chairman.

SAMUEL W. MELTON, Secretary.

MEETING OF THE COMMITTEE OF ARRANGEMENTS.

YORKVILLE, July 2.

The committee of arrangements for celebrating the anniversary of the battle of King's Mountain, on the 4th day of October next, met at this place, to-day, with John S. Moore, in the chair. On motion, W. I. Clawson, esq., was appointed secretary.

On motion of Col. R. G. McCaw, the following resolution was adopted:

Resolved, That the committee on finance, are hereby requested to report to this committee, at its next meeting, to be held at this place, on the first Monday in August next, the amount of funds raised by the committee, and what sum, in their opinion, can be raised for celebrating the battle of King's Mountain.

Mr. Clawson moved that the chairman of this committee, appoint additional committees, in the several beat companies in the district, to co-operate with the financial committee in raising funds for the celebration; and that said committees, through their chairmen, be requested to report to Col. Wm. Wright, the chairman of the financial committee at their next meeting, to be held at this place, on the first Monday in August next, the amount of funds raised by them; which was adopted: whereupon the following persons were appointed, to wit:

EASTERN REGIMENT.

NORTH BATTALION.—*Beat No.* 1.—John Stewart, chairman; Dr. C. L. Clawson, F. H. Harris, Monroe Powell, J. M. Morrow.

No. 2.—S. L. Adams, chairman; James B. Jackson, Dr. J. B. Hunter, Peter McCallum, Z. D. Smith, Dr. J. A. Barnett.

No. 3—Peter Ganson, chairman; Thomas M. Neely, Archibald Barron, Wylie Reeves, Stanhope Harris.

No. 4.—Dr. J. C. Hicklin, chairman; Samuel Johnson, J. L. Wright, R. W. Wilson, Wm. B. Allison.

SOUTH BATTALION.—*Beat No.* 1.—William Hanna, chairman; Newton A. Steele, Wm. Litle, Robert E. Miller, Stephen M. Johnson.

No. 2.—David C. Crawford, chairman; John McConnell, Dr. R. L. Love, Amzi Steele, A. P. Thomasson.

No. 3.—Col. T. W. Sturgis, chairman; Henry Broach, Dr. James Johnson, R. W. Workman, J. F. Workman.

No. 4.—W. P. McFadden, chairman; E. N. Crawford, J. N. McElwee, jr., Daniel Williams, John R. Patton.

WESTERN REGIMENT.

NORTH BATTALION.—*Beat No.* 1.—J. B. Lowry, chairman; Elliott Quinn, Franklin Walker, Robert Allison, John O. Crawford.

No. 2.—Jacob Deal, Robert Caveny, Dan'l James, Ira Hardin, Rufus Whisenant.

No. 3.—Jackson McGill, Thomas P. Black, Wm. Camp, Johnson Goforth, Wm. Moore, jr.

No. 4.—Calvin Whisenant, James Henry, John White, Andrew Henry, Thomas Whitesides.

SOUTH BATTALION.—*Beat No.* 1.—T. D. Byers, Myles Wallace, Wm. Caldwell, John Whitesides, Jas. McClure.

No. 2—P. B. Darwin, Thomas G. Wylie, John Smith, Dr. J. G. Smarr, Edward Leech.

No. 3.—Dennis Crosby, Samuel Blair, John G. Davidson, Thomas Mickle, Andrew J. Roberts.

No. 4.—Davis Burris, Reuben McConnell, Joseph P. Moore, John W. Moore, John Ross.

The following communications were received and read:

"INDEPENDENT ORDER OF ODD FELLOWS,

Yorkville, June 7.

Gentlemen,—At a regular meeting of Trinity Lodge, No. 22, held this evening, by resolution, the following brethren were appointed, in behalf of the Order, a committee of arrangements, for celebrating the approaching anniversary of the battle of King's Mountain, viz.: Edward Moore, chairman; W. J. Bowen, Alfred Craven, T. J. Eccles, W. H. Neely.

RICHARD HARE, N. G.

A. STILLWELL, Secretary.

PHILANTHROPIC LODGE, No. 78, A. F. M.
Yorkville, June 27, A. L., 5855.

Gentlemen,—As an Order, and as individuals, feeling a lively interest in the contemplated celebration of the anniversary of the battle of King's Mountain, on the 4th day of October next, and being willing to contribute towards the labor and expenses of the same, the following persons have been appointed, by a resolution, as a committee on the part of the lodge, to co-operate with your committee in making arrangements for the occasion, to wit: Richard, Hare chairman, L. M. Grist, James H. Barry, Joseph A. McLean, James L. Clark, J. B. Manning, J. H. Faulkner, Wm. K. Hacket, T. S. Jefferys, Samuel Rainey, jr.

Should the services of the committee be received, you will please notify the Worshipful Master of the same. By order of the lodge. ALFRED CRAVEN, W. M.

L. M. GRIST, Secretary.

A. S. Wallace, esq., offered the following resolutions, which were adopted:

Resolved, That the proffered assistance on the part of the Order of Odd Fellows, and the Lodge of Ancient Free Masons, in the contemplated celebration be received, and that the thanks of the committee should be and are hereby tendered to the respective Orders for the same.

Resolved, That the secretary of this meeting notify the lodges of this resolution.

On motion of Col. R. G. McCaw, it was

Resolved, That the proceedings of this meeting be published in the Yorkville papers.

JOHN S. MOORE, Chairman.

W. I. CLAWSON, Secretary.

MEETING IN SPARTANBURG.

From the Spartanburg Express, July 5.

Pursuant to former notice a large number of the citizens of Spartanburg district assembled in the court house, on Monday the 2d instant, for the purpose of responding to the call made by

York, upon the adjoining districts to co-operate in the celebration of the anniversary of the battle of King's Mountain, on the 4th day of October next.

Dr. J. Winnsmith was called to the chair, and T. Stobo Farrow, appointed secretary. The chairman, in a short address explained the objects of the meeting, and urged the adoption of suitable measures for co-operating in the proposed celebration.

T. Stobo Farrow then addressed the meeting on the advantages of celebrating the anniversaries of important battles, etc., and the peculiar interest the citizens of Spartanburg should feel in cherishing the recollections of the battle of King's Mountain, and closed by offering the following resolutions:

Resolved, That the citizens of Spartanburg cordially approve of the steps being taken to celebrate the anniversary of the battle of King's Mountain, on Thursday the 4th day of October next.

Resolved, That the invitation extended to Spartanburg by a public meeting of the citizens of York, to attend and participate in its celebration, be respectfully accepted and hereby acknowledged.

Resolved, That a committee of ten be appointed whose duty it shall be to receive and forward any contributions made towards assisting to defray the expenses of the celebration.

Resolved, That a committee of ten be appointed to co-operate with the committee of arrangements appointed by the meeting at Yorkville.

On the reading of the first resolution the Rev. W. Martin rose, endorsed the resolution, and spoke in a happy manner of the importance of that battle, and the duty incumbent upon all the friends of freedom to unite in the celebration of its anniversary.

The resolutions were duly considered and unanimously adopted.

The chairman being authorized, appointed the committee in conformity to the two last resolutions.

Committee to receive contributions: Major G. W. H. Legg, Major J. Earle Bomar, J. W. Carlisle, J. C. Zimmerman, Col. S. N. Evins, A. Simpson, Captain James Scruggs, A. T. Cavis, M. McArthur, J. R. Poole.

Committee to co-operate with the committee of arrangements: T. Stobo Farrow, Col. R. C. Poole, Rev. W. Martin, Gen. J. W. Miller, Dr. R. E. Cleveland, Gen. B. B. Foster, B. F. Kilgore, Hon. Gabriel Cannon, Rev. J. G. Landrum, Rev. Dr. Thomas Curtis.

On motion, the chairman of the meeting, Dr. J. Winnsmith,

was added to the committee to co-operate with the committee of arrangements.

J. W. Carlisle, esq., submitted the following resolution, which was unanimously adopted.

Resolved, That the papers of this district be requested to publish the proceedings of this meeting.

On motion the meeting then adjourned.

J. WINNSMITH, Chairman.

T. STOBO FARROW, Secretary.

MEETING OF THE COMMITTEE.

YORKVILLE, August 6.

The committee of arrangements for celebrating the battle of King's Mountain, pursuant to appointment, met to-day in the court house, John S. Moore, esq., in the chair, and W. I. Clawson, esq., acting as secretary.

A report was submitted by the financial committee of the several sums raised by them to defray the expenses of the celebration.

On motion of Col. R. G. McCaw, the following resolution was offered and adopted:

Resolved, That the different financial committees appointed for the purpose of raising funds for the celebration of the battle of King's Mountain, are earnestly requested to use every laudable effort, in their power, to increase the amount of money already raised by them, and that they report to the commitee of arrangements, on the first Monday in September next, at this place, at which time, a programme of arrangements will be submitted.

W. P. Thomasson, esq., submitted the following resolution, which was adopted:

Resolved, That the financial committees, in the other districts in this state, and the adjoining counties in North Carolina, be requested to report to the chairman of the committee of arrangements, on or before the first Monday in September next, the amount of funds raised by them respectively.

J. B. Jackson, esq., moved that the committee of invitation report any correspondence had with the orators elect, whereupon Jno. L. Miller, esq., on the part of the committee, read the fol-.

lowing letters from the Hon. John S. Preston, of this state, and Hon. George E. Badger, of North Carolina:

"COLUMBIA, June 22.

Messrs. Wm. B. Wilson, John L. Miller,
and S. W. Melton, Committee:

GENTLEMEN:—I have received your kind and flattering note, informing me that the people of York district have appointed me one of the orators at the proposed celebration of the battle of King's Mountain. I accept the appointment, but with a most humble appreciation of my ability to fulfil its duties satisfactorily. To the generous citizens of York, who have thus honored me, and to you individually, gentlemen, who have in such kind terms communicated their wishes, I beg to offer my sincere thanks, and pray you to believe me, gratefully and truly,

Your friend and obedient servant,

JOHN S. PRESTON.

"RALEIGH, June 23.

GENTLEMEN,—I have received your letter informing me that a meeting of citizens of York district, had chosen the Hon. John S. Preston and myself as orators for a celebration this fall, of the anniversary of the battle of King's Mountain.

I am profoundly sensible of the honor which this choice confers upon me, especially when I find myself associated with so distinguished a person as Mr. Preston; but, gentlemen, I am compelled to decline the distinction you offer me. After eight years spent in public life, to the great neglect of my private affairs, I must devote the few years which I hope are left me, to repair the consequences of my past neglect. I cannot absent myself from home at the time of your celebration, without abandoning my business and leaving a paramount duty unperformed. Besides, I may add, that I have always made it a rule to decline invitations to address public meetings of whatever kind, out of my own state, and have invariably and on many occasions acted on this rule.

If I could in any case make an exception, it would be on the most interesting occasion of your intended celebration, but that enquiry is precluded, because, as I have already stated, my business arrangements would prevent me, however disposed, from accepting your invitation.

With high respect and cordial regard, I have the honor to be, gentlemen, your friend and obedient servant,

GEORGE E. BADGER.

To Messrs. W. B. Wilson, Jno. L. Miller, S. W. Melton, Committee.

On motion of W. P. Thomasson, esq., the proceedings of the meeting were ordered to be published in the Yorkville papers.

On motion, the committee adjourned to meet again on the first Monday in September next.

JOHN S. MOORE, Chairman.

W. I. Clawson, Secretary.

MEETING IN MECKLENBURG, N. C.

From the Charlotte Whig, August 1.

Our neighbors of York district, S. C., having proposed to celebrate the anniversary of the battle of King's Mountain, and have invited the people of North Carolina to participate in the proceedings on the occasion. Some few days since a letter was received from a committee of the people of Yorkville, by some gentlemen of this place, requesting the people of Mecklenburg to select an orator to represent the people of the state on the occasion. The people of this country who were consulted on the subject, felt of course much delicacy in assuming to select an orator for their fellow citizens at large, all of whom were as deeply interested as themselves, and would naturally feel some concern in the proceedings. It was, however, difficult to effect communications with the various counties of the west—especially the mountain counties—whose brave officers and soldiery achieved on the memorable battle so much glory for themselves and so much success to their country. It was besides important that the state should be represented, and her historical claim to a large share in one of the most remarkable battles of the revolution be fully recognized. Under these circumstances, and with the best motives, the people of Mecklenburg did not hesitate to perform the duty assigned to them, and have unanimously chosen a son of North Carolina, whose reputation as one of the first orators of the age, is as wide as our common country, and whose thorough acquaintance with the history of the state, fit him in the highest

degree for the duty of representing her on that occasion. Dr. Hawks, it is understood, is now writing the history of North Carolina, and with this revolutionary event is perhaps as well informed as any other living man. His appointment will be hailed with gratification by the people of the entire state, and we will not permit ourselves to doubt but that he will be present, should his health and other circumstances at all permit. The celebration of the battle of King's Mountain, with such orators as Hawks and Preston, will be one of the most interesting events which has occurred in the South for many years. We hope the people of western North Carolina, from whose mountains and rivers, a citizen soldiery, under whose well-tried officers, rushed to the rescue of their invaded country, will gather on the spot consecrated to patriotism and to glory, in such numbers as will show their appreciation of the virtue and services of their fathers.

Below we append the resolutions of the people of Mecklenburg. We hope that each of the western counties of North Carolina will be present with a delegation, and that steps will be immediately taken to secure such a representation as may be worthy of the state.

Whereas the citizens of York district, South Carolina, have requested the people of North Carolina to participate in the celebration of the anniversary of the battle of King's Mountain, and have requested the people of Mecklenburg county to select an orator to represent the state of North Carolina.

Resolved, That we, the people of Mecklenburg, feel it a patriotic duty to participate with our fellow citizens of South Carolina in an appropriate commemoration of this battle, so creditable to the valor and patriotism of the people of Virginia, North Carolina and South Carolina.

Resolved, That the people of Mecklenburg county do request the Rev. Francis L. Hawks, D.D., of the city of New York, to deliver an oration for and in behalf of the people of North Carolina upon that occasion.

Resolved, That a committee of three persons, of whom the chairman shall be one, be appointed to confer with the Rev. F. L. Hawks and request him to perform the duty assigned him.

Resolved, That the committee appointed on this occasion, be requested to select another orator should the one selected on this occasion for any cause fail to perform the duty.

Resolved, That the proceedings of the meeting be published in the papers of this town, and the Yorkville and other newspapers of this and other states.

G. W. CALDWELL, Chairman.

W. K. REID, Secretary.

MEETING IN SHELBY, NORTH CAROLINA.

[A meeting of the citizens of Cleaveland county, North Carolina, was held on the first Monday in August, and resolutions adopted in response to the Yorkville meeting. The committee were unable to procure a copy of the proceedings in time for publication.]

MEETING IN LAURENS.

From the Laurensville Herald, August 10.

In accordance with a suggestion made through the columns of the Herald, a few weeks ago, a meeting of the citizens of our district was held in the court house on Monday last, and organized by calling Dr. J. W. Simpson to the chair. The chairman stated, in a brief manner, the object of the meeting, where upon

Colonel J. H. Irby introduced the following resolutions, which were unanimously adopted:

Resolved, That we heartily concur in the proposition of the citizens of York, to celebrate the battle of King's Mountain, on its approaching anniversary.

Resolved, That a committee be appointed to obtain subscriptions and forward them to the committee of arrangements appointed by the citizens of York.

Resolved, That the above committee be appointed to attend the celebration as representatives of Laurens district.

On motion the following gentlemen were appointed by the chair, as delegates :

Col. J. H. Irby, Col. J. D. Williams, John Garlington, esq., H. C. Young, J. G. Williams, Gen. A. C. Jonez, Capt. Geo. Anderson,

Dr. M. M. Hunter, Dr. S. F. Styles, J. Wistar Simpson, B. W. Ball, Maj. G. W. Connor, John Smith, W. D. Watts, Maj. J. A. Eigleberger, Martin Shaw, Dr. F. Weir, Maj. A. P. Martin, Capt. A. Dial, L. L. Young, Capt. J. Culbertson, Col. J. P. Kern, R. M. Stokes, W. B. Henderson, W. D. Simpson, S. Fleming, E. Hix, C. P. Sullivan, Rev. D. Willis, Willis Wallace.

On motion, the proceedings were ordered to be published in the Laurensville Herald. J. W. SIMPSON, Chairman.

MEETING IN UNION.

From the Yorkville Enquirer, August 23.

The work still goes bravely on. Our neighbors in Union district have also responded to the call of our meeting, and appointed a committee to co-operate with other districts in the celebration. The committee consists of the following gentlemen:

Dr. J. H. Dogan, Col. T. M. Dawkins, Abram McJunkin, B. H. Rice, Col. F. Scaife, Maj. J. S. Sims, James G. Fernandes, M. Patrick, Col. Jas. Jeffries, Giles Sharp, Wm. G. Hughes, Dr. George Douglass, Thomas Bowker, James M. Faucett, Christopher Brandon, Gen. J. F. Gist, T. B. Jeter, Col. R. Macbeth, W. H. Gregory, Thomas Sartor, J. E. Meng, Thos. Giles, Dr. O. Walker, Rev. Thomas Ray, Ellis Palmer, W. C. Dunn, Col. Saml. Beaty, Robert Harris, Albert Means, George Young.

MEETING IN CHESTER.

From the Chester Standard, August 30.

It has been to us, individually, a matter of regret that our people have been so laggard in attention to the proposed celebratien of the battle of King's Mountain. Filled, as Chester district was with whigs, and now with their descendants, it was to be expected that an earnest activity would have been aroused among them at the bare mention of the celebration.

By reference to another column it will be seen that a meeting of the citizens of the town was held on Monday last, and that ef-

forts are to be made to contribute to the expenses of the occasion. York district has, we understand, subscribed near $2000, whilst liberal amounts are promised from Spartanburg, Union and Laurens. We know not what is doing in North Carolina; nor have we heard of any action in Lancaster, Fairfield or Richland. Surely this burden should not rest so heavily upon York—it is due to them, and to ourselves, that we act earnestly in the matter. We trust the gentlemen appointed to solicit subscriptions will act promptly and report at an early day. The committee at Yorkville, should know, as early as possible, what they are to expect, that they may make their arrangements accordingly.

The occasion will be one of more than ordinary interest, and may well engage the attention of every person who feels a pride in the deeds of our ancestry. An invitation has been extended to the president of the United States, and expectations are entertained that he will be present. Other distinguished gentlemen have signified their intention to participate.

An unwarranted apprehension is entertained that means of conveyance cannot be furnished from Yorkville. The Committee charged with this matter will not fail in their efforts to accommodate all who cast themselves upon them. It is suggested, however, that as many as can do so, should go in their own conveyance. This may very well be done by Chester and Fairfield, and even by Richland. In 1840 an overwhelming multitude were assembled at the same point, and we then heard no complaint about their want of conveyances from Yorkville. Cannot the like be done again?

Our friend, Garner White, informs us that he now has the rifle used by his father, Wm. White, at the battle of King's Mountain, and at Sumter's defeat, and that he expects either to carry or send it up to the celebration. This relic is warranted to be *genuine.* How many such guns will be there?

CHESTER, S. C., August 27.

A meeting of the citizens of Chester district was convened this day in the court house, to adopt measures to aid in the celebration of the battle of King's Mountain, when James Hemphill was called to the chair, and J. L. Harris was appointed secretary.

Capt. John A. Bradley, having explained the object of the meet-

ing, Samuel McAliley, esq., offered the following resolutions, which were unanimously adopted:

Resolved, That we approve of the proposed celebration of the anniversary of the battle of King's Mountain, and that we cordially unite with our fellow-citizens of York in carrying the same into execution.

Resolved, That a committee of twenty be appointed to obtain subscriptions to be transmitted to the financial committee in Yorkville.

The following gentlemen were appointed the committee to obtain subscriptions:

James Pagan, chairman; A. Q. Dunovant, Jas. Graham, John McKee, jr., Wm. H. Gill, D. G. Stinson, esq., T. Henry Moffatt, D. R. Stevenson, W. E. Kelsey, Dr. John Douglass, Capt. James McDill, Major John Sanders, John Simpson, Col. James McDaniel, J. W. Wilkes, Nicholas Colvin, esq., J. A. Lewis, E. R. Mills, Amos W. Osborne, Richard H. Fudge, esq.

Resolved, That the proceedings of this meeting be published in the Chester Standard.

MEETING IN RICHLAND.

From the South Carolinian, September 4.

In pursuance of a call through the papers, a meeting of the citizens of Richland was held in the City Hall, yesterday. The Hon. E. J. Arthur was called to the chair, and Dr. A. J. Green requested to act as secretary.

The chairman having explained the purpose of the meeting, Dr. R. W. Gibbes then offered the following preamble and resolutions, which were seconded by Col. John Bauskett, who addressed the meeting on the subject of the glorious occasion of the meeting:

No action in our revolutionary history should be held more sacred, in the memory of Carolinians than that at King's Mountain. It occurred at a period when the British considered themselves in possession of the state because they held Charleston, and had defeated Gen. Gates at Camden. No event of the war was better timed, or had more influence on the whig cause than the glorious victory obtained by Campbell and Shelby and Sevier. It

was to the interior, what Fort Moultrie was on the sea coast, and both should be equally embalmed in the affections of our people. Therefore, be it

Resolved, That the people of Richland district will cordially unite with the citizens of York in paying respect to the anniversary of that gallant fight for liberty.

Resolved, That a committee of seven be appointed to make collections to aid in carrying out this purpose.

The preamble and resolutions were then unanimously adopted.

The chairman appointed the following committee:

Dr. R. W. Gibbes, Col. J. Bauskett, Col. C. R. Bryce, Capt. J. U. Adams, Dr. A. J. Green, Dr. John Wallace, W. Hampton, jr.

On motion of J. P. Thomas, esq., the secretary was requested to publish the proceedings in the papers of Columbia.

The meeting then adjourned.

E. J. ARTHUR, Chairman.

A. J. GREEN, Secretary.

KING'S MOUNTAIN CELEBRATION.

The major-generals and brigadier generals of the several divisions with their respective staffs; the volunteer, uniform and cavalry companies of the state; the surviving soldiers of the Seminole and Mexican wars; the members of the senate and house of representatives; the clergy; the masonic, odd fellow and temperance lodges; and the members of the press, are invited to attend the celebration of the battle of King's Mountain, on Thursday, the 4th day of October next.

WM. B. WILSON,
JNO. L. MILLER,
SAM'L W. MELTON,
} Committee of Invitation.

MEETING OF THE COMMITTEE.

YORKVILLE, September 3.

The committee of arrangements for celebrating the anniversary of the battle of King's Mountain, met this day at the court house pursuant to adjournment, John S. Moore, esq., in the chair, and W. I. Clawson, esq., acting as secretary.

The proceedings of the last meeting were read by the secretary.

The chairman then called on the financial committees to make reports of any additional subscriptions for defraying the expenses of the celebration, which was accordingly done.

W. I. Clawson, esq., offered the following resolution which was adopted:

Resolved, That the chairman of this committee appoint an executive committee, to consist of five persons, whose duty it shall be to make out a programme of arrangements and expenditure, in accordance with the amount now subscribed, and which may be subscribed hereafter; make contracts for having provisions and other supplies furnished, and make all necessary arrangements for carrying out the celebration.

Whereupon the following persons were appointed, to wit:

W. I. Clawson, esq., H. F. Adickes, A. S. Wallace, Col. R. G. McCaw, and Dr. A. I. Barron.

W. I. Clawson, esq., then moved that John S. Moore, esq., be added as the chairman of the committee, which was agreed to.

T. J. Eccles, esq., offered the following resolution which was adopted:

Resolved, That the committee invite subscriptions, in provisions, where such may be found convenient, and that the same will be thankfully received, and that if any shall be subscribed, the same shall be delivered to the chairman of this committee, at least two weeks before the time of the celebration.

W. I. Clawson, esq., also offered the following resolution, which was agreed to :

Resolved, That the committee of arrangements call on all the citizens of this district and the adjoining districts in this state, also, on the citizens of the adjoining counties in North Carolina, to contribute to the celebration by way of *pic nic*, in addition to the subscriptions already obtained, and that the same be delivered at the battle ground, at least one day previous to the celebration.

Thomas J. Eccles, esq., moved that the proceedings of this meeting be published in the papers of Yorkville.

JOHN S. MOORE, Chairman.

W. I. Clawson, Secretary.

MEETING IN FAIRFIELD.

From the Winnsboro' Register, Sept. 11

A meeting was held in this place on Thursday last, to take into consideration the subject of raising subscriptions to the King's Mountain celebration. The Hon. J. H. Means was called to the chair, and F. Gaillard requested to act as secretary. The Hon. W. W. Boyce then briefly explained the object of the meeting. The celebration of this important battle would, he supposed, meet with a response from every one. He begged leave to submit the following resolution:

Resolved, That the citizens of Fairfield district have heard with pleasure of the preparations being made by the people of York district to celebrate the anniversary of the battle of King's Mountain, and that a committee of eleven members be appointed to raise subscriptions to aid in the celebration.

The resolution was unanimously adopted, and the following gentlemen appointed: W. W. Boyce, W. R. Robertson, Gen. J. Buchannan, Gen. H. K. Aiken, Jacob Feaster, jr., John Adger, J. M. Robertson, Dr. George McCants, Dr. J. Jenkins, and J. W. Rabb.

We are pleased to learn that the committee took immediate action, and have already met with encouraging success.

MEETING IN MECKLENBURG, N. C.

From the Western Democrat.

A meeting was held in this town on Wednesday last, to select an orator to represent North Carolina at the celebration to come off at King's Mountain, on the 4th of October next.

On motion, Hon. G. W. Caldwell was called to the chair, and R. P. Waring requested to act as secretary.

The chairman explained the object of the meeting in a few patriotic remarks, whereupon J. H. Wilson, esq., of Charlotte, and John F. Hoke, esq., of Lincolnton, were appointed a committee to draft resolutions for the action of the meeting.

The committee reported the following, which were unanimously adopted:

Whereas, we have heard with regret that the Rev. Dr. Francis

L. Hawks has declined to deliver the address at the King's Mountain celebration, and whereas, it is due to the memory of the brave sons of North Carolina who freely shed their blood in defence of their country's liberty, that the state should be represented upon that occasion by a gentleman of historic attainments and oratorical powers, therefore,

Resolved, That we invite James W. Osborne, esq., to deliver the address, believing in him we have one that will reflect lustre upon the past and do honor to the present.

Messrs. Caldwell, Pritchard, Wilson, and Williamson were appointed a committee to inform Mr. Osborne of his selection, and request him to accept the same.

The meeting then adjourned.

G. W. CALDWELL, President.

R. P. WARING, Secretary.

REPORTS OF THE COMMITTEES.

From the Yorkville Enquirer, Sept. 13.

In another column will be found an address by the executive committee, in relation to the celebration, to which we ask the attention of our readers.

The report of the military committee is also published. Several gentlemen of this committee have visited the ground, and made the necessary inquiries, in order to the publication of a programme of exercises, which will receive the attention of the military companies intending to be prasent. It is hoped, and earnestly desired, that the Independent Battalion, of Columbia, the several uniform companies of Winnsboro', the Calhoun Guards, of Chester, the Johnson Riflemen, of Union, and the Cavalry companies of Chester, Union, Spartanburg, and York, will lend us their aid on the occasion. We have reason to hope that several companies from Charleston will also be present; but of this there is yet doubt. By application, wagons will be procured to convey their camp equipments from the depot to the mountains.

It will be seen that, in accordance with the action at our first meeting, the position as marshal of the day has been assigned to his Excellency Governor Adams. The committee to whom it

was referred to correspond with Gov. Adams have received from him no reply of any kind; it is presumed from this silence, however, that his excellency will honor the occasion with his presence.

The beauty and gallantry of the district and surrounding country will doubtless be pleased to learn that measures are in progress for their entertainment in Yorkville, on Friday evening succeeding the day of the celebration. The notice of invitation is published in this issue. Every effort will be employed by the managers to furnish a splendid ball, and in their exertions they will have the assistance of a skilful, and, in his way, inimitable caterer, Mr. Rose, of the Palmetto hotel. We hope that on this occasion, also, our neighboring districts and counties will be fully represented.

REPORT OF THE MILITARY COMMITTEE.

At a meeting of the military committee on the King's Mountain celebration, held in Yorkville, September 8th, the following report was adopted:

The military companies, provided with all necessary camp equipments, will report for duty to the committee at the mountain, at or before four o'clock, on the 3d of October, at which time camping positions will be assigned them.

The encampment of the military will be subject to all the rules and regulations of a regular military encampment. The line of sentinels will be extended so as to afford protection to such articles as the committee of arrangements may place under their charge.

On the 4th of October, the day of the celebration, the companies will assemble for exercise and review. His Excellency Gov. Adams will act as reviewing officer. R. G. M. Dunovant, adjt. and inspector general, will take command in the field exercises.

PROGRAMME OF FIELD EXERCISES.

1. Review.
2. Break to the left to march to the right.
3. Column close in mass.
4. Countermarch.

5. Change direction by the left flank.
6. By head of column take wheeling distance.
7. Formation into line of battle, composed of two movements, column arriving behind the line of battle.
8. Firing.
9. To the rear by the right flank pass the defile.
10. Change direction to the left.
11. Left into line wheel.
12. Double column at half distance.
13. Deploy column.
14. By left of companies to the rear into column.
15. Change direction to the left.
16. Form division.
17. Form square-firing.
18. Reduce square.
19. Deploy column.
20. Break to the right and march to the left.
21. Change direction to the left.
22. Left into line wheel.

IN THE AFTERNOON—DRESS PARADE.

Immediately after the military evolutions have been performed, the procession will be formed under the command of Gov. Adams. (An order of procession will be prepared, in which the positions of the different bodies will be assigned.) The military companies and the organized associations intending to be present, will please give notice of the fact to the committee, by the 25th of September.

GEN. JOHN A. ALSTON, Chairman.
Capt. M. JENKINS, Secretary.

KING'S MOUNTAIN CELEBRATION.

From the Yorkville Enquirer.

THE fourth of October—the day set apart by our people for the in-gathering of worshippers, and for their noble act of worship, at "the grand old mountain"—has come and gone; and with it has passed off a demonstration, taken for all in all, the most imposing ever enacted in South Carolina. A debt has been paid. The brave dead who have for long years tenanted the abodes of silence and neglect, and their now sleeping comrades, whose resting-places are here and there unmarked, have been exhumed from forgotten graves; and, with more than all the honors that glorious war can give, and with all the glory that can be ascribed by a free and grateful people, have been given back again to an honored earth marked by an everlasting monument. The story of patient suffering, unwavering fortitude, undaunted heroism, and immortal victory, has been told in words prompted by the heart of a Campbell, and flowing grandly as if from the tongue of Patrick Henry; and caught up by an innumerable throng, in blood kindred to Williams and Chronicle and Hamright, to Cleaveland, Shelby, Sevier and McDowell, has been echoed and re-echoed, until the old mountain has been made to reverberate and ring again and again with the loud-bursting, pealing notes! Right nobly, truthfully, and well has the debt been paid! Henceforward, let "King's Mountain" take a place among "the decisive battles of the world;" let the grand achievement stand out upon the page of history, one of the glorious land-marks that point the pathway to the goal of human progress, where the genius of liberty will be crowned triumphant forever!

To give our readers an adequate and faithful account of the celebration is a task to which we feel ourself unequal; but the duty devolves upon us, and we shall endeavor to meet it—taking occasion, at the outset, to extend to those who have all-along given us the aid of their sympathy and co-operation, the most hearty congratulation upon a consummation so entirely in keeping with the best hope, and so entirely auspicious of future good. When our first feeble effort was made, we had many misgivings; as the day approached, these misgivings were but little abated; but when we were permitted to welcome there an unnumbered multitude, gathered from far and near—all speaking out in word and action a sentiment in unison with the occasion and the object to be attained—our doubts gave way to a glad realization, and, with heart in hand, we mingled in the round of rejoicing, the "feast of reason and flow of soul," which made up a festival long to be regarded, and to be ever held worthy of a place with the cherished memories of King's Mountain. But, to our narrative.

Early on Tuesday morning, the roll of the drum and the inspiriting strains of martial music gave us warning of the beginning, and aroused the feeling fit to be indulged and sustained throughout the days of festivity. Under the command of Capt. Jenkins and Lieut. Coward, the cadets of the Preparatory Military School, upon whom devolved the duty of military escort, were marched to the depôt, and at nine o'clock received the "Calhoun Guards," Capt. Mills, a fit representative of the chivalry and spirit of old Chester. The "Guards" were escorted into the town, and for the time took up their quarters at Walker's Hotel. At two o'clock the extra-train from Columbia brought to us several of the well-trained and spirited companies of which our capital city is justly proud—the "Richland Volunteer Rifle Company," Capt. Radcliffe; the "Columbia Artillery," Capt. Hampton; and a delegation from the "Carolina Blues," Capt. Barkuloo. After having been received, and provided with refreshments at Rose's Hotel, these companies, with the "Guards" and the cadets, took up the line of march for the mountain. The regular train, which had been delayed by an accident below Chester, arrived late in the afternoon, and with it the companies from Charleston—the "Palmetto Guard," Capt. Lucas, a fine-looking, well-trained corps; and detachments of the "Washington Light Infantry," Capt. Hatch, the "Charleston Riflemen," Capt. Johnson, and the

"German Riflemen," Lieut. Baum. Taking up immediately the line of march, these companies followed in the wake of their predecessors. We were much pleased to welcome, also, a full detachment of the "Edgefield Artillery, Lieut. Adams, a gallant contribution from Judge Butler and old Edgefield, which was all the more welcome because the kindness was unexpected. Comfortable quarters were provided for them at Walker's.

Wednesday morning, we took our place in the caravan wending its way to the mountain, and early in the afternoon found ourself in the midst of the strange and stirring scenes of a busy forest-camp. During the last hour's ride we had recited to our *compagnons du voyage* the concluding chapters of "Horse-shoe Robinson," in which are described, in the attractive garb of romance, the thrilling incidents of the battle, the death of Lindsay, the glad meeting of Butler and his Mildred, the genuine heroism of brave old "Horse-shoe," and the *denouement* to all the characters, whose hours upon the stage, told half in truth half in fancy, make this unpretending volume an heir-loom in almost every family, familiar as the tone of a household word. This pleasant exercise gave to us a frame of mind well suited to the scenes upon which we were to enter; and, with soul and body, spirit and nerve wrought up to the pitch of enthusiasm which seemed to direct and rule over all, we threw ourselves into the busy whirl, and began to drink in the wealth of genuine pleasure which such a scene and such an occasion could but give.

Soon after our arrival upon the ground, we were permitted to extend a glad welcome to two veteran pilgrims who had just ended their journey across the mountains, and come to kneel at our shrine and join with us in our worship—the distinguished historian, Mr. Bancroft, and his not less distinguished compeer, Hon. Wm. C. Preston. Both seemed to have gathered by the way a fresh fund of health and spirits, in full preparation for the novel scenes before them. At Mr. Bancroft's request, we presented our friend A. S. Wallace, esq., one of the worthy representatives of our district, who, from frequent intercourse with the actors in the drama, had acquired a thorough and accurate knowledge of every point of the battle-ground, and who kindly consented to place in contribution to the pleasure of our guest his ample fund of revolutionary lore. Following his lead, Mr. Bancroft, accompanied by Rev. Dr. Wightman and Rev. Mr.

Martin, of Spartanburg, employed the hour in roaming over the mountain. An hour of value it was to *us*—now gathering up the treasures of legendary story as our guide poured them forth, and then regarding with an ill-disguised admiration the fine, sparkling, speaking eye of the listener as he took in, almost at a glance, all the points and features of the battle-ground, and gave a willing ear to the rehearsal of the rude but truthful story as it came, second-handed, from the heroes in the strife. A beautiful, cheering scene was that—the great historian upon the height of King's Mountain—a scene worthy of a better pen than ours! Standing on the spot where the surrender took place, near the rock which pillowed the head of the dying Ferguson, and hard-by the spreading branches of the venerable tree from which the baker's dozen of traitor tories were hung, he read from the dispatches of the commanding officer an official account of the battle; and placing Campbell and Shelby on the north, Sevier on the west, and Williams and Cleaveland on the east side of the mountain, eloquently and enthusiastically fought the battle over! The hope then was full. The great historian had done homage to the sacred spot and its sacred memory, and history would do right.

While upon the mountain we met with Lieut. Wilkie, of the "Washington Light Infantry," and on our return, proceeding to the encampment of the detachment, we caught a glimpse of the war-worn banner presented to the company by the widow of Col. Washington. This flag was borne by the men under the command of the brave and daring Washington, and bears upon its folds the marks of the strife through which it was borne at Cowpens and Eutaw Springs. A noble old relic it is—worth all the affection with which this gallant company regard it, and amply repaying, in its rare value alone, the guardian care provided for its keeping. The detachment were on their way, and, after the celebration, designed to proceed to the battle-field of Cowpens, in Spartanburg district, with a view to reconnoitre and make preparations for a grand demonstration on the ground next spring. Success to the praiseworthy enterprise!

Returning to the camp, we were surprised and, more than ever, delighted with the soul-stirring scene presented to view. Scattered here and there, on the surrounding hills and in the intervening glens, as far as the eye could reach, and even far

beyond the range of a single glance, were pitched at least one thousand tents, of every shape, size, and fashion, all reflecting goldenly the last rays of a bright autumnal sunset; and passing to and fro, mingling gladly together, exchanging the greetings, extending the congratulations, and indulging the pleasures of friendly meeting, were innumerable throngs of all ages, sexes, and conditions—the gray-haired old man, who even now remembers, as if it were on yesterday, the firing of the guns on the day of the battle which, seventy-five years gone, he has come to celebrate; the venerable matron bringing the widow's mite to the common altar; full-grown, vigorous manhood, with the proud blood of the revolution beating at the heart and pulsating more and more quickly through every vein; the rude country lad, the city "swell," the bouncing lass, the dashing belle, the gallant soldier, decked out in all the trappings of war, the erect, independent backwoodsman, and, last of all, many a careless, devil-may-take-me specimen of "our peculiar institution"—all congregated as if by one common thought, bent upon a time of rejoicing, and entering eagerly upon the work! Oh, it was a splendid, glorious picture! in comparison with that which, seventy-five years ago, broke upon the stillness of that mountain, enough to fill the patriot heart full to overflowing, and make every nerve to thrill with the intensest emotions of thankfulness and joy!

When night came down, the thousand camp fires turned it into day, and sent upward and around a bright lurid glare, lighting up still the splendid panorama, and giving to the scene an effect yet more sublime, more touching, more soul-stirring. The hum of ten thousand voices, the tramp of men and horses, the shouts of gladness, peals of laughter, and the shrill whoop of the mountaineer, known alone to the mountains; the roll of the drum, the incessant firing of the vexed, ill-treated sentry, and, to drown them all, the inspiriting strains of martial music, which, discoursed alternately by the several bands in camp, reverberated again and again through hill and dale—all woke up to life the realm where silence and solitude had been wont to reign, and invested the scene with a new and thrilling interest which none who witnessed it can ever forget. If the multitude had seen and heard no more—if, with the early morning, they had gone to their homes, the scenes of that glorious night would have repaid them all!

At a late hour we betook ourselves to rest, and despite all the noise and bustle which, throughout the camp, ruled the night, slept balmily as if on "downy pillows," until *reveillé* and the morning salute awoke us to an active participation in the events of the celebration-day.

Thursday, the sun rose gloriously, and went his round from morning to twilight without a cloud to dim, even for a moment, his unusual splendor. Never did a lovelier, more calmly beautiful day smile upon earth—a breathless, cloudless, golden autumn day! It was just such a day as dawned upon the little band of patriots slumbering upon the banks of Broad river; just such a sun as rose upon the field of Austerlitz. Nature seemed in sympathy with us, and gave thus kindly auspices of success.

With the morning came pouring in on every side another countless throng, and at nine o'clock a multitude had congregated together, numbering, according to different estimates, from eight to fifteen thousand persons. One of the guests, who had been accustomed to such multitudes and knew how to count them, estimated the number around the stand at the opening of the ceremonies at eight thousand; and then scarce half the crowd was told. According to this estimate, perhaps the most reliable, there were at least *fifteen thousand* persons present!

At ten o'clock, the several military companies in attendance, habited in their gay and beautiful uniforms, were formed into line in front of the encampment, and under the command of Maj. Meighan, of the Columbia "Independent Battalion," assisted by Capt. Johnson, acting as adjutant, and Capt. Barkuloo, were reviewed by Col. W. H. McCorkle, the commander of the upper regiment. The battalion then passed in review over the plot of table-land east of the mountain, and executed with the utmost precision, and with an admirable skill and promptness, the series of movements in vogue at "general muster," keeping time to the excellent music discoursed by the band of the Richland Rifle Company. Such a splendid exhibition of "the pomp, and pride, and circumstance of glorious war" has never been seen in the backwoods since the days of old seventy-six; and for the untutored gaze, our own and the many thousand eyes looking no sentiment but that of intense admiration, it formed not the least attractive and interesting feature in the day's ceremonies.

The review was ended at 11 o'clock, and, after a short interval,

a procession was formed on the parade-ground, under the superintendence of Major Meighan, and Colonel McCorkle, acting as marshals, in the following order: those only who were known to be present, having positions assigned:

The various Volunteer Companies.
The members of the Masonic, Odd Fellows and
Temperance Lodges.
The members of the Press.
The reverend Clergy.
The members of the Congress of the United States.
The Speaker of the House of Representatives, and
Members of the State Legislature.
The several commmittees connected with the Celebration.
The descendents of the Heroes of King's Mountain.
The invited Guests.
The President of the Day.
The Orator and Chaplain.

Among those who joined in the procession were Hon. George Bancroft, Col. James L. Orr, Hon. W. W. Boyce, Hon. James Rogers, Hon. James Simons, speaker of the house of representatives, Col. Wade Hampton, jr., Col. B. H. Rice, Col. John D. Williams and James G. Williams, esq., the grand-sons of the hero who fell at the battle. A full attendance of the masonic fraternity in regalia, added a goodly measure to the effect of the demonstration. The procession marched to a point on the acclivity, east of the mountain, in full view of the battle-ground, where a stand had been erected and seats provided for the accommodation of the multitude. The assembly was called to order by Colonel I. D. Witherspoon, our senator, to whom, in the absence of his excellency, the governor, was assigned the office of president of the day. After an appropriate introduction, he announced the chaplain, Rev. J. L. W. Adams, pastor of the Presbyterian church in this place.

Here permit a moment's digression, while we dwell upon the part enacted in the battle by the patriots whose homes were in the vicinity of King's Mountain. Of all the romantic incidents which make up that day of romance, that which tells the story of the heroism of our home-fathers, is not the least to be regarded. Many of them living within a half-day's ride were participants in the conflict; yet they belonged to no company—they were called

to the field by no roll of drum, no stirring appeal, or inspiring example—they were encouraged by the brave lead of no captain. The news of the coming battle had, the day before, spread like wild-fire through the country; and at early morn, the sturdy farmers used only to the delightful plans of peace, saddled his horse and shouldered his rifle as if going to the accustomed Sabbath meeting. Riding briskly to the mountain, dismounting and tying his horse to a limb, he took his position, independent of all command, where danger was fiercest, and the most work to be done, and bravely bore the hero's part in the struggle. When the victory was won, as calmly and silently as he had come, he mounted his plow-steed, and wended his way back to his home; and next morning, having but a day, went the more briskly to his work in the harvest field! The steady, sure aim of these farmer-warriors brought many a Briton to the dust; and their singular bravery, their firm, untaught heroism, may well give to the chronicle of the war one of the most glowing pages in its brightest chapter. Such a part in this memorable conflict was borne by the grand-father of him who had been called upon to take the place of the distinguished divine to whom had been assigned the office of chaplain; and such the exceeding appropriateness which gave to him the grateful duty of invoking, with truthful piety, and an earnest fervor, the Divine blessing upon the assembled multitude.

After the religious ceremonies were concluded, the president introduced the Hon. John S. Preston, the orator of the day. His presence before the auditory was greeted by enthusiastic and continued bursts of applause, which told plainly of the pitch which the anxious and confident expectation of all had reached, and of the great effort to which they were eagerly ready to lend an ear. They were not disappointed. For two hours the speaker held his auditory entranced, and during the time scarce a whisper was heard, save when the rapture inspired, by his fervid, glowing eloquence, would force out, ever and anon, the enthusiastic expression of pleasure and delight. Each picture, as it was presented, in matchless, thrilling tones, was recognised from its very truthfulness, and greeted with peal after peal of outbursting applause. Although we had often listened to the words of genuine eloquence, and had heard the distinguished orator in his happiest efforts, our anticipations were more than realized; always equal to the theme, never descending to the common-

place or wavering in its proud career, it was a triumphant flight, upward and onward, from the first to the last. We must not attempt to give our readers an adequate conception of this master piece of oratory. In a few weeks it will be published in pamphlet form, when the reader will be permitted to enjoy at least a measure of the pleasure which the delivery could but afford to the hearer.

At the conclusion of Mr. Preston's address, and after the prolonged cheering which it called forth had subsided, the president of the day, proposed the following sentiment:

Hon. George Bancroft : The patriot, the statesman, the truthful and impartial annalist ; his presence here, to-day, inseparably links his fame with the cherished memories of King's Mountain. We bid him welcome.

The sentiment was cordially and warmly received, and as Mr. Bancroft rose to respond, he was greeted in genuine southern style. In clear and ringing accents, and with an intense pleasure beaming from every feature, the learned historian acknowledged the delight which a participation in the celebration afforded him, paid a glowing compliment to the revolutionary heroism of South Carolina, dwelt upon the battle and its consequences, and closed a chaste and exceedingly appropriate address, by an earnest appeal in behalf of the old battle-ground. It was such an address as might have been expected of the man—ornate and eloquent, yet touching in its simplicity; modest, yet bold and truthful—every sentiment beautifully adapted to the occasion, coming from the heart of a patriot and clothed in the chaste language of the accomplished scholar. The concluding words are worthy of a place:

"Let the battle-ground before us be left no longer as private property; let it be made the inheritance of the people, that is, of all who are heirs to the benefits that were gained on the day which we commemorate. Let a monument rise upon its peak as a memorial of the heroism of your fathers; as an evidence of the piety of their sons. The deeds that were there performed bid us ever to renew our love of country. Let the passion for freedom flow forth perennially, like the fountains that gush in crystal purity from your hill-sides; let the UNION stand like your own mountains, which the geologists tells us are the oldest and firmest in the world!"

At the close of the address, Edward Moore, esq., appeared upon the stand, announced the following toasts, each of which was received with hearty applause :

1. The Battle of King's Mountain : The turning point of the revolution—it proved to be the Thermopylæ of American liberty.

2. The Heroes of King's Mountain : With Spartan intrepidity, Roman hardihood and a patriotic valor peculiarly American, they grappled with the enemy here, and conquered. A monument should perpetuate the memory of their heroic deeds.

3. Virginia, North Carolina and South Carolina : Firmly united in the days of 1780, may they ever be found, side by side, battling in defence of their constitutional rights and liberties against a common foe.

4. York : That portion of South Carolina which scorned British protection in 1780. May she never shrink from that principle of magnanimous independence.

5. Colonels Campbell, Sevier, Cleaveland, Lacey, Shelby and Hambright : History will yet claim their achievement at King's Mountain as the subject of its brightest page.

6. Colonel James Williams, Carolina's noblest offering on the shrine of revolutionary patriotism : Let his memory be eternally engraved upon the hearts of his countrymen.

7. The memory of George Washington : Changes and revolutions can never cast a shade upon it in America.

8. Baron De Kalb : A nation cherishes the memory of the philanthropic stranger ; the willing martyr in the cause of human liberty.

9. Marion, Sumter, Hayne, Pickens and Moultrie : May their chivalry and love of country be ever imitated by the sons of the palmetto state.

10. John C. Calhoun : His name, his character, and his services, are his truest and highest eulogy.

11. The President of the United States : The faithful executor and defender of the constitution ; he deserves the gratitude and support of the south.

12. The orator of the day : The gifted descendant of the gallant Campbell ; his eloquence to-day warms our hearts with patriotic fire, as did the thundering tones of his ancestor inspirit his followers seventy-five years ago on this spot.

13. Woman : The last, best and dearest gift of God to man.

The reading of the regular toasts concluded, the rifle of William White was presented to view by Samuel W. Melton, with the following words :

"I hold in my hand, fellow citizens, one of the rifles which, with the true aim and steady nerve of the hardy backwoodsman, dealt death and destruction to the foe upon the height of King's Mountain. It was borne by William White, a native of Chester district, who served in the day of battle in Captain Lacey's company, attached to Colonel Williams' command. In the care of Captain Mills, of the 'Calhoun Guards,' Chester district, sends this most welcome contribution to the festivities of the occasion. Three cheers for the old rifle!"

Following this, the sword of Colonel Campbell was handed to

him by Colonel Preston, which he immediately presented as follows:

"Here, too, fellow citizens, is another noble relic—the trusty blade which, at the bidding of the brave William Campbell, leaped from the scabbard first on yonder height. Let us give to it a hearty, cheering welcome back to the old battle ground; and let us hope that, if ever the sword must be unsheathed in defence of American honor, or southern right, it may be returned as pure and unsullied as this, the legacy of the immortal Campbell to his honored posterity."

After the presentation of these valued relics of the battle, he proposed the following sentiment:

Honorable William Campbell Preston: Rekindled in the grand-son, has been transmitted to us the spirit which gleamed in the sword of the grand-sire. While we have assembled to honor the patriotic deeds of the one upon the battle-field, let us not forget the statesmanship and eloquence which have thrown a halo of imperishable glory around the other. In the fullness of age, as in the pride and strength of manhood, South Carolina delights to do him reverence.

When the loud applause with which this sentiment was received had subsided, the once proud and majestic form of "the inspired declaimer," now bent with age and tremblingly leaning upon the crutch for support, approached to the front of the stand. For a moment, the fire of genius, almost gone out, which had once commanded "the applause of list'ning senates," seemed to enkindle and burn as brightly as ever. He said:

"If anything could now relume the embers of a life which, at times in my youth and manhood, has perhaps burned brightly, it would be the sentiment which has just been uttered. It touches the objects which are dearest to me. It points to a life which has been animated by what I thought and hoped to be elevated objects of ambition, and to an ancestry whose memory has been most fondly cherished. Here, in these scenes of primeval grandeur, and upon a spot with which it has been the fortunes of that ancestry to be associated, it comes upon me with especial force; but if I could ever speak, I can speak no longer, and if excuse be needed, I would appeal to this," (raising up his crutch) "and to this," (laying his hand upon locks as white as snow;) "yet, still my heart," (laying his hand upon his breast)—but the utterance failed, and "the old man eloquent" bowed his head and wept, while the tear, trickling from every eye in that vast assembly, told the story of earnest sympathy, and paid a tribute to the power of true eloquence—the eloquence of feeling and of action

and of silence. When he had resumed his seat, John L. Miller, esq., proposed the following sentiment:

The Washington Light Infantry: The worthy representatives of a glorious name. The flag of Colonel Washington, that waved in triumph at Eutaw and at Cowpens, has been committed as a sacred trust to their keeping, and we can have no fear that in the discharge of this high duty, they will fail to feel the summons of those great deeds, and should the crisis come, to emulate their example.

A call for a response was made upon Thomas Y. Simons, jr., a member of the company, but at the moment he was absent from the stand, and we were thus deprived of the pleasure of hearing one of the most promising and clever among the young men of Charleston. Mr. Taylor, a guest from North Carolina, volunteered an appropriate sentiment to the two orators and the two battle-fields—Bancroft and Bunker Hill, Preston and King's Mountain—which was received with the same demonstrations of applause accorded to every sentiment proposed.

The president then announced the barbecue in readiness, and after an entertainment of over three hours the auditory quietly dispersed, the larger number betaking themselves to the valley at the foot of the mountain, where the tables had been spread and provided with the overflowing abundance usual on such occasions. Though the attack was made with a determination characteristic of other days, thanks to the efforts of the indefatigable chairman of the committee, the greatest profusion reigned, and all were satisfied to the heart's content.

After the dinner was over, it was the expectation and desire of the committees to assemble the multitude at the stand, and pay respect to other distinguished guests who had favored the occasion with their presence. In order to reach their homes by Saturday evening, however, the military companies were compelled to take up immediately the line of march, and their example was followed by the larger portion of the assembly, whose feelings of sympathy, touched by the melancholy accident which had well-nigh proved fatal to one of the members of the artillery company, disturbed to no small degree the pleasurable enjoyment of the festivities, and forbid a further participation.

At the close of Mr. Preston's address, when the accustomed salute was fired, one of the guns of the artillery company was prematurely discharged while Mr. Sidney Clifton, a member of the company, was in the act of loading, and so severely shattered his right arm as to render immediate amputation necessary. His

face was shockingly burned, and fears were entertained that his eye-sight would be entirely lost. The operation was performed by Dr. Powell, the surgeon of the Richland Rifle Company, assisted by Dr. J. R. Bratton, of Yorkville, and Dr. Metts, of Laurens. Every possible means was taken to alleviate his suffering, and, on Friday, through the kind assistance of Mr. Jasper Stowe, who provided, without charge, a comfortable conveyance, when no other assistance could be obtained, he was removed to Yorkville, and thence to his home in Columbia.

Quietly, as they came, and without any demonstration that would not become a decent and orderly people, the multitude dispersed and went away to their homes, amply and more than compensated, we are assured, for whatever of toil and expense might have attended their camp life. By nightfall but few remained to disturb the silence that again asserted its reign over the mountain. Thus passed off the celebration—a day fraught with the most pleasing memories, which may well insure to us, ever hereafter, a feeling of gratification and proud satisfaction. But for the one sad incident all would have been well, and our record would indeed have been happy.

Friday morning we returned to Yorkville. During the day the military companies arrived in town on their return, and took up their quarters with us until Saturday morning. In the afternoon they made a handsome display, and what with their gay appearance, fine soldierly bearing, and the fine music which heralded their coming, gave a ten-fold animation to the quiet monotony of our town life. At three o'clock, we were pleased to meet with many of our "brothers of the quill," from abroad, at the editorial banquet, spread by that excellent caterer, Mr. Rose, of the "Palmetto hotel." It would not become us to say more than to express our thanks to those who gave us their presence on this occasion, and to render to the host our obligations for the tempting display of fine dishes, which made it a feast of which we were proud. At night the King's Mountain ball, at the "Palmetto," passed off handsomely; the ladies in attendance, however, were few, and the entertainment was not prolonged to a late hour. Saturday morning our guests bade us adieu, carrying with them the earnest thanks of our people, and our heartfelt wish that their own may have been equal to the enjoyment which their presence in our midst has afforded us.

CORRESPONDENCE.

YORKVILLE, October 8th, 1855.

Honorable John S. Preston—

SIR: At the instance of the several committees appointed with reference to the King's Mountain Celebration, and in accordance with the general wish of our people, we respectfully request, for publication, a copy of the oration delivered by you on that occasion.

Believing that the all-important bearing of the event we have just commemorated, upon the fortunes of the revolution, has not yet been adequately appreciated, and conceiving it to be a duty as well as a privilege, under present auspices, to make public, in relation to it, a full and entirely reliable contribution to history, we have also to request access to the papers which you have consulted in making up the lucid statement of the battle and its consequences, contained in your oration.

Very respectfully,

W. B. WILSON,
JNO. L. MILLER,
SAM'L W. MELTON,
} Committee of Correspondence.

COLUMBIA, October 10, 1855.

Messrs. Wilson, Miller and Melton, Committee—

GENTLEMEN: Most gratefully appreciating the honor you have conferred upon me, I promptly comply with your request to furnish for publication, a copy of my address at King's Mountain. By a minute and careful sifting of historical and documentary statements, I have endeavored to make my narrative strictly conformable to truth. Some minor incidents and the tone of colouring, not affecting the historical value of the battle, may be derived from tradition, or from documents I am not at liberty to publish; but in the address I have studied to use nothing which is not true.

In compliance with your request I send, also, copies of the documents upon which I have mainly relied to authenticate my account of the battle. If, in accordance, with your views, you are at liberty to publish all or any portion of them.

I am, gentlemen, with the highest regard,

Your friend and obedient servant,

JOHN S. PRESTON.

ADDRESS

DELIVERED AT THE

CELEBRATION

OF THE

BATTLE OF KING'S MOUNTAIN,

OCTOBER, 1855.

BY

JOHN S. PRESTON.

YORKVILLE, S. C.

PUBLISHED FOR THE COMMITTEES BY MILLER & MELTON,

Proprietors of the Yorkville Enquirer.

1855.

ADDRESS.

THIS forest is very lovely in the dying glow of autumn; this mountain is beautiful in its lonely grandeur; this little brook runs gently, as it murmurs its ceaseless requiem by that solitary grave-stone. Why are they disturbed by this vast multitude of men—the representation of mighty, living power? Why come up here youth and manhood—age and woman—the hope—the struggle—the triumph—the joy of life?

MY COUNTRYMEN:

Not success, nor triumph, nor power—not the decrepitude of age, nor the vigor of youth—not all the necessities of actual life can make us forget the places where liberty was born. We come up to these places to worship, for they are sacred. There be those of us here to-day who are standing on earth soaked with the blood of martyr-kinsmen. Through that gorge, along that ridge, rising that steep acclivity, our patriot sires trailed in their own sacred blood, as they encircled the ferocious beast who had been preying on their homes and children. High up on the rugged summit, behind those craggy rocks, the fierce Ferguson lay-crouched, licking his red chops, and glaring on the mountain hunters as they closed around him. From that valley,

the calm, determined Cleaveland marched—out of the deep hollow—the bold and strong and daring Shelby sprung; in front, along where you are standing, came the red-haired Campbell—the claymore of the Argyle gleaming in his hand, and his blue eye glittering with a lurid flame. They meet, as the terrible foe comes crashing down like a herd of hungry lions; they meet with an earth-shock—a tremor—a pause—the rattle—the war—a groan—a shriek—a wild, triumphant shout, and the spirit of liberty, hovering for a moment, over this wild mountain scene, unfolded her purple wings and bore the glad tidings to the father of his country, and to the hearts of her fainting soldiery in other regions of her chosen land. "It is the dawn of hope and better fortune," exclaims the sage Jefferson, "it turns the tide of affairs in the South," says another patriot. "It checks the conqueror who is ravaging the Carolinas." "It reconquers South Carolina." "It turns the lion from his rapine and chases him from the plain." "Great and glorious," cries the brave but unfortunate Gates.

Who and whence are the men who wrought this great work, and thus consecrated this spot, even down to this hour? Whose heroic patriotism thus checked the conqueror in mid career, and gave back life to the expiring cause of American liberty? Lord Rawdon, writing to the commander-in-chief of the British forces, says, of this battle, "the men, who fought it, came from beyond mountains, whose very names are unknown.

September is a delicious season in the green vallies beyond those "unknown mountains," and it was on a bright and sunny day in the latter part of that month,

that men were seen gathering in one of those vallies of the beautiful Wautauga, as if for some purpose of deep interest to themselves. It is, indeed, a lovely spot, and well suited for the grave deliberations then held there. The torrent comes bounding from the mountains as if tearing its way through them, and, suddenly, spreads out, into a broad, shallow, rippling stream, its pattering music running with sweet accord beneath the distant roar from above. On one bank is a gentle slope, shaded by beach and maple, and carpeted with waving grass. On the other side, are bold and rocky precipices, with openings scarce wide enough for perilous bridle-paths. Down these paths, about noon, might be seen descending, at intervals, the hardy denizens of that wild region, most of them on horseback, but many afoot, and all dressed in the fringed hunting shirt and buckskin leggings, and bearing on their shoulders the long, small-bore rifle of that day. The tread and plash of their horses, as they struck the pebly bottom of the strong current, blended richly with the natural music of the scene. Already many were collected, and lying idly, in groups, beneath the spreading trees on the northern slope. Before the long shadows of the mountains reached them, at least a thousand men were there; for, this far away, quiet vale, was the rendezvous of as noble soldiery as ever illustrated the annals of human history. Yet, there were no tents there, no wagons, no sentries, no flaunting banner, none of the gorgeous paraphernalia of glorious war. The top-root of the beech was the pillow, the velvet sward the couch, the waving boughs the canopy for these sons of the mountain nymph. Their liberties had been achieved, and they rested in security, their barrier-mountains kept off the invader,

and their own prowess had driven the Indian from about them. But a shriek had come up from the Carolinas, and, echoing around these peaceful vallies, startled these men from their homes and harvest fields.

The ready minions of that stern power which had driven the colonies to revolt, were crushing out the last hope in Carolina—lighting the torch and sharpening the knife in the hand of treason—making patricide, carnage and fire, loyalty and virtue; and this was the call these men were met to answer. Moving earnestly from group to group, were seen four or five men, dressed like all, in that picturesque and graceful hunting shirt, but distinguished by their side arms, and each, by something remarkable in person or bearing, betokening a wider experience than these wild scenes afforded. As night closed in, these men with many others, sat together talking over the events of that struggle for freedom, which had been going on for years, and in which, each one of those I have designated, had borne an active and not inglorious part. One of them, evidently the master mind of the group, apparently, to give texture and purpose to the conversation and discussion, was detailing the causes which, for years, almost for centuries, seemed to lead to this great struggle. He spoke of all that history told of the oppression of their ancestors by the profligate and tyranical Stuarts, and how the blood of one—not a martyr as he is vainly and wickedly called—but the victim of his own sins, and a just sacrifice to popular right—failed to be a lesson and a warning to others. He spoke of the brave and gentle Huguenots, driven into the sea by a pompous and bigoted monarch—in bitter satire, or by contemptible adulation, called "the

grand." He repeated what their sires and grandsires had told them, of Scotland's sad failure, and poor Erin's misery, and how *all* came for *freedom*, to this new world that had risen beyond the far Atlantic. These men, far removed from actual intercourse with the people they were going to serve, and ignorant of the condition of the provinces, became anxious and excited by this conversation, and warmly urged the speaker to continue his narration.

"Well," said he, "it is not the paltry tax, these cruel and short-sighted men impose upon us—it is not their mean assumptions of power, or their utter abandonment of national protection, which drives us to be free. The principle is in the human heart—it showed itself at Runnimede five hundred years ago, and will not be satisfied until this new found world comes under the dominion of civil and religious liberty. This continent belongs to liberty. The people of America are not rude and uncivilised men, emerging slowly and painfully from slavery and superstition. They came to a new world to regain that which had been taken from them in the old, or to create that which the tyrannies of the old world prohibited from life. They came here, a hundred years ago, with the religion of Luther and Knox, and the spirit of Sidney and Hampden; political and religious truth was the inspiration which sent them here. Their first house was a christian church, the next a hall of justice. There is no darkness in our origin. The first sun that rose on our ancestors on this continent, shone on civilized and christian men. For generations they had been fighting for liberty, and failed to get it; when they touched this new land, they deemed the holy heritage within their grasp; the day spring from on high, rose before them, and, under its

soul-strengthening power, they subdued the rugged front of nature. Driven from Britain by her tyrannies, we have still turned fondly to the homes of our fathers, and given freely our blood and treasure to our mother country. There are those of us here to-night, who bear the scars of her wars, side by side with that great and good chief who is now leading us on to freedom. In all justice we would have served her with fond affection, and faithful reverence. Why then have we rebelled? Why have we marred the face of this fair, new land with a cruel and bloody civil war? Here, within sight of this spot, we have seen our wives and children slaughtered by the merciless savage, hired by our king. For five years his blood-thirsty hirelings have been slaying, without mercy, from Canada to Georgia, and now, within one handred miles of us, among our kinsmen and brothers, we see Englishmen, aye, and Americans, more barbarious than the wild savage, deluging the land with blood. Why have we encountered all this? Why have we sought all this? It is because the command of God is that we must be free! Already have our deeds marked us in the history of mankind. Triumph now, or fail now, our names and our deeds are registered in the most sacred volume of that history. Its pages record nothing in moral grandeur, surpassing the scenes we have witnessed, those in which we are acting. I see among us those who heard the more than mortal words pronounced in the Virginia assembly: there is one, at least here, who witnessed that assemblage of men at Philadelphia, whose deed, in all time, will stand the crowning glory among the acts of men. We are not acting a drama as a spectacle to furnish poetry to future ages; that which we are doing is not for a lesson or a warning. It

is a beginning, a mighty reality. On the high altars of truth, liberty and religion, we are offering our sacrifice. For the great good of humanity we are pouring forth our libation of blood. Its incense has already gone up to the great God along with the souls of our slaughtered brothers, and we are almost free!"

"But," continued the speaker, "the tyrant still holds in closest bondage, one of the fairest portions of the land. The city of Charleston is held by British soldiers, and all Carolina, where our kinsmen and brothers dwell, is still under their sway. Cornwallis and Rawdon, with bloody steps, are marching through its very heart, and Tarleton and Ferguson are ranging over its confines, like demons of vengeance, choking the very sense of pity with their fell deeds. Above the far Unaka there, we can almost see the blaze of burning houses, and coming down that valley, on the night wind, we can almost hear the wail of the ravished maiden, and the groan of the murdered father, and see here, with what pittiless fury, the relentless butcher pursues these helpless people. Steeped in misery, groaning with despair, he calls on them, to forget nature, country and God? He bids the son to slay the father—the mother to betray her child—he calls on all to forget the land of their birth and the God of their salvation. Here is the proclamation of Cornwallis, as he sends forth Ferguson and Tarleton, like bloodhounds slipped from their leash. Even the gallant Sumpter dare not meet them, and the great-souled Marion burrows for safety in impenetrable swamps. It is for us to meet these butchers; it is for us to save Carolina—it is for us to redeem from vassalage our kinsmen and brothers, that we have summoned the free mountaineers of Virginia and North Carolina to

meet us here; and here they are. Their wives and mothers have filled their wallets; their sisters and daughters have moulded their bullets; their well wiped rifles glitter in the moon-beams; every man has prayed before he slept, and they are ready for the fight." And stillness and silence crept over the scene, as these men, with high resolve, sought their necessary rest.

The morning sun shone on this little army, winding along the mountain ways, each man's soul roused to the loftiest purpose of human charity, for which he meant to give his life. Oh it was a noble and a gallant band of high-souled patriots, which left the banks of the Wautauga that September morning, seventy five years ago. I have, in my boyhood, talked with many of them; old men then, men who had met all the offices of life, high and low, but the impress of that purpose which led to this battle, was stamped upon every one of them. It gave to them an elevation of character which marked their persons and manner through life, and they lived and died with the lofty bearing which came of that purpose, formed that night on the banks of the Wautauga, and redeemed the next week on the heights of King's Mountain.

The condition of the Carolinas at that moment was sad indeed. Blank despair had settled on the patriot cause. It was, for these provinces, the "black year" of the war, and the gloom was spreading over the whole country. Wilmington, Charleston and Savannah were in the hands of the British, and the best men, many of the leaders of the three southern states were prisoners or in exile. The reinforcements from Virginia had just been butchered by Tarleton, and, as

if to close the wretched drama, within forty days, Gates had suffered that terrible defeat at Camden, which, indeed, "turned his northern laurels to southern willows," and made Cornwallis complete master of South Carolina. This power he was using with a cruelty, unparalled in modern civilized conquest; binding down the conquered people like malefactors, regarding each rebel as a condemned criminal, and checking every murmur, answering every suspicion with the sword and the fire-brand. If a suspected whig fled from his house to escape the insult, the scourge or the rope, the myrmidons of Ferguson and Tarleton burned it down and ravished his wife and daughters; if a son refused to betray his parent, he was hung like a dog; if a wife refused to tell the hiding place of her husband, her belly was ripped open by the butcher knife of the tory, and, to add double horror and infamy to the deep damnation of such deeds, Americans were forced to be the instruments for perpetrating them. That which Tarleton, (beast, murderer, hypocrite, ravisher as he was,) was ashamed to do, he had done by Americans—neighbors, kinsmen of his victims. I draw no fancy picture. The truth is wilder far than the fabulist's imagination can feign. On the morning this battle was fought, an impenetrable cloud of woe and despair hung over the people of South Carolina. Gates had fled to Hillsborough—Sumpter's men had scattered and hid—and, it may be said, with historical accuracy, there was not a whig soldier in the field. On the other hand, Cornwallis had a numerous, well-disciplined and veteran army, flushed with conquest and repeated victories, posted across the state from Charlotte to Augusta, with infinite skill and judgment, and with powerful,

well-directed, and most cruel energies, he was holding the state in utter subjection. To maintain this condition of things, and carry out fully his intention of instituting a civil as well as a military government for ulterior purposes, he relied mainly on these divisions of Tarleton and Ferguson. Ferguson had a picked regiment of regulars, and had added to it another made up of the very best loyalists he could, by threat or bribery, induce to join him. He had distinguished himself on the northern line, and his government and Cornwallis had the utmost confidence in his ability and peculiar fitness for the purpose in hand. His orders were to subdue the people; age, sex, condition, right, mercy, were not regarded in these orders. They were "subdue the people." With this dread mission, Ferguron had penetrated to the mountains, marking his course with terror and destruction. It is a sad, sad tale of horror, this march of that sullen and blood thirsty officer; and it was the wail, like that which followed Herod's slaughtermen—that followed him and went up into those far mountains, and roused those brave, good men, who left the valley of the Wautauga on that bright autumn morning.

With forced marches this little army dashed swiftly over the mountains, and at the base struck the trail of the wolf, and marked his course by the blood-spots he left in his path. He heard their tramp as they came clattering down the mountain sides, and skulked away to hide or entrench himself here. At Gilbert-town, near Rutherford court house, whence Ferguson had fled, they stopped a night, and selected about one thousand of their swiftest and strongest men, with good horses, to lead in the chase; and without waiting for daylight, off they sprung with the speed of the wind. The

game was afoot, and to the mountain hunter the chase grew warm. There was no need of leaders or captains then, for each man knew his work and meant to do it. They were to catch Ferguson, or, if Cornwallis came in their way, they were to catch him. Swiftly, but with stern determination, they kept the track, turning aside for nothing, save now and then to shoot a tory, as a bear hunter shoots a snake, merely to kill the vermin, or to keep his rifle from rusting; or, if they found a rascal skulking around their march, they stretched him up with a grape vine, practising for subsequent necessities.

The night after leaving Gilbert-town, on a short halt, in council, the officers selected a chief to act until they could receive orders from Gates. Their little army was composed, then, of men nearly in equal numbers from Virginia, North Carolina and South Carolina. Each band was led, rather than commanded, by its own officer—Sevier, Shelby, Campbell, Cleaveland, and Williams and McDowell were the colonels, and had all seen hard service, either in the Indian wars or in this struggle. After full deliberation, they unanimously elected Campbell, of Virginia, to command in the approaching fray. He was a man in the vigor of life—not quite forty years of age—of pure Scotch descent, thoroughly educated in the classics and all the science of the day, and had been a soldier from his earliest manhood. He had married the sister of the famous Patrick Henry, and was an intimate friend of Mr. Jefferson, and had joined in all the early movements of resistance. Having a large family connection in Western Virginia, and an extensive property, and that region being still subject to imminent perils from the Indians of Tennessee and Kentucky, he declined

commissions tendered him in the continental army and the Virginia lines, and accepted the honorable, laborious, and dangerous post of county lieutenant. In this he succeeded Evan Shelby, the father of his associate in this expedition. He immediately gave the care of his family and property to a kinsman, and devoted himself to the cause of freedom. His manner was grave and dignified, his person strong and graceful, his courage of the most daring and reckless character, his patriotism of the sternest mould—enthusiastic and uncompromising—with a fierce and relentless hatred of those who refused to join the patriot cause, and withal a skilful, judicious, and practiced officer. He brought to the expedition four hundred and fifty men —many of them his kinsmen, friends and neighbors— of wealth and position equal to his own; and most of them of that true Scotch-Irish breed whose fathers had fought for kirk and covenant, and among whose descendants are the Clays, Calhouns, Scotts and Taylors of our day. It was, then, the merit of the officer and the material of his troop, that induced his gallant and patriotic associates to confer on Campbell the chief command. The pioneers of our liberties were far above the filth and dirt of those who seek the bauble of personal glory at the risk of their country's good; and Shelby and Sevier, and Cleaveland and the venerable McDowell, and the chivalric Williams, knew not the base sentiment—they could not stoop to recognise its existence. They could not desecrate the holy spirit of patriotism, on its battle-fields, by petty and contemptible personal jealousies; and may their pure spirits, even from their abode in heaven, look down and curse, with the scorn and contempt of mankind, the mean malice of that traitor-heart that would turn

us from our worship here. Yes, my countrymen, our origin runs not back into the dim and misty past which makes demi-gods of men; but those days of which I speak, which that grey-haired man may have seen, were days of the highest heroism known in the history of man. These men whose names I have spoken to you—whose names we bear—were heroes of loftier mould, grander proportions, mind and soul, than ever Homer sung, or than those who fought at Thermopylæ or Cunnæ, or those who made a monarch swear at Runnymede; they were God's heroes, fighting and dying for him and his people. Such, indeed, were the men who sat in council that night, each holding his own horse, and squatting on the bare, cold ground. Glory! glory! glory to the buckskin warriors from Lexington to Yorktown, who worked out God's problem for humanity.

With their chosen leader in front, and each chief at the head of his troop, firm in their saddles and fixed in purpose, dark and stormy as it was, away they galloped in the hot pursuit. There was a pelting rain falling, which rendered every precaution necessary to keep their weapons dry, and they rode with their rifles under their arms. About daylight they crossed Broad river at a ford about twelve miles from this place. Here they halted for an ill-provided meal, the rain still falling in torrents. About twelve o'clock the rain ceased; the sky cleared, and they found themselves within three miles of Ferguson's camp on this mountain. Here they halted again, under an order passed rapidly along the line—an order, perhaps, the most laconic and appropriate ever uttered under like circumstances. It was in these words: "Tie up overcoats, pick touch-holes, prime fresh and be ready to fight."

Here they were joined by a few of the neighboring people, some of them having loosed their horses from the plough in the seeding fields, and in their haste riding bare-back, with dangling trace chains. These people were familiar with the ground and arrangement of the British camp, and on their information, and using them as guides, the officers determined to divide their columns and attempt to surround the mountain. While arranging this, an express from Ferguson to Cornwallis was arrested. His dispatch was read aloud at the head of the line. He said: "I hold a position on '*the King's Mountain*,' and all the rebels out of hell cannot drive me from it."

There was no shout or disorder when this was heard, but a quiet, grim smile ran along the line as they struck into a "double gallop." In twenty minutes they were in sight of the camp. They drew up along the bank of that little brook, dismounted, and tied their horses to the saplings and swinging limbs, leaving them in charge of a small and discontented guard—discontented at being left out of the fray; and, indeed, before the battle was half over there was not one remaining, and the horses were scampering wildly among the combatants. By the division of the columns, Sevier's troop formed the right, Cleaveland's and Williams' together the left, Campbell the right of the centre, and Shelby the left centre. Sevier, of course, was to pursue the hollow up the margin of the brook, Cleaveland passed along as the road now does, and turned up the ridge east of us, along where the volunteer tents are, and Shelby came along just where we are standing, Campbell taking the face of the mountain opposite to where the grave-stone is. The order of attack was hurriedly made, but with a military skill

and judgment which could not be excelled. There was not a mistake or error, or even miscalculation of marching time, from the onset to the end. Each column moved steadily along the indicated line, these lines tending to a common centre, which was the British encampment on the crest of the ridge. The British began the fight with a severe but scattering fire at the centre columns as they passed along around the base of the mountain. This fire was sustained for six or eight minutes, and in it Major Cronicle was killed and several were wounded; but most of the balls ranged far above the heads of the Americans. By this time Sevier passed out of the hollow at the head of the brook, in full view of the enemy, and the firing commenced in earnest on both sides, and with such fatal effect from the mountain rifles as to force Ferguson to a direct charge of bayonets in the very beginning of the action. This charge was headed by a company of English regulars, and was worthy the fame of that service won on a thousand battle-fields. It was boldly and gallantly done, and forced Sevier to retire nearly to the bottom of the hill; but at that moment Williams and Cleaveland appeared on the left, and poured in an awful fire on the right flank of the enemy. The charging columns were recalled, and wheeling rapidly, made a terrible dash at Cleaveland and Williams, and with the same result—driving them back and pursuing them down the ridge. Before they could effect a route, Campbell and Shelby came up in front, and Sevier had rallied, and from left and front they poured upon the British a telling fire, which compelled them to wheel again. This they did in double quick time, but in perfect order; and having received reinforcements from within the lines, another

—the third—charge was made, and this with the whole British force, directly at the centre columns. Here, again, the bayonet, in British hands, told its irresistible power, and Campbell and Shelby gave way before it. But Cleaveland had rallied, and Sevier was still moving forward, and their double fire on each flank was terrific indeed. It stopped the charge instantly, and the centre column hearing this tremendous fire, and seeing the sudden pause of the enemy, and their retreat up the hill, rallied, wheeled, and rushed upon them with shouts and huzzas, supposing they were defeated. By a rapid and skilful movement, Ferguson threw his men into three columns, one facing each of the columns of the advancing patriots, and then made a fourth general charge on the entire American line. It was too late. The blood of the mountaineers was up. They sprang forward from behind rocks and trees into the open ground, met and repulsed the charge, and actually drove the British within their lines. This enabled the three patriot columns to meet, and almost, literally, to surround the enemy. Then, indeed, came the rage of that fierce battle. A circle of fire hemmed the wolf in his stronghold. The English soldier proved his breeding in this hour of danger; and the rascal tory then saw that escape from the rifle might be but running into the rope. The regulars with their bayonets, and the tories with butcher-knives fastened to the muzzles of their guns, charge on this closing flame with the fierce energy of despair. In vain. The mountain hunter, calmly but rapidly loading, and deliberately aiming, as he rested his gun against a protecting tree, sent a death messenger in every bullet. At every discharge they moved forward, until there was one narrowing circle of flashing

flame crackling around their victims. The British cavalry was ordered to mount. It was the very thing for the American rifle, as it raised the mark clear above the bushes, and as each man threw his leg over the horse, he fell dead on the other side. Ferguson, with a gallantry which seemed to rise with his desperate condition, rode from rank to rank and post to post, cheering, driving, and encouraging his men, until he found his army pressed, actually huddled together, on the ridge, and falling as fast as the Americans could load and shoot. He determined on one more desperate charge, and taking his position at the head of his cavalry, in a voice that rose loud above the din of the battle, he summoned his men to "crush the damned rebels into the earth." The summons was heard by the Americans, and one round of their rifles was stopped, and instead of their roar there was heard only the click of the cock. It was the serpent's low warning of coming death. The pause was but for a moment, when Ferguson and DuPoistre, horse and foot, burst like an avalanche down the mountain side. By the time they came within sixty paces every rifle was loaded, and under deadly aim. Ferguson fell at the first discharge, with seven mortal wounds. The patriots rushed forward to meet the shock, as Du Poistres' regulars, with bayonets set and sabres in rest, came crashing down upon them—not Agincourt or Cressy, with all their chivalry, ever felt a shock more fearful than that; but had the heavens then rained British bayonets, it could not have stopped those patriots. The destinies of America—perhaps of mankind—depended on their muscle. Like martyrs they went to the death—like lions they rushed to the carnage. Officer and soldier—half naked, with blood-

shot eyes and parched tongues—pounced upon the charging enemy, until their hot breath and fierce glare was seen and felt by the craven tory and his bull-dog master; and as they crouched, gathering for the last spring, a wild, terror-stricken shriek rose above the roar—a yell for mercy. A white flag was run up, and God's champions shouted victory! liberty!

That shout echoed from this mountain to the sea, and far along the shore to where the majestic Washington was almost weeping over the accumulated horrors of the south. His great heart leapt up with prophetic joy as this beam of hope came, borne on the triumphant voices of his trusted men of "West Augusta." For those who sent that shout were the very men to whom Washington said he would entrust the liberties of America when all else had failed. He knew the mountain was the birth-place, but never the grave of liberty.

One hour sufficed for this crowning scene in the drama of the revolutionary struggle in the south, acted by rude men from beyond "unknown mountains."

Not one of the British force escaped. Two hundred and forty were killed, and two hundred wounded—showing a strange proportion, and telling the fatal story of that long small bore rifle. Over seven hundred were taken prisoners, with all their arms, ammunition, camp equipments, etc. It was a total defeat and capture of one-fourth of Cornwallis' army.

After a battle so hardly, indeed so furiously fought, it was a singular circumstance, that of the arms laid down by the prisoners, nearly every gun was found to be loaded, showing the horror and sudden terror of the defeated, when they came in direct conflict with those strong, wild men of the mountains. They must

have looked like demi-devils, half naked as they were, after that long, wet, dirty ride, that fierce fight, bloody and terrible on that hot October day. Of the patriots, twenty-eight were killed, and sixty wounded, another proportion, showing the wide aim of the regular, compared with the fearful accuracy of the volunteer. There is another feature, common to all our revolutionary battles and those of our citizen soldiery in Mexico, which told sadly in this battle of King's Mountain. It is the large proportion of officers killed and wounded. Of the Virginia regiment, thirteen were killed, twelve of them officers.

With the American volunteers the officer is technically and literally the leader; he goes before to show the men the way, and how to fight. In this battle, the officers not only went before, but every one, commander, colonels, captains, all carried and used the rifle in addition to the sword. It thus becomes known that the gallant Williams seeing Ferguson cheering his men with his voice and famous silver whistle, drew up his rifle to shoot him, but perceiving Ferguson was armed only with sword and pistols, he threw away his gun, exclaiming, "I will have a single hand tustle with him or die." He dashed at the Briton, but before he reached him, received two balls, and was borne from the field by his two sons, lads of fourteen and sixteen. Williams survived until the next day, and learned that the victory was complete. He raised his eyes to heaven and said "I thank God for my country's deliverance," and placing a hand on the head of each of his children he said, "God bless you my brave boys; tell your mother and our friends, I die content." Within a few months those two noble youths were inhumanly butchered by the tories at Hay's Station. The pure

and brave Captain Edmonston fell in front of his company, near his colonel. The stern Campbell was seen to brush away a tear as that brave, good friend, was borne back. Edmonston lay under a tree, with one hand clutching his side to keep in life until the battle was over. He heard the shout of victory, as his commander and friend grasped his other hand. He could not speak then; he kissed Campbell's hand, smiled, loosed the hold which stanched in life, and the christian and patriot went to his reward. Four Edmonstons fell in this fight, and with them, Craigs and Beatties, Bowens, Willoughbys, Blackburns, Crawfords, Campbells and Cummings.

Oh Caledonia! Caledonia! had the descendants of thy Wallace and Bruce, left to thee, been to thee, as those driven to this new land, were to its struggles, how different might be thy place, now, in the chronicles of glory. It is the blood of the children of Scotland's exiled sons which hallowed this spot; it was their strength, but above all, their abiding trust in the God of their fathers, which "turned the tide of success that terminated the revolutionary war with the seal of independence." It was, indeed, a glorious, and well-foughten field, and well did all these brave patriots keep together in their chivalry. There was Sevier, who proved that Jarnae and St. Bartholomew had not drawn all the blood which flowed in the veins of the Huguenot—and Shelby, who ever showed his bold Cambrian breeding, and lived to meet his just reward in the highest honors of a nation he aided to liberate; and Cleaveland, so brave and yet so gentle; and all the others, whose deeds are recorded in the chronicles of our liberties, and rewarded in the glory of God.

My countrymen, I look around me here on this scene,

and need I, dare I ask, is there one here, is there one living soul, who hears the mighty tones of liberty resounding over the earth, who will refuse to kneel down and worship the Great Spirit which moved these men to come down and fight this battle. Oh, no, our free, glad hearts, crown them with eternal glory, and shout the loud pæon—hail, hail, hail sacred fathers of human liberty!

I might detain you until the shadow of that mountain comes over us, with many a story and legend of this great event, for I have listened to them by the firesides of the actors in it. But, we have other offerings to make here, and my humble narrative must hasten to an end.

The immediate result of this entire destruction of one fourth of the army of occupation, (for such and no less was that of Cornwallis,) has been mentioned in grateful, but very general terms by our historians.

Fellow citizens of South Carolina, I am a South Carolinian in heart, soul, spirit, and hope. This land I have chosen, is more precious to me a thousand fold, than that dear, dear land, that grand old republic, which is my birth mother. You, therefore, my countrymen, will know that it is with more than common pain I utter, what I believe to be a sad truth, when I say that neither the writers nor the people of South Carolina have rightfully appreciated this battle. We have truly and properly and with right enthusiasm, gloried in Fort Moultrie, for never did the ocean waves mingle their eternal voice, with a nobler scene than that, and in Cowpens, too boldly and too bloodily fought, even for the blood-dyed Tarleton, and in Eutaw, yes, in Eutaw, worthy of any boast, worthy to have its tattered banners hung in the holiest places.

Here is one of them. Its bloody folds were borne through that terrible day by the hand of a Washington, and for three score years, and on later fields, have been guarded by spirits as noble as his. It has liberty's blessing, and woman's blessing. Here it is. Its shreds, its patches, its blotches are holy. But touch it and virtue will come out of it. Let every one here come up and gaze on this, and glory in Eutaw! These battles were as gallantly, perhaps as well and skillfully fought as this. From the 28th of June, 1775, to the day John Laurens fell, South Carolina was one battle ground, and every foot of her soil is consecrated by the toil, the constancy, the courage, the patriotism, the gallantry of her sons. It does seem to me, however, even leaving out the great results, to some of which I shall venture to recall your memory—that the circumstances I have so feebly sketched, tend to give this battle of King's Mountain a tone of romance, scarcely pertaining to any other of the war, full as the whole struggle was of incident, romantic beyond the ordinary acts of men. The sudden and spontaneous gatherings, without order or requisition from any established authority, in a wild and remote region, where rude "nature dwelt in awful solitude"—the strange, wild men concentrated into civilization and the highest human purposes by the need of their fellow men, the lofty bearing and knightly character of their leaders, Campbell, Shelby, Sevier, Cleaveland, Williams and McDowell, patriots, soldiers and gentlemen, the dashing march through the mountains, the hot pursuit, the military genius of the battle, the capture and annihilation of an invading army, the modest report to Gates, the quiet return and dispersion, and then the tremendous results to the expiriug cause of freedom, do

strike me as constituting a chapter, which should not be excluded from that story which tells of our heroic days.

The immediate and direct result was this. Cornwallis had entirely, and as he believed, permanently subdued South Carolina; he or his partisans defeating and dispersing the patriots wherever they met them. He had established strong military posts across the state from Savannah to North Carolina, at Augusta, Ninety Six, Granby, Winnsboro', Camden and Charlotte. Thus instituting a military rule of the most disheartening character to the whigs, close, binding, bloody and disgraceful. The exterior cordon was complete on the Georgia side, and this detachment of Ferguson and his own move to Charlotte was to complete it on the North Carolina boundary—that state being in no condition to resist. Tarleton, in the mean time, was ranging over the state, checking every intimation of a rising with the sabre and his horses' hoofs. The British army at the south had thus completely fulfilled its mission, and was preparing to move northward on Virginia, Maryland, Pennsylvania and New Jersey, and thus effect a junction with the northern division at New York. The subdued Carolinas were to form the "point d'appui" of this grand and well planned scheme of re-conquest, and Ferguson's division was to clear the way for the movement. At this time both Boston and New York were held by the British, and Washington was struggling with super-human efforts to keep together his starving and despairing armies, and, at the same time, to sustain the almost exhausted hopes of the congress. Supported himself by his abiding trust in the cause and in Almighty God, this more than mortal man almost yielded when Gates fled from Camden and

left the whole south in the hands of the enemy. The news of this event, the death of De Kalb, the defeat of Sumpter, and the dispersion of his men and those of Marion, went like a withering blast from the fated south. Patriots, everywhere, with paralised hearts, threw themselves on the earth, and gave their cause into the hands of God, and a cruel shout of triumph rang from the Savannah to the St. Lawrence. Thus then it stood; so dark, so dreary, so hopeless. Thus it was, when, suddenly, like a wild hurricane, one swoop from the far mountains, at one blow lopped off the right hand of Cornwallis, drove him out of North Carolina, stopped his triumphant march, and sent him again to his forted fastnesses.

It was the very first victory of that year, and on its announcement, the subject, but still unconquered whigs, in their deep hiding places, heard it with timid and uncertain hope. Marion caught the sound and peered forth cautiously from his swamps to listen to its tones. Sumpter, on his hill-roost, heard the echo as it came down upon the morning dawn, and his clarion call re-echoed it along the hills and vallies of the Santee. "Up, up," he cried, "brothers of the holy cause and strike again for God and liberty;" and, as if the fiery cross had flashed like a meteor round, from hut and homestead, from forest and field, from mountain and plain, they rose and rallied to that call, and Cowpens, and Guilford, and Eutaw followed, and the march of triumph was changed to a broken and terrified retreat; and the schemes of Leslie and Rawdon, and Clinton and Cornwallis, were frustrated by a thousand mountaineers in fringed hunting shirts, without carriage or cannon, bugle or banner, but with great souls and good rifles.

It is the province of the historian to recite the closing acts of that mighty epic, "turning the accomplishment of years," into an hour's reading—and fortunate are we in having with us to-day, one whose words tell what he would have been in the days of which we speak. One, who, to Grecian polish and Roman strength, adds the fresh glow of American patriotism and whose soul is in full sympathy with his loftiest theme.* We have met to rehearse a single glorious scene, and to make one just effort to place where they ought to be, the names of Campbell, Shelby, Sevier, Williams, and McDowell, beside those of Morgan, Putnam, Warren, Sumpter, Marion and Moultrie. They were equals in courage, conduct and effect—their cause was the same—let their glory be alike.

Applause, gratitude and honor followed this band of heroes as they went back behind their mountains, to gather their corn and pile their winter fuel, and raise new barriers against the Indian, whose war hoops had been heard when they were away.

But they could not be quiet while that wave they had turned was still uncertain in its motion. Before the winter snows had melted from the mountains, we hear of Shelby with Marion and his men, and Sevier, driving the savage from that territory—now an empire—of which he is the father; and Campbell and Cleaveland, with the rifles that won King's Mountain, *the first and the last on the great field of Guilford.* It was they, who, under Lee, so maddened Tarleton and made Cornwallis swear if ever he caught their leader, he would hang him to the first tree. The partisan sent to the peer a like compliment, and was near redeeming

* Mr. Bancroft, the historian, was present.

his courtesy at the moment, for had all the troops fought at Guilford, as did the King's Mountain men that day, Cornwallis would never have reached Yorktown. I hold in my hand a plain, but glowing description of the battle of Guilford, by a contemporary, perhaps an eye witness of that great event. In it is truthfully told the eminent service of the King's Mountain men under their old commander. General Greene, in a special letter, tenders his warmest thanks to Campbell, his officers and men, and Lee, with whom they acted, tells them their conduct is particularly noted by the commanding general. Indeed, it was only when Lee rode up to them, and peremptorily ordered them to quit the field, that they ceased their firing. They could not be made to understand that they were defeated. By an unanimous vote of the Virginia assembly, their leader was appointed a brigadier-general, for "eminently heroic and patriotic service in the glorious affairs of King's Mountain and Guilford court house." He was ordered to join La Fayette below Richmond. His activity, intelligence, and skill, together with his enthusiastic patriotism, and high personal bearing, soon gained him the confidence and warm personal friendship of that chivalric Frenchman. It was in the midst of the summer heats, and a deep flesh wound received from one of Tarleton's troopers at Guilford was still open. Weakened by this, and much service, the crest of the strong mountain eagle drooped beneath the hot suns of the sea shore. Not many days before Yorktown, nursed by a detachment of that soldiery who there witnessed the baptism of liberty, this one of her noblest martyrs, went calmly to his great reward. I know I will be permitted to read here the funeral or-

der of La Fayette in honor of him whom Shelby, Sevier, Cleaveland, Williams and McDowell, chose to command them on this glorious and hallowed field.

(*Order.*)

HEAD QUARTERS, August 25, 1781.

The general has no doubt that the army will unite with him in regretting General Campbell's death ; an officer whose services must have endeared him to every citizen, and, in particular, to every American soldier.

The glory which General Campbell has acquired in the affairs of King's Mountain and Guilford Court House, will do his memory everlasting honor, and insure him a high rank among the defenders of liberty in the American cause. The general wishes it had been possible for himself and the officers of the army, to have paid those honors to which his rank, but, particularly, *his merit*, so highly entitle him. But his great distance from the army, and our present situation, render it impossible. The lieutenant of the county will assemble a corps of militia and pay military honors to the deceased general.

General Stevens is requested to name a deputation of four field officers who will immediately repair to Rocky Mills, and, in the name of the army, pay General Campbell their last respects.

LA FAYETTE.

Thus they have all passed away! Their lives belong to the eternity of the past. Our liberty is their monument, as durable as the mountain on which they won it. The world may smile at the great swelling words with which we praise these men—the humble partisans of a rebellion. But why should we not praise them? They gave to us all we have. Has the world more or better gifts? Did Romulus or Charlemagne, or Alfred give more to their descendants? Does the mortal thunder now reddening the waters, and shaking the centres of eastern seas, give an inheritance equal to ours? Then let us boast and be not ashamed.

Fellow-citizens, the purpose of history is to record the truth, that, by its light those who read may be guided safely. This record is the title deed of our ancestry, to our praise and gratitude, and ours to their glory and the institutions they have builded for us. If then we claim the glory of the past, and enjoy its results, can our duty be less than this, to see that all which is good in the past has its share in our conduct, works in us, guides us, and makes us emulous of it in all right ways. If we claim the parentage of the past, we cannot reject its instruction, or fail in obedience to its behests, without bastardising ourselves, and thus, by our own wrong, lose that, which should be our legitimate inheritance.

We have to-day turned a leaf in this record, stamped with the imprimatur of patriot and heroic blood; and the indenture was made on the spot on which we are now standing. It is a section cut from a golden book, opened to our people after long years of direful trouble, and fierce, strong struggles. The inscription of that volume is "liberty"—its commentary is "equal law," made by all, for the good of all, and that man by man may kneel down and worship God wherever He is to be found in the hearts of His worshippers. And it is this estate of ours, thus derived, which constitutes the American epoch under which we are living; which cuts off our days from all the "old ages," and is the first, distinct, unmistakeable, ineffaceable mark of the almost divine fact of human liberty, on the institutions of man. In them, in the purity and might of its power, in its tremendous purposes, it had no recognized being, no real place, no hallowed name, before that baptism of blood we have met to celebrate. It is not of the Hebrew, the Greek or the Roman; it is not

feudal, or papal, or Lutheran; it is the gift of God to America; it is American! Oh, do not blaspheme that name with the foolish, the wicked, the petty purposes of a day. The name of American denotes our breeding from heroes and sages, who were inspired of heaven to work out our great deliverance. Do not desecrate it by a vain use or mischievous application. It is wide enough for the worshippers of liberty over the whole earth—it is not wide enough for hypocrisy and vain deceit. It is holy—for before America, even Christianity had failed to persuade man to accept that boon which ensures his entrance to heaven—"the right to worship God according to his own conscience." This was the first, real divine offering of Americanism; and the next was almost like unto it—"the equality of man," "all men are born free and equal." This struck into the dust the thrones and powers of the earth. It is, then, these Americans which constitute the hitherto unrevealed facts of religious and civil liberty—the just relations of man to God and his fellow man. What is the lesson they teach us? May I not here, to-day, ask, with holy pride, what is the lesson already taught to the American citizen by this origin of his government? Is it not that he should love a country, thus blessed to him, with more than a common fervor—that he should give to this devotion all his being? Why perished the Spartan at Thermopylæ? What gilds Salamis and Platæa, and the Roman name, with an imperishable halo? Why, the love of institutions, which have perished, of a country now cursed of God. The undimmed lustre of patriotism is a living fire, when Greece and Rome are no more. If, then, patriotism be so glorious in its inspirations to the Greek and Roman, who knew no absolute truth, what

should it be to the American, whose very origin sprung from the highest truth vouchsafed to man—who holds a country not cursed of God, but is the inheritor of a land fresh from the forming hand of its Creator; a land that knows no earlier usage than his, save its abounding gifts, yielded with spontaneous love to nature's prolific power—a land unpolluted by forceful rapine, or that fierce avarice which tears the fruit from the earth before its birth-time—a land, indeed, kept, through all time, dressed in the gorgeous robes of its pristine wealth, beauty and purity, until the soldier of the cross came and claimed it for his virgin bride in the name of God and human right. But it is not alone by this origin of his country that the divine spirit of patriotism woos the worship of the Americans; it is not alone by the fountain which springs from Horeb or Sinai that his soul seeks his oracle; it is not alone the adoring hymn which rises to-day from this sacred mountain which lifts that soul to an emulous grandeur; it is not alone the magnitude and mighty significance of a seeming divine revelation which makes his patriotism his religion; it is not alone the unspeakable yearning of his heart for the sublime truths of that revelation as it shows him the great charter of human liberty; it is not alone by all these that the American is made worthy of his transcendent heritage. Let him to-day look around him, and behold those forms already developed under his great agency, and the glowing manifestations which seem to reveal the mysteries of a still grander future. With a socialism in the unwasted vigor of a gigantic youth, the American seems insubordinate to all that is old in human institutions. Outward religion, the power of old forms of rule, prerogative, privilege, fall like stub-

ble before his manly stride, as he goes on constructing the wondrous and beautiful system of civilization he seems destined to fasten on the earth. I speak of to-day, and may say that, with the blessing of God, our progress in this grand mission has not been in the rugged and tortuous lines of other nations, leaping forward to-day with bloody and convulsive effort, and back to-morrow with fearful collapse and heavy reaction—for such, indeed, has been the history of man. As yet we have gone forward with the eagle's flight—in mid-air—without let or hindrance, and with the bright, genial sun blazing warm upon us. The people of America have, as yet, encountered none of the vicissitudes which clog the march of other nations. The invader has scarcely touched their soil—intestine strife is unknown. They did not start from the low, dark places of superstition and barbarism, and crawl, and stumble, and groan, and sweat along the weary way that leads up to where the morning light shines. Their first poise was high in the scale of human civilization. Aided by all its powers, our only struggle has been with the forest and the untamed but teeming earth. These we have conquered and made them our own, and they are fair to look upon, and there seems to be a blessing in them, for peace and great power are abiding with us. Our farmer tills with merry heart; our mechanic strikes with the strong muscle of a freeman; our philosopher teaches in his own portico, or beneath nature's "majestic groves;" our poet dreams beneath his own vine, in soft Lydian measure to his love, or wild, exulting song in praise of "God and liberty;" our merchant unfurls his country's flag, and, without fear, sails wide over the farthest seas; and we worship in a temple fashioned by the word of God,

and not by the rule of human master. Great we are among the nations of the earth, and strong still in the mystical power of that spirit which makes these battle-fields sacred to us. Such is the American of to-day; with a liberty which he knows to be a mighty fact, worked out by long ages of painful effort, and which, with an humble and abiding faith, he believes to be an immortal truth, recognized and blessed by God himself. Is there, then, within the compass of our various seas, one man who holds in his heart one thought against the liberties achieved on these battle-fields? If there be, then is he not only a bastard to the blood shed here, but he is a traitor to his God, and shall perish miserably, even as he who sent his Master to the cross.

Our wise and good ancestors were not content with giving us the name and substance of this great boon. With prophetic wisdom, they invented and established such sure and excellent forms as to guarantee our perfect enjoyment of the great riches they wrought for us. They gave us this system of laws and government, under which we have strode forward with a pace so swift, and yet so firm, as to astound those who live under the old order. They created for us new political organizations and social institutions—new, antagonistic, and subversive of all pre-existing forms. The root, the stock, the graft, the fruit is all new. We are the children of a new sea and a new earth; and no power beneath that of the God who made us can crush us, as long as our filial piety impels us to come up and gather new strength from these sacred spots of that earth. But, my countrymen, this form, this structure, which our sires gave us—and in which we are still safe, strong and prospering—is but the temple

in which we worship the living spirit. It is, however, very sacred; and let no heedless or daring step invade its holy precincts. But, sacred as it is—mighty for great good as it is—this union, glorious and blessed as it has been, and is—is not the holy of holies. This great confederation, this union of confederate empires, these states, their constitutions, may be shattered into a thousand fragments; their ashes may be scattered on the winds; all known elements, forms, and orders of our political being may become extinct and forgotten, and mould and jungle hide them from the knowledge of men; but that spirit which won these fields, and now makes them sacred to us, is of the Eternal God, and will live and dwell for ever on this American soil.

We are the sons of heroes and sages. Let us be true to ourselves, be true to our country, be true to the God who gave it to us, be faithful to the blood shed here by our sires, and we will be the sires of freemen as long as the earth owns man for its master.

Such, at least, is the faith and hope of the christian and patriot, as he kneels on this holy place.

MR. BANCROFT'S ADDRESS.

The president of the day assigns me a few minutes to express to you my sincere delight in being a witness of this great panorama of southern life, and beauty, and patriotism; and joining with this countless multitude, assembled in the mountain forest under the shadow of the battle-ground, and animated by the spirit of the heroes whose virtues they are gathered to commemorate, I come among you not to address you, but to share silently in the scene; to receive instruction from the eloquent lips of your distinguished orator; to enkindle my own love of country by the fires of your enthusiasm.

No state may celebrate the great events of the American revolution with juster pride than South Carolina. At the very beginning of the struggle in 1765, she was the first to adhere to a general union; and to her it is due that the colonies then met in congress. When, in 1774, a tyrannical government endeavored by the slow torture of starvation to crush Boston into submission, South Carolina opened her granaries of rice and ministered abundantly to its relief. While the sons of the Scottish covenanters in Mecklenburg were the first to sever the connection with Great Britain, and institute government for them-

selves, the immediate harbinger of the great reform rose within the borders of this state; the victory gained at the Palmetto Fort by Moultrie was the bright and the morning star, which went before the declaration of American independence. Wherever the camp-fires of the emigrant shall light up the forests of the west, wherever the history of our country is honestly told, wherever the struggles of brave men in the cause of humanity are respected, high honor will be rendered to the triumph at King's Mountain and at Cowpens, and to that sad victory at Eutaw Springs, where the voice of exultation is chastened by sorrow for the brave who fell.

For the north to take an interest in your celebration, is but an act of reciprocity. Everywhere in my long pilgrimage to be present with you on this occasion, I found evidence of the affection with which the south cherishes the memory of every noble action in behalf of liberty, without regard to place. Beautiful Virginia, land of mountains and lowlands, rich in its soil, abounding in healing springs, and the storehouse of all kinds of mineral wealth, builds a Lexington in the very heart of her most magnificent valley; North Carolina repeats the name in one of the loveliest regions in the world; and South Carolina designates by it a great central district of her state.

There is a still stronger reason why the north should give you its sympathy on this occasion. She sent you no aid in the hour of your greatest need. It is a blessed thing to give even a cup of cold water in a right spirit; it was not then possible to give even that. All honor must be awarded to the south, since she was left to herself alone in the hour of her utmost distress.

The romance of the American revolution has its

scenes for the most part in the south; and the battle of King's Mountain, of which we celebrate the seventy-fifth anniversary to-day, was the most romantic of all.

The achievement was opportune. The American army for the south was routed and dispersed; Charleston was in the power of the enemy; the government scattered; the paper currency all but worthless; Gadsden a prisoner, doomed to the dungeons of St. Augustine; Sumter forced to retire beyond the state on the one side, and Pickens on the other; Cornwallis hoping "to extinguish the rebellion" by a system of imprisonment, confiscation and hanging; the British minister promising himself that before winter "the whole country south of the Delaware would be subjected." The genius of liberty never bows his head in despair; but there was cause for anxiety—the faultless partizan, the lion-hearted Marion, stood alone in his impenetrable fastnesses as the sentinel of Carolina.

Such was the almost hopeless distress, of which the tidings penetrated to the hardy dwellers on the Watauga, the Nollichucky, and the three forks of Holston. All the difficulties which stood in their way could not make them hesitate. They had distance to overcome in collecting their forces, but swift runners hurried up the valley; they had to cross the highest range of the Alleghanies, where there was not so much as a bridle-path; they could drive no beeves, but must depend mainly on parched corn for their sustenance; meeting from remote districts, they had to organize themselves on the instant for action with unity.

The movement commends itself still more to our admiration as a voluntary act of patriotism. It was planned by no congress—it was ordered by no executive. All that is best springs from the heart, and the

expedition to King's Mountain sprung from the heart of the common people west of the Alleghanies. They were cheered by no martial music, as your orator has truly observed; they had no gilded banners, no nodding plumes; they were southern farmers in their every-day dress, come to exercise, though in a most signal manner, their every-day courage and love of country and virtue.

The dangers which they encountered were those from which the bravest might shrink. Do you think I refer to the fact that they attacked an enemy superior in numbers and still more in the munitions of war, posted on yonder height which you see is precipitously steep, and bristling with the slaty rock which crops out all along its sides and summit? No. Those things had for them no terror. But their departure, they knew, was the signal for British emissaries to excite hordes of worthless savages to burn their homes and murder their wives and children. Every breeze from the west might seem to bring to their ears the echo of the Indian's war-whoop, the dying groans of those they loved best. This was the fear which they had to cast under foot.

Let us rejoice, then, that the success of the men engaged at King's Mountain was, as they expressed it, "complete to a wish." The firing was as heavy as could be conceived for the numbers engaged; the dislodging of the enemy from their advantageous situation was "equal to driving men from stony breastworks;" the vigor of their resistance is proved by their holding out till every third man among them was wounded or slain; and of all the British force which was to have formed the central point of British power in the back country, and which Ferguson had commended to Corn-

wallis for its courage and ability, not more than twenty, perhaps not even one of the survivors escaped captivity.

To finish the picture of this battle, the consequences of the victory must be called to mind. It struck dismay into the tories, and checked the concerted system of house-burning and domestic carnage which was filling Carolina with the deadliest horrors of civil war; it was "the turning point" of victory which cheered on Sumter, and Col. Washington and Morgan to their successes, and enabled Greene to collect an army; it was the "fatal" blow which utterly disconcerted the plans of Cornwallis, and forced him into that change of policy which had its end at Yorktown. The men of that day fought, not for Carolina, not for the south; they fought for America and for humanity, and the ultimate effects of their heroism cannot yet be measured. The states are bound together by commerce, and dove-tailed by canals, and rivers, and railroads; but the recollections of the crowded hours of the glorious actions of our fathers speaks to the heart, and makes us feel, more than all the rest, that we are one people.

Let the battle-ground before us be left no longer as private property; let it be made the inheritance of the people, that is, of all who are heirs to the benefits that were gained on the day which we commemorate. Let a monument rise upon its peak as a memorial of the heroism of our fathers—as an evidence of the piety of their sons. The deeds that were there performed bid us ever renew our love of country. Let the passion for freedom flow forth perennially, like the fountains that gush in crystal purity from your hill sides; let the union stand like your own mountains, which the geologists tell us are the oldest and firmest in the world.

CORRESPONDENCE.

From Honorable Edward Everett.

BOSTON, September 15, 1855.

Gentlemen—I received a short time since, your favor of the 17th of August, requesting my attendance at the approaching celebration of the anniversary of the memorable battle of King's Mountain.

I am greatly indebted to you for this invitation, and for the very obliging terms in which it is conveyed.

I should much enjoy a visit to that most interesting region, and it would afford me the greatest pleasure to unite with you in the commemoration of one of the most important battles of the revolution. I regret to say, that it will not be in my power to be present.

Although the numbers engaged on each side at King's Mountain were not great, there were many circumstances of deep interest connected with the battle. The simultaneous movement from the Carolinas and Virginia of the brave men by whom the victory was achieved; the forced march by night of nine hundred of the best horsemen, determined to arrest the progress of Ferguson; the gallant resistance made by that officer, the best partizan in the royal army, astonished as he was at "the numerous, fierce, and unexpected enemy which suddenly sprung up in the depths of the desert"—the courage with which, from the fatal eminence where he stood at bay, he plunged with the bayonet, first upon one party and then upon the other of the intrepid mountaineers as they drew closer and closer around him a circle of

fire ; his fall and the immediate capitulation of his force, superior in numbers to their assailants—these incidents make a scene of war, of which there are few equals for stirring interest in the history of the revolution.

The political consequences of this victory were of great moment. It restored the public mind from the depression caused by the recent successes of Cornwallis. It put an instant stop to his efforts to bring back the upper country to its allegiance ; and contributed its full share to the combinations which, about a twelvemonth later, led to the surrender of Cornwallis, and the virtual termination of the war.

History will reserve a bright page in the annals of the revolution, for the names of the gallant men who fought the battle of King's Mountain. You will hear the thrilling narrative from the eloquent lips of a descendant of one of them, and the expressive voices of unchanging nature will yield their response ; the rough hill-sides—the deep ravines—the sparkling streams—the venerable trees—mute but still living witnesses of the stern encounter, and faithful vouchers for its traditions.

As you listen to the burning words of the orator of the occasion, on the magnificent scene of the action, the form of his ancestor, Campbell, the chosen leader of the day, with those of the patriot Shelby, the hero of two wars, of Cleaveland, of Sevier, of McDowell, of Williams, (who fell in the arms of victory,) will seem almost in visible presence to hover around and claim the tribute of your grateful veneration. The historian of the United States, (Mr. Bancroft,) will partake in your commemoration, and catch new inspiration from the spot, for the page which he will hereafter consecrate to the great victory which was there gained.

Gentlemen, the victory of King's Mountain, at the time, rejoiced the hearts of our fathers, throughout the Union. The glad tidings were heard at the north, with feelings like those with which, in the first year of the war, the news of Bunker Hill was received at the south.

Would that its celebration, like that of the other great events in the revolutionary history, by reminding us of the toils, the sufferings, and the sacrifices of our fathers to establish an independent and united republic, might do something to restore that

fraternal feeling which the unhappy dissentions of the day have done so much to chill.

I remain, gentlemen, your friend and fellow citizen,

EDWARD EVERETT.

Messrs. W. B. Wilson, Jno. L. Miller, and Sam'l W. Melton, Committee of Invitation.

From Honorable John P. Kennedy.

Baltimore, September 23, 1855.

Gentlemen—Your very kind letter of the 10th, inviting me to the celebration of the victory of King's Mountain, which is to be made on the 4th of October, reached me yesterday.

If I could indulge my own desire in regard to this appointment, I should very gladly accept your invitation. But I find myself compelled, by the nature of my engagements at home, to forego that pleasure, and must beg you to accept my thanks for the friendly consideration which has brought me to your notice on this occasion. Apart from the primary interest of the celebration, I should find a strong temptation to be with you, in the conviction that I should find many friends, old and new, whom I should greatly delight to meet. But even a stronger motive would be, to manifest my earnest approval of the sentiment which has suggested this commemoration of the battle. I look upon it as entitled to special consideration as the first attempt to tender appropriate honor to a great event in the war of Independence—an event which, I think, stands prominent amongst what may be called the chief land-marks that serve to note the progress of that struggle. It distinguishes an era that happily shaped the fortunes of the revolution, by checking a series of disasters and inaugurating a new career of victory. From this turning point the cause advanced steadily to a speedy and prosperous end. The issue was greatly influenced by this event. If King's Mountain had been any thing but the decisive victory it was, the fate of the war might long have hung in a doubtful scale, and the heroism of the south have been taxed by further trials beyond its power of resistance. But the victory was a fresh fountain of strength, and the parent of new triumphs. Standing midway be-

tween Bunker Kill and Yorktown, it deserves to be elevated to the eminence they occupy in the national calendar, and to be remembered with not less marked expressions of national gratitude.

I congratulate you, gentlemen, and those you represent, upon your recognition of this sentiment, and hope that you may find such a response from the country, to your commemoration of the 4th, as shall prove that you have awakened the remembrance of the nation to an act of justice to one of the most note-worthy events of our history.

With the highest respect and regard,

I am, gentlem, very truly yours,

JOHN P. KENNEDY.

Messrs. W. B. Wilson, Jno. L. Miller, Sam'l W. Melton, Committee of Invitation.

From Honorable W. A. Graham.

Hillsboro', N. C., September 28, 1855.

Gentlemen—I have had the honor to receive your kind invitation to be present at the celebration of the battle of King's Mountain, and regret that circumstances which I cannot control, will deprive me of the pleasure of attending.

I have been gratified to learn, that for the first time since that memorable victory, the citizens of those states, by whose undisciplined valor it was won, propose to unite in dignifying it with the honors of a public celebration. Near forty years ago, in my childhood, I remember to have heard of an assemblage on the battle field, chiefly, I presume, of the people of Lincoln county, in this state, to commemorate the services and sacrifices of their own patriotic fellow-citizens, who were killed in the action in defence of their country's cause, when an oration was pronounced by the late Dr. William McLean, who had himself been a soldier in the battle ; and the unpretending monument was erected to Major Chronicle and others, which still marks the spot where they fought and fell, and informs the passing traveller of the place and time of their country's triumph. This, however, was but the humble tribute of a neighborhood—perchance of a few surviving heroes to their dead comrades, of the same military organization,

But as a great American achievement, annihilating one column of the triumphant invading army of the enemy, and striking terror into the other, insomuch as to compel a precipitate retreat of his whole force for more than a hundred miles, thence keeping him at bay until the disastrous defeat of Gates could be repaired, and a new patriot army brought into the field, under the leadership of the indomitable Greene, and thus exerting an influence on all the subsequent events of the war in the South. Yours, gentlemen, is the first attempt to celebrate it on the scene of the victory.

It is an offering eminently due to the memory of those intrepid sons of liberty of the hills and mountain country of the Carolinas and Virginia, by whom that victory was gained; whose real history is invested with all the romance; whose devotion to country in the gloomiest hour of the struggle, when disaffection and alarm had overcome so many others, and subjugation seemed to be almost an inevitable consequence; whose simplicity of manners and habits of military equipment and arrangement, and indifference to danger, and impetuous but persevering bravery in rolling back the tide of invasion, can only, and hardly, find their parallels in the classic examples of the heroes of the best times of the republics of antiquity.

With my thanks for the kindness of your communication, and my best wishes that your meeting may be both profitable and agreeable,

I am, gentlemen, with high respect, your obedient servant,

WILLIAM A. GRAHAM.

Messrs. W. B. Wilson, John L. Miller, Sam'l W. Melton, Committee of Invitation.

From Honorable George M. Dallas.

Philadelphia, September 5, 1855.

Gentlemen—It would afford me the highest gratification to accept the invitation with which you have honored me, and mingle with my fellow-citizens of four great states in celebrating one of the most characteristic and interesting achievements of revolutionary valor. The energy and spirit which rallied the western mountaineers of Virginia and the two Carolinas, under Cleave-

land, Williams, Sevier, Branon, and other leaders, to inflict, with celerity, upon an important detachment of Lord Cornwallis' invading army, a signal defeat, entitle "the battle of King's Mountain," to the peculiar commemoration you propose. No one can be insensible, even after the lapse of seventy-five years, to the heroism with which your partizan militia sprung from their homes, united in the pursuit of their more numerous enemies, and, having beaten and dispersed them, returned tranquilly to their agricultural labors, leaving the momentous result of their exploit to be seen in the retreat of the British chief, and in their own security. "The spot where that battle was fought" is certainly linked in thought inseparably with the independence of our country and the patriotic gallantry of southern men.

Sincerely regretting my inability to join your celebration, and with many acknowledgments for the kindness of your remembrance, I am, gentlemen, very respectfully,

Your friend and servant,

G. M. DALLAS.

Messrs. W. B. Wilson, John L. Miller and Sam'l W. Melton, Committee of Invitation.

From Honorable A. P. Hayne.

Charleston, S. C., September 25, 1855.

Gentlemen—I have had the honor to receive your letter, inviting me to unite with the states of Georgia, North Carolina, Tennessee and South Carolina, in the celebration of the battle of King's Mountain—on the battle field where that brilliant victory was achieved by the skill and courage of Campbell, Cleaveland, Shelby, Sevier, and the noble Williams, and the brave officers and men who fought under their command. I regret it will not be in my power to be present with you; but although absent, I will be with you in spirit.

The plan of the battle of King's Mountain was wisely conceived and nobly carried out. It was in every respect adapted to the occasion, and resulted in one of the most decisive victories on record—our brave men killing, wounding and capturing the whole army of the enemy. Had the gallant Campbell not divided his forces into three distinct columns—each column act-

ing independently and separately, and each column attacking the enemy in regular succession, and at different periods of time, the cruel Ferguson must have won the day, and remained master of the field of battle; and it would have been a bloody, bloody day for our men.

No statesman, no soldier, can over-value Hull's victory, or Jackson's, in his night attack before New Orleans; and give me leave to say, no one can over-value Campbell's victory at King's Mountain. The result of the battle was, that the pride of an arrogant foe, who had dared to profane the soil of freedom by his hostile tread, was humbled. It produced confidence in our ranks; throughout the whole country it established unanimity, and at once crushed disaffection. It was not a mere exertion of physical strength, as is often the case; but in every stage of the battle, we clearly perceive the effect produced by the admirable arrangements of the commanders of our men. The *ensemble* of the general movement was maintained throughout the whole order of battle. I would again say, gentlemen, if Campbell had been defeated, the brave Morgan might have shared the same fate, and our beloved General Greene himself been made to encounter sad reverses. It was a noble victory, and God bless the brave men who so faithfully performed the duty!

I beg to offer a toast, and in so doing to pay a small tribute of respect to departed worth, to brave and gallant men who bared their bosoms to the foe in the hour of trial and danger, and in the day of battle were every where that duty or danger called. will give you, gentlemen,

The memories of Campbell, Cleaveland, Shelby, Sevier and the noble Williams—"Come, expressive silence, make their praise."

I pray you, gentlemen, excuse this hasty letter, and permit me to subscribe myself your friend and compatriot,

A. P. HAYNE.

Messrs. W. B. Wilson, John L. Miller, and Sam'l W. Melton, Committee of Invitation.

From Dr. J. G. M. Ramsey.

MECKLENBURG, near Knoxville, (Tenn.)
October 15, 1855.

Gentlemen—Your letter dated Yorkville, (S. C.,) August 18, but post-marked Abingdon, (Va.,) Sept. 24, reached this office only last week.

I am greatly obliged by the polite and cordial invitation which you have given me to attend the anniversary of the battle of King's Mountain, and unite in the celebration of that victory. Had your letter reached me earlier, it would have given me a very sincere pleasure to have met those you requested on that occasion, and participated with them in the celebration of a victory unsurpassed by any in our revolutionary struggle. As it is, I content myself with hoping that the descendants and countrymen of those whose patriotism conceived the expedition to King's Mountain, and whose valor achieved the victory, may have assembled with you on that hallowed spot, and enjoyed, with you, the enthusiasm and pride the place and its associations are so well calculated to inspire.

I appreciate, gentlemen, very deeply, the compliment you pay me, where you remark, "By your invaluable contributions to the early history of the country, you have assisted more, perhaps, than any other, in giving a just prominence to the event we propose to celebrate." In the work to which you allude, I have done the south and the south-west barely justice; while, elsewhere, "defeats have been magnified into victories." It gratifies me to know, and to have shown that the patriotism and courage of the volunteer militia of the south and south-west, gave the first check to the career of British conquests in the south, and by the defeat of Ferguson, so changed the aspect of affairs, as to result eventually in the consummation of our independence.

I beg you, gentlemen, to present my acknowledgements to the citizens of York district for the cordial welcome they have offered me, and to accept for yourselves my thanks for the polite terms in which you have communicated their intentions.

I am, gentlemen, very respectfully, your obedient servant,

J. G. M. RAMSEY.

To Messrs. W. B. WILSON, JOHN L. MILLER and SAM'L W. MELTON, Committee of Invitation.

From Honorable D. R. Atchison.

PLATTE CITY, Mo., September 12, 1855.

Gentlemen—Your letter of invitation, requesting my attendance at the celebration of the battle of King's Mountain has been received. It will be altogether inconvenient for me to be present on that occasion. I have certain duties, both private and public, to discharge at home. The battle of King's Mountain was fought by the whigs, under the lead of Campbell, McDowell, Shelby, Sevier, and Williams, against the tories under the gallant Ferguson. We have a similar foe to encounter in Kansas, on the first Monday in October next. The "border ruffians," such as fought with McDowell, Shelby, &c., on the one hand, and the Abolitionists—such men as fought with Ferguson, on the other. We, (the "border ruffians") have the whole power of the northern states to contend with, single handed and alone, without assistance, and without sympathy from any quarter; yet we are undismayed. Thus far have we been victorious; and with the help of God we will still continue to conquer.

Gentlemen, I thank you for the kind expression in the concluding paragraph of your letter—"three cheers for Atchison and Kansas!" I have read this paragraph to sundry of the "border ruffians," and their eyes sparkle; their arms are nerved. We have been acting on the defensive altogether; the contest with us is one of life and death, and it will be so with you and your institution if we fail. Atchison, Stringfellow, and the "border ruffians" of Missouri, fills a column of each abolition paper published in the north; abuse most foul, and falsehood unblushing, is poured out upon us, and yet we have no advocate in the southern press; and yet we received no assistance from the southern states. But the time will shortly come when that assistance must and will be rendered; the stake the "border ruffians" are playing for is a mighty one. If Kansas is abolitionized, Missouri ceases to be a slave state, and New Mexico becomes a free state, California remains a free state; but if we secure Kansas as a slave state, Missouri is secure; New Mexico and southern California, if not all of it, becomes a slave state; in a word, the prosperity or the ruin of the whole south depends on the Kansas struggle.

Your obedient servant,

D. R. ATCHISON.

Messrs. W. B. WILSON, JNO. L. MILLER, and SAML. W. MELTON, Committee of Invitation.

From Honorable A. P. Butler.

STONELAND, near Edgefield, Sept. 29, 1855.

Gentlemen—I have delayed thus long to notice your note, inviting me to be present at the celebration of the battle of King's Mountain, in the hope that I might be able to accept your polite invitation. The occasion is one full of historical interest, and such an one as would have afforded me, on many accounts, a grateful satisfaction. I find that the state of my health (having received by the fall of a horse some injury in my arm) will not allow me the great pleasure which I had proposed to myself of having with you.

It has been said, that the gallant men who fought the battle of King's Mountain, had no muster roll by which they could be summoned to duty, and that there never was a public record recognizing their services. They needed no such memorial to place their names on the roll of fame. They mustered themselves into service; and in a few hours, under the influence of high daring and tributary patriotism, performed a gallant achievement, that may well be put in honorable comparison with the services of years of many who were called at reveille by the muster roll. The graves of those who fell on the battle-field, and a burnished tradition, will afford a muster-roll for the admiration of posterity.

It would be a beautiful tribute to their memory, to make the mountain on which they won the victory (one so anomalous in history,) their monument, by having their names inscribed upon it.

I hope the stone of the mountain is granite—that would be a genuine illustration of the whole affair.

Accept, gentlemen, the assurance of my high respect.

A. P. BUTLER.

To Messrs. WILSON, MILLER and MELTON, Committee of King's Mountain Celebration.

From Honorable Josiah J. Evans.

SOCIETY HILL, September 30, 1855.

Until within a few days, I had promised myself the pleasure of attending your celebration, but various causes have combined to put this out of my power. To have been present on such an occasion would have been a source of great pleasure to me. I look upon the battle of King's Mountain as the turning point of the revolutionary war at the south. By Gates' disastrous defeat, the country was considered conquered. There was no army in the field, and no hope in the future—all was prostrate. The first bright speck was the daring achievement of the mountain men in the capture of Ferguson's army. But for this event, the march of Lord Cornwallis through North Carolina into Virginia might have completed the conquest of these states, before the second southern army under Greene could have been organized and marched to their relief. The battle of King's Mountain may, therefore, be considered the great event of the war, and should be held in grateful remembrance by all the descendants of those whose independence of foreign domination was achieved by the war of the revolution. I wish it were in my power to participate in the celebration of this event, but I find it impossible.

Most sincerely yours, &c.,

JOSIAH J. EVANS.

Messrs. W. B. WILSON, JNO. L. MILLER, SAML. W. MELTON, Committee of Invitation.

From Rev. J. H. Thornwell.

SOUTH-CAROLINA COLLEGE, September 29, 1855.

Gentlemen—Partly from a spirit of procrastination, and partly from a vague hope that something might turn up to enable me to attend your approaching celebration, I have delayed to the last moment, to reply to your polite and kind invitation. I am truly sorry that I cannot go. Such commemorations of great events I cordially approve, and have always regretted that they have not been more frequent among us. It is true that they are not the necessary signs of a heroic spirit, or a great generation. Nothing is more characteristic of a declining people, and a degene-

rate age, than to relieve their sense of degradation by rearing monuments to a glorious past. The Jew delighted to build the sepulchres and adorn the tombs of the prophets, long after the spirit of the prophets had departed; and Greek and Roman alike, soothed their bondage by a passive admiration of the deeds of their ancestors. But where there is a right public spirit, nothing is better suited to expand and strengthen it, than national recollections. Our fathers seem to speak to us from their graves. I think, therefore, that you have done wisely in your proposed celebration, and I feel it to be a severe self-denial that I can take no part in the ceremonies. In the sincere hope that the solemnities of the occasion may even transcend your expectations, I have the honor to be, with the highest consideration, your obliged servant,

J. H. THORNWELL.

Messrs. Wilson, Miller and Melton, Committee.

APPENDIX.

THE GATHERING.

Letter to Col. William Campbell, in Washington.

JULY 31st, 1780.

LAST Saturday evening I received your favor of the 20th, enclosing the governor's instructions to you to turn your arms against the tories. I would beg leave to tell you, sir, that this appointment gave me the most sincere pleasure, being fully convinced that you have a more important enemy to contend with, in them, than you had in the hostile towns of the Cherokees. More *important*, both from their numbers and their horrid and hellish combinations, as well as their situation amongst us in every quarter of the country, who only wait orders and a fair, or even a tolerable opportunity, to begin the works of murder and rapine.

This hour I have been informed, from unquestionable authority, that a general and dangerous conspiracy is meditating amongst the tories, to be put into execution next month. The lead mines is their first object, and then to overrun the country, not only here, but in Bottetourt, with blood and plunder. This news is so alarming, that Col. Hugh Crockett has called for a great part of the militia of Bottetourt; and I have wrote to Col. Walter Crockett to put himself at the head of all the militia he can raise, from the county-line down to Capt. Draper's company, and then to proceed to disarm all suspected persons, from the court-house down to where he meets the Bottetourt militia; and also to take into custody all such as have been noted for their disaffection to the American cause.

As there is not a moment to be lost, and as the stroke ought to be as general as their scheme was to have been, I would therefore beg of you to raise, at least, three full companies of militia, and with them proceed to disarm and secure all such in

the upper part of Washington and Montgomery, as low as where Col. Crockett begins, and such other places as you may judge proper; and in the meantime that you will take the command of the whole troops drawn out on this occasion, agreeable to the governor's instructions; and that you will add, diminish or alter the instructions I have given to Col. Crockett in any manner you think will most forward this essential service. Had not the Bottetourt troops been on foot before I knew, I should not have sent Colonel Walter Crockett any particular instructions ; but, under these circumstances, I judged it best to put his in motion, and yours to do the business as far as the court-house. I would have you and Col. Arthur Campbell to fall on some prudent scheme to secure the body of *Colonel* Griffith. I have ordered a guard with the ammunition, as you directed. Pray let me hear from you. Let all be conducted with as much secrecy as possible.

I am, sir, your humble servant,

WM. PRESTON.

P.S.—If there should be no occasion to march now—I mean to Red river—I would beg of you to send those in person from Bottetourt and Montgomery.

Extract from Ramsey's "Annals of Tennessee." Pages 227-8-9.

"Sevier also undertook to bring Col. McDowell and other field officers who, with their followers, were then in a state of expatriation amongst the western settlers, into the measure. In this he succeeded at once. All of them had been driven from their homes, which were now deserted, and exposed to the depredations of the disorderly and licentious loyalists who had joined the foreign enemy. Most of them had friends and kindred on whom Ferguson and his tories were even then wreaking their vengeance. These homes and these friends they longed to rescue and protect from further violence and desecration.

To Shelby was assigned the duty of securing the co-operation of the riflemen of western Virginia. These had, in many a past campaign with the pioneers of Tennessee, bivouaced and fought and triumphed together over a savage foe, and it was now deemed essential to the preservation of liberty and independence, to obtain the aid of these gallant men in resisting the invasion of the common country. Shelby accordingly hastened home, wrote a letter to William Campbell, colonel commandant of Washington county, Virginia, and sent it by his brother, Moses Shelby, to the house ofCampbell, a distance of forty miles. In this letter Colnel Shelby stated what had been determined on by Sevier and himself, and urged Campbell to join them with his regiment. That gallant officer, true to the general cause but most loyal to Virginia, replied by the same messenger, that he did not approve of the measures that had been adopted, and that he should pur-

sue his original intention and march his men down by way of the Flower Gap, and get on the southern borders of Virginia, ready to meet and oppose Lord Cornwallis when he approached that state. With this answer, Shelby was much disappointed. He was unwilling that the whole military force of Sullivan and Washington counties should be taken upon the contemplated expedition, and thus leave the frontier exposed to attacks from the Cherokees from whom they were threatened with and had good reason to expect an immediate invasion. He, therefore, wrote a second letter, and sent by the same messenger immediately back to Colonel Campbell, giving additional reasons in favour of the projected campaign. To this letter Campbell replied that he would co-operate with his whole force.

Colonel Campbell commanded four hundred men from Virginia, Colonel Sevier two hundred and forty from Washington, and Colonel Shelby two hundred and forty from Sullivan county, in North Carolina. The refugee whigs mustered under Col. McDowell. All were well mounted and nearly all armed with a Deckhard rifle.

* * * * * * * * * *

"The camp on Wautauga, on the twenty-fifth of September, presented an animated spectacle. With the exception of the few colonists on the distant Cumberland, the entire military force of what is now Tennessee, was assembled at the Sycamore shoals. Scarce a single gunman remained, that day, at his own house. The young, ardent and energetic had generally enrolled themselves for the campaign against Ferguson. The less vigorous and more aged, were left, with the inferior guns, in the settlements for their protection against the Indians ; but all had attended the rendezvous. The old men were there to counsel, encourage and stimulate the youthful soldier, and to receive, from the colonels, instructions for the defence of the stations during their absence. Others were there to bring, in rich profusion, the products of their farms, which were cheerfully furnished gratuitously and without stint, to complete the outfit of the expedition. Gold and silver they had not, but subsistence and clothing, and equipment and the fiery charger—anything the frontierman owned, in the cabin, the field or the range, was offered, unostentatiously, upon the altar of his country. The wife and the sister were there, and, with a suppressed sigh, witnessed the departure of the husband and brother. And there, too, were the heroic mother, with a mournful but noble pride, to take a fond farewell of their gallant sons.

"The sparse settlements of this frontier, had never before seen assembled together a concourse of people so immense and so evidently agitated by great excitement. The large mass of the assembly were volunteer riflemen, clad in the home-spun of their wives and sisters, and wearing the hunting-shirt so characteristic of the backwoods soldiery, and not a few of them the moccasins

of their own manufacture. A few of the officers were better dressed, but all in citizens' clothing. The mien of Campbell was stern, authoritative and dignified. Shelby was grave, taciturn, and determined. Sevier, vivacious, ardent, impulsive and energetic. McDowell, moving about with the ease and dignity of a colonial magistrate, inspiring veneration for his virtues and an indignant sympathy for the wrongs of himself and his co-exiles. All were completely wrapt in the absorbing subject of the revolutionary struggle, then approaching its acme, and threatening the homes and families of the mountaineers themselves. Never did mountain recess contain within it, a loftier or a more enlarged patriotism—never a cooler or more determined courage.

"In the seclusion of their homes in the west, many of the volunteers had only heard of war at a distance, and had been in undisputed possession of that independence for which their atlantic countrymen were now struggling. The near approach of Ferguson had awakened them from their security, and indignant at the violence and depredations of his followers, they were now embodied to chastise and avenge them. This they had done at the suggestion and upon the motion of their own leaders, without any requisition from the governments of America or the officers of the continental army. Indeed, at this moment, the American army in the south was almost annihilated, and the friends of the American cause, were discouraged and despondent. The British were everywhere triumphant, and the loyalists, under the pretence of promoting the service of his Britanic Majesty, were, in many sections, perpetrating the greatest outrage and cruelty upon the whigs. The attitude of these volunteer detachments was as forlorn as it was gallant. At the time of their embodiment, and for several days after they had marched against the enemy, flushed with recent victories and confident of further conquest, it was not known to them that a single armed corps of Americans was marshalled for their assistance or relief. The crisis was, indeed, dark and gloomy. But indomitable patriots were present, prepared and willing to meet it. The *personnel* of no army could have been better. There was strength, enterprise, courage and enthusiasm. The ardour and impetuosity and rashness of youth were there, to project and execute, with the wisdom of mature age, to temper and direct them ; the caution of the father and the irrepressible daring of the son.

Without delay, early on the morning of the next day, after its rendezvous at Wautauga, the little army was on the march. Before the troops left the camp, the officers requested that they should assemble for the purpose of commending the army to Divine protection and guidance. They promptly complied with the request. Prayer, solemn and appropriate, was offered by a clergyman present, and the riflemen mounted their horses and started on the distant campaign.

THE BATTLE.

A statement of the proceedings of the western army, from the 25th day of September, 1780, to the reduction of Major Ferguson and the army under his command.

On receiving intelligence that Maj. Ferguson had advanced up as high as Gilbert town, in Rutherford county, and threatened to cross the mountains to the western waters, Colonel William Campbell, with four hundred men from Washington county, of Virginia; Colonel Isaac Shelby, with two hundred and forty men from Sullivan county, of North Carolina, and Lieutenant-colonel John Sevier, with two hundred and forty men from Washington county, of North Carolina, assembled at Wautauga, on the 25th day of September, where they were joined by Colonel Charles McDowell, with one hundred and sixty men from the counties of Burke and Rutherford, who had fled before the enemy to the western waters. "We began our march on the 26th, and on the 30th we were joined by Colonel Cleaveland on the Catawba river, with three hundred and fifty men from the counties of Wilkes and Surry. No one officer having properly a right to command in chief. On the 1st October, we despatched an express to Major General Gates, informing him of our situation, and requesting him to send a general officer to take command of the whole. In the mean time, Colonel Campbell was chosen to act as commandant till such general officer should arrive. We marched to the Cowpens, on Broad river, in South Carolina, where we were joined by Colonel James Williams, with four hundred men on the evening of the 6th October, who informed us that the enemy lay encamped somewhere near the Cherokee Ford, of Broad river, about thirty miles distant from us. By a council of the principal officers, it was then thought advisable to pursue the enemy that night with nine hundred of the best horsemen, and leave the weak horse and footmen to follow as fast as possible. We began our march with about nine hundred of the best men, that evening, about eight o'clock, and, marching all night, came up with the enemy about 3 o'clock, p.m., of the 7th, who lay encamped on the top of King's Mountain, twelve miles north of the Cherokee Ford, in the confidence that they could not be forced from so advantageous a post. Previous to the attack, on our march, the following disposition was made: Colonel Shelby's regiment formed a column in the centre on the left; Colonel Campbell's regiment another on the right; part of Colonel Cleaveland's regiment, headed in front by Major Winston, and Colonel Sevier's regiment, formed a large column on the right wing; the other part of Colonel Cleaveland's regiment, headed by Colonel Cleaveland himself, and Colonel William's regiment, composed the left wing. In this order we advanced and got within a quarter of a mile of the enemy before we were discovered. Colonel Shel-

by's and Colonel Campbell's regiments began the attack and kept up a fire on the enemy while the right and left wings were advancing forward to surround them, which was done in about five minutes, and the fire became general all around. The engagement lasted an hour and five minutes, the greatest part of which time a heavy and incessant fire was kept up on both sides. Our men, in some places, where the regulars fought, were obliged to give way a small distance, two or three times, but rallied and returned with additional ardour to the attack. The troops upon the right, having gained the summit of the eminence, obliged the enemy to retreat along the top of the ridge to where Colonel Cleaveland commanded, and were there stopped by his brave men. A flag was immediately hoisted by Captain DuPoistre, then commanding officer, (Major Ferguson having been killed a little before,) for a surrender. Our fire immediately ceased, and the enemy laid down their arms, the greatest part of them charged, and surrendered themselves to us prisoners at discretion. It appears from their own provision returns that day found in their camp, that their whole force consisted of eleven hundred and twenty-five men, out of which they sustained the following loss: Of the regulars, one major, one captain, two sergeants and fifteen privates killed, thirty-five privates wounded. Left on the ground, not able to march, two captains, four lieutenants, three ensigns, one surgeon, five sergeants, three corporals, one drummer, and forty-nine privates taken prisoners. Loss of the tories, two colonels, three captains, and two hundred and one privates killed; one major and one hundred and twenty-seven privates wounded and left on the ground, not able to march; one colonel, twelve captains, eleven lieutenants, two ensigns, one quarter-master, one adjutant, two commissaries, eighteen sergeants and six hundred privates, taken prisoners. Total loss of the enemy eleven hundred and five men at King's Mountain.

Given under our hands at camp.

WILLIAM CAMPBELL.
ISAAC SHELBY.
BELJAMIN CLEAVELAND.

THE LOSS ON OUR SIDE.

KILLED.	WOUNDED.
1 colonel.	1 major.
1 major.	3 captains.
1 captain.	3 lieutenants.
2 lieutenants.	53 privates.
4 ensigns.	
19 privates.	60 total.
28 total.	

Letter from Colonel Wm. Campbell to Colonel Arthur Campbell

WILKES COUNTY CAMP, ON BRIAN CREEK,
October 20, 1780.

Dear Sir: Ferguson and his party are no more in circumstances to injure the citizens of America. We came up with him in Craven county, South Carolina, posted on a height, called King's Mountain, about 12 miles north of the Cherokee Ford, of Broad river, about two o'clock in the evening, of the 7th instant, we having marched the whole night before.

Colonel Shelby's regiment and mine began the attack and sustained the whole fire of the enemy for about ten minutes, while the other troops were forming around the height, upon which the enemy was posted. The firing then became general, and as heavy as you can conceive for the number of men. The advantageous situation of the enemy being the top of a steep ridge, obliged us to expose ourselves exceedingly; and the dislodging of them was equal to driving men from strong breast-works, though in the end we gained the point of the ridge, where my regiment fought, and drove them along the summit of it nearly to the other end where Colonel Cleaveland and his countrymen were. There they were driven into a huddle and the greatest confusion; the flag for a surrender was immediately hoisted, and as soon as our troops could be notified of it, the firing ceased and the survivors surrendered themselves prisoners at discretion. The victory was complete to a wish. My regiment has suffered more than any other in the action. I must proceed with the prisoners until I can some way dispose of them; probably I may go on to Richmond, in Virginia. I am, &c.,

WILLIAM CAMPBELL, Col. Com.

Extract from a speech delivered by General Smythe, of Va., in the House of Representatives of the U. S., Feb. 7, 1829.

"Colonel Isaac Shelby, in a letter to Colonel Arthur Campbell, commandant of Washington county, in Virginia, written on the 12th of October, 1780, speaks thus of the battle: "We were soon formed in such order as to attack the enemy on all quarters. The Washington and Sullivan regiments began the attack on the front and left flanks; the North Carolina regiments, under Colonels Williams, Sevier and Cleaveland, attacked the rear and other flank, the firing in about fifteen minutes became general, and was kept up with fury on both sides for near an hour. On the first onset, the Washington militia attempted rapidly to ascend the mountain but were met by the British regulars with fixed bayonets, and forced to retreat. They were soon rallied by their gallant commander and some of his active officers,

and by a constant and well directed fire of our rifles, we drove them back in our turn and reached the summit of the mountain, where the enemy being closely surrounded, surrendered prisoners at discretion. Truly the situation of the ground gave them greatly the advantage, as the mountain was high and exceedingly steep in front, and interspersed along the top with craggy cliffs of rocks, in short, it was almost equal to storming regular works."

Extract from a communication by Colonel Isaac Shelby, to the "National Intelligencer, May 6, 1823.

On the morning after the appointment of Colonel Campbell, we proceeded towards Gilbert town, but found that Ferguson, apprised of our approach, had left there a few days before. On the next night it was determined, in the council of officers, to pursue him, unremittingly, with as many of our troops as could be well armed and well mounted, leaving the weak horses and footmen to follow on as well as they could. We accordingly started about light the next morning with nine hundred and ten men thus selected. Continuing diligently our pursuit all that day, we were joined at the Cowpens, on the 6th, by Col. John Williams, of South Carolina, and several field officers, with about four hundred men. Learning, from him, the situation and the distance of the enemy, we traveled all that night and the next day, through heavy rains, and came up with them about three o'clock in the afternoon of the 7th of October. They were encamped on an eminence called King's Mountain, extending from east to west, which, on its summit, was about 500 or 600 yards long and 60 or 70 broad. Our men were formed for battle as stated in the report of the action, made out and signed by some of the officers. This report, however, omits to mention that the men who had belonged to Colonel McDowell's command, which had been considerably augmented on the march, formed a part of the right wing under Sevier. Colonel Campbell's regiment and my own composed the centre, his on the right and mine on the left. The right wing or column was led by Major Winston and Colonel Sevier. The left by Colonels Cleaveland and Williams, and each of these wings was about as strong as Campbell's regiment and mine united. Our plan was to surround the mountain and attack the enemy on all sides. In this order and with this view, we marched immediately to the assault. The attack was commenced by the two centre columns, which attempted to ascend at the eastern end of the mountain. The battle here became furious and bloody, and many that belonged to Sevier's column were drawn into the action at this point, to sustain their comrades. In the course of the battle, we were repeatedly repulsed by the enemy, and driven down the mountain. In this succession

of repulses and attacks, and in giving succor to the points hardest pressed, much disorder took place in our ranks, the men of my column, of Campbell's column, and a great part of Sevier's were mingled together in the confusion of the battle. Toward the latter part of the action, the enemy made a fierce and gallant charge upon us from the eastern summit of the mountain and drove us near to the foot of it. The retreat was so rapid that there was great danger of its becoming a rout.

General Davidson to General Sumner.

ROCKY RIVER, Oct. 10, 1780.

I have the pleasure of handing to you very agreeable intelligence from the west. Ferguson, the great partisan, has miscarried; this we are assured of by Mr. Tate, brigade-major in Gen. Sumpter's late command. The particulars from that gentleman's mouth stand thus:

That Colonels Campbell, Cleaveland, Shelby, Sevier, Williams, Brandon, Lacey, &c., formed a conjunct body near Gilbert town, consisting of three thousand men; from this body were elected sixteen hundred horse who immediately went in pursuit of Major Ferguson, who was making his way to Charlotte. Our people overtook them well posted on King's Mountain, and on the evening of the 7th instant, at 4 o'clock, began the attack, which continued forty-seven minutes. Major Ferguson and one hundred and fifty of his men fell in the action, eight hundred and ten were made prisoners, including the British, and one hundred and fifty of the prisoners are wounded; fifteen hundred stand of arms fell into our hands. Major Ferguson had about fourteen hundred men and were all confused. Our people surrounded them and the enemy surrendered. We lost about twenty men, among whom is Major Chronicle of Lincoln county. Colonel Williams is mortally wounded. The number of our wounded cannot be ascertained. This blow must affect the British very considerably. The design of our conquering friends is not clearly known; it is most probable they will secure their prisoners in or about the mountains, and proceed towards Charlotte. The brigade-major who gives us this, was in the action. The above is true—the blow is great. I give you joy on the occasion.—*Extract from the Virginia Gazette, Oct.* 21, 1780.

THE CONSEQUENCES.

Extract from a History of the American Revolution, by Mrs. Warren, 2 vols. pp. 250, 1—2.

"Major Ferguson had, for several weeks, taken post in Tryon county, not far distant from the western mountains. He had there collected a body of royalists, who, united with his regular detachments, spread terror and dismay through all the adjacent country. This aroused to action all who were capable of bearing arms, in opposition to his designs. A body of militia collected in and about the highlands of North Carolina; a party of hunters, riflemen, a number of the steady yeomanry of the country, in short, a numerous and resolute band, in defiance of danger and fatigue, determined to drive him from his strong position on a spot called King's Mountain. Under various commanders, who had little knowledge of each other, they seemed all to unite in the design of hunting down this useful prop of British authority, in that part of the country.

"These hardy partisans effected their purpose; and though the British commander exhibited the valor of a brave and magnanimous officer, and his troops acquitted themselves with vigor and spirit, the Americans, who in great numbers surrounded them, won the day. Major Ferguson, with a hundred and fifty of his men, fell in the action, and seven hundred were made prisoners, from whom were selected a few, who, from motives of public zeal or private revenge, were immediately executed. This summary infliction was imposed by order of some of those fierce and uncivilized chieftains, who had spent most of their lives in the mountains and forests, amidst the slaughter of wild animals, which was necessary to their daily subsistence.

* * * * * * * * * *

After this victory, most of the adherents to the royal cause in the interior parts of the Carolinas, either changed sides or sunk into obscurity. Lord Cornwallis himself, in a letter to Sir Henry Clinton, about this time, complained that 'it was in the militia of the northern frontier alone, that he could place the smallest dependence; and that they were so totally dispirited by Ferguson's defeat, that in the whole district he could not assemble an hundred men, and even in them he could not now place the smallest confidence."*

* Sir Henry Clinton observed, on this occasion, that "the fatal catastrophe of Ferguson's defeat, had lost Lord Cornwallis the whole militia of Ninety-Six, amounting to four thousand men, and even threw South Carolina into a state of confusion and rebellion.

Lord Rawdon to General Leslie.

CAMP, WEST OF CATAWBA RIVER,
October 24, 1780.

Lord Cornwallis advanced to Charlotteburg. Major Ferguson, with about eight hundred militia, collected from the neighborhood of Ninety-Six, had previously marched into Tryon county, to protect our friends, who were supposed to be numerous there, and it was intended that he should cross the Catawba river, and endeavor to preserve tranquillity in the rear of the army. A numerous enemy now appears on the frontiers, drawn from Nolachucki and other settlements beyond the mountains, whose very names had been unknown to us. A body of these, joined by the inhabitants of the ceded lands in Georgia, made a sudden and violent attack upon Augusta. The post was gallantly defended by Lieutenant Colonel Brown, till he was relieved by the activity of Lieutenant Colonel Cruger. But Major Ferguson, by endeavoring to intercept the enemy in their retreat, unfortunately gave time for fresh bodies of them to pass the mountains, and to unite into a corps far superior to that which he commanded. They came up with him, and after a sharp action, defeated him. Ferguson was killed, and all his party either slain or taken. By the enemy's having secured all the passes on the Catawba, Lord Cornwallis, (who was waiting at Charlotteburg for a convoy of stores,) received but confused accounts of the affair for some time. At length the truth reached him, and the delay, equally with the precautions which the enemy had taken to keep their victory from his knowledge, gave his lordship great reason to fear for the safety of Ninety-Six. To save that district was indispensable for the security of the rest of the province, and Lord Cornwallis saw no means of effecting it, but by passing the Catawba river, with his army, for it was so weakened by sickness, that it would not bear detachment. After much fatigue, on the march, occasioned by violent rains, we passed the river three days ago. We then received the first intelligence respecting our different posts in the province, which had reached us for near three weeks, every express from Camden having been waylaid, and some of them murdered by the inhabitants. Ninety-six is safe; the corps which defeated Ferguson having (in consequence of our movement,) crossed the Catawba and joined Smallwood on the Yadkin.

"In our present position we have received the first intimation of the expedition under your command. At present, we fear that we are too far asunder to render your co-operation very effectual. No force has presented itself to us whose opposition would have been thought serious against this army. But then we have little hopes of bringing the affair to the issue of an action. The enemy are mostly mounted militia, not to be overtaken by our infantry, nor to be safely pursued in this strong country by our cavalry. Our fear is, that instead of meeting us, they would slip by us into

this province, were we to proceed far from it, and might again stimulate the disaffected to serious insurrection. This apprehension, you will judge, sir, must greatly circumscribe our efforts; indeed, Lord Cornwallis cannot hope that he shall be able to undertake anything upon such a scale, as either to aid you, or much to benefit from you in your present situation.

Lord Rawdon to Sir Henry Clinton,

October 29, 1780.

* * * In the meantime General Gates' army advanced. We were greatly surprised, and no less grieved, that no information whatever of its movements was conveyed to us by persons so deeply interested in the event as the North Carolina loyalists. Upon the 16th of August, that army was so entirely dispersed, that it was clear no number of them could, for a considerable time, be collected. Orders were therefore dispatched to our friends, stating that the hour, which they had so long pressed, was arrived ; and exhorting them to stand forth immediately, and prevent the re-union of the scattered enemy. Instant support was in that case promised them. In the fullest confidence that this event was to take place, Lord Cornwallis ventured to press your excellency for co-operation in the Chesapeake, hoping that the assistance of the North Carolinians might eventually furnish a force for yet further efforts. Not a single man, however, attempted to improve the favorable moment, or obeyed that summons for which they had before been so impatient. It was hoped that our approach might get the better of their timidity ; yet during a long period, whilst we were waiting at Charlotteburg, for our stores and convalescents, they did not even furnish us with the least information respecting the force collecting against us. In short, sir, we may have a powerful body of friends in North Carolina—and, indeed, we have cause to be convinced, that many of the inhabitants wish well to his majesty's army ; but they have not given evidence enough either of their number or their activity, to justify the stake of this province, for the uncertain advantages that might attend immediate junction with them. There is reason to believe that such must have been the risk.

Whilst this army lay at Charlotteburg, Georgetown was taken from the militia by the rebels ; and the whole country, to the east of the Santee, gave such proofs of general defection, that even the militia of the High Hills could not be prevailed upon to join a party of troops who were sent to protect our boats upon the river. The defeat of Major Ferguson had so dispirited this part of the country, and, indeed, the loyal subjects were so wearied by the long continuance of the campaign, that Lieutenant-Colo-

nel Cruger, (commanding at Ninety-Six,) sent information to Earl Cornwallis, that the whole district had determined to submit as soon as the rebels should enter it. From these circumstances, from the consideration that delay does not extinguish our hopes in North Carolina ; and from the long fatigue of the troops, which made it seriously requisite to give some refreshment to the army ; Earl Cornwallis has resolved to remain for the present in a position which may secure the frontiers without separating his force. In this situation, we shall be always ready for movement, whensoever opportunity shall recommend it, or circumstances require it. But the first care must be to put Camden and Ninety-six into a better state of defence and to furnish them with ample stores, and salt provisions. Earl Cornwallis forsees all the difficulties of a defensive war. Yet his lordship thinks they cannot be weighed against the dangers which must have attended our obstinate adherence to his former plan.

Lord Cornwallis to Lieutenant-Colonel Cruger.

CAMDEN, August 18, 1780.

* * * * In short, there never was a more complete victory. I have written to Lieutenant-Colonel Turnbull, who is with Major Ferguson on Little river, to push on to Waxhaw, after General Sumpter, whose detachment is at present the only collected force of the rebels in all this country. Lieutenant-Colonel Tarleton is in pursuit of Sumpter on this side. I have given orders that all the inhabitants of this province, who had *submitted*, and who have taken part in this revolt, should be punished with the greatest rigor ; that they should be imprisoned, and their whole property taken from them or destroyed. I have likewise directed that compensation should be made out of their effects to the persons who have been plundered and oppressed by them. I have ordered, in the most positive manner, that every militia man who had borne arms with us, and had afterwards joined the enemy, should be immediately hanged. I have now, sir, only to desire that you will take the most rigorous measures to extinguish the rebellion in the district in which you command, and that you will obey, in the strictest manner, the directions I have given in this letter, relative to the treatment of the country.

Sir Henry Clinton to Secretary Germain.

NOVEMBER 12, 1780.

* * * * By my instructions to Major-General Leslie, your lordship may perceive how strenuously I urged a rapid move

towards Petersburg, which, however, he did not think expedient to do on the instant, but began to establish himself at Portsmouth. The Major-General's reasons for this I will not now enter upon, as he has thought it necessary, upon Earl Cornwallis' requisition to him by Lord Rawdon, to change entirely that operation, and your lordship will find he proposes going to Cape Fear river.

I cannot but lament the ill-fated enterprise of Major Ferguson, which has forced Lord Cornwallis to retire, but I hope the nearer co-operation of Major-General Leslie, so much desired by Earl Cornwallis, will re-establish affairs.

Lord Cornwallis to General Leslie.

NOVEMBER 12, 1780.

* * * * Had I attempted to penetrate into the farther part of North Carolina, my small army would have been exposed to the utmost hazard ; and it would have been as impossible to have co-operated with you in the Chesapeake as with Sir H. Clinton at New York.

If you come to Cape Fear, of which, at present, I have little doubt, by the help of the galleys and small craft which will be sent from Charles town, you will easily secure a water conveyance for your stores up to Cross Creek ; I will, on hearing of your arrival in Cape Fear River, instantly march with every thing that can be safely spared from this province, which I am sorry to say is most exceedingly disaffected, to join you at Cross Creek. We will then give our friends in North Carolina a fair trial ; if they behave like men, it may be of the greatest advantage to the affairs of Britain ; if they are as dastardly and pusillanimous as our friends to the southward, we must leave them to their fate and secure what we have got.

General Leslie to Sir Henry Clinton.

NOVEMBER 19, 1780.

* * * * The people in general seem sorry at our leaving this district, and I believe would have been happy to have remained quiet at home. It is a plentiful country all around our posts. From my first hearing of Ferguson's fate, I inwardly suspected what came to pass ; therefore, I never issued any proclamation of my own, nor did I encourage the people to take arms ; many blamed me for it, but now they think I acted right.

Mr. Lyman to Mr. Wanton.

WEST POINT, November 24, 1780.

The action at Camden, between General Gates and Cornwallis can be considered as nothing more than a promiscuous carnage, and the respite from slaughter only furnished a stimulous for more vigorous exertions. Unable to improve their advantages and buoyed up by a success which, in its operations, proved merely ideal, they have been checked in the very commencement of their rapid progress by a handful of determined freemen; their detachments destroyed, and their hopes blasted. This event, though apparently small in its beginning, has been productive of most happy consequences. The militia, convinced that there is nothing invulnerable in the garb of a Briton, that their own safety and happiness depend on their bravery and enterprise, and that they have nothing to hope from the cruelty, perfidy and insatiate avarice of their enemies, have at length determined to act with spirit and free their country from an invasion. Our last authentic accounts from that quarter mention the retreat of Cornwallis from Charlotte, forty miles towards Charlestown—our light parties hanging on his flanks and rear, and the main body, under Generals Smallwood and Gist, on their march to attack him. By a letter, which was intercepted from General Leslie, who commands the detachment which landed up Chesapeake, to Cornwallis, we learn that he had taken post near his shipping, and was waiting his lordship's orders for his future destination, that he had not received a line from him since his arrival, and, further, that from an enterprise of ours their affairs were totally deranged in that quarter. These and a variety of other events, evince that the tables are turned, and that our affairs in that department wear a most favorable aspect.

Extract from "Tarleton's Southern Campaign."

"The destruction of Ferguson and his corps, marked the period and the extent of the first expedition into North Carolina. Added to the depression and fear it communicated to the loyalists upon the borders, and to the Southward, the effect of such an important event was sensibly felt by Earl Cornwallis at Charlotte town. The weakness of his army, the extent and poverty of North Carolina, the want of knowledge of his enemy's designs, and the total ruin of his militia, presented a gloomy prospect at the commencement of the campaign. A farther progress by the route which he had undertaken, could not possibly remove, but would, undoubtedly, increase his difficulties; he, therefore, formed a sudden determination to quit Charlotte-town, and pass the Catawba river. The army was ordered to move, and expresses were despatched to recall Lieutenant-Colonel Tarleton."

Extract of a letter from Governor Jefferson to the President of Congress.

RICHMOND, October 15, 1780.

Sir—I do myself the pleasure of congratulating your excellency on the small dawn of good fortune which, at length, appears in the south, as you will find by the despatches I have the honor of enclosing to you, and which I, at this moment, received from General Gates.

* * * * * * * * * *

Despatch of General Gates.

HILLSBOROUGH, October 12, 1780.

Sir—This instant I received the great and glorious news contained in the enclosed letter from Brigadier-General Davison to General Sumner, who directly despatched it to me by express. We are now more than even with the enemy. The moment the supplies for the troops arrive from Taylor's ferry, I shall proceed with the whole to the Yadkin. General Smallwood and Colonel Morgan are on their way to that post; the latter with the light infantry, was yesterday advanced eighteen miles beyond Guilford court house; the former, with the cavalry, lay last night thirteen miles on this side that place. I desire your excellency will forthwith despatch copies of all the letters I now send you to the president of congress. I am, &c.,

HORATIO GATES.

GOV. JEFFERSON.

Resolutions by Congress.

"In Congress, Monday, November 13, 1780, a letter from Governor Jefferson was read, enclosing a letter of the 1st from Maj. Gen. Gates, with a particular account of the victory obtained by the militia over the enemy at King's Mountain on the 7th of October last, whereupon,

Resolved, That congress entertain a high sense of the spirited and military conduct of Colonel Campbell, and the officers and privates of the militia under his command, displayed in the action of October 7, in which a complete victory was obtained over superior numbers of the enemy, advantageously posted on King's Mountain, in the state of North Carolina, and that this resolution be published by the commanding officer of the southern army, in general orders."

Extract from a letter of Mr. Jefferson, written to a friend of the family of Colonel Campbell, in 1822.

"I remember well the deep and grateful impression made on the minds of every one by that memorable victory. It was the joyful annunciation of that turn of the tide of success, which terminated the revolutionary war with the seal of independence. The descendants of Colonel Campbell may rest their heads quietly on the pillow of his renown. History has consecrated, and will forever preserve it, in the faithful annals of a grateful country."

PRISON DISCIPLINE.

THE

AUBURN AND PENNSYLVANIA

SYSTEMS

COMPARED.

[FROM THE NEW YORK REVIEW FOR JANUARY, 1840.]

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ART. IV.—*A Popular Essay on subjects of Penal Law, and on uninterrupted Solitary Confinement at Labor, as contradistinguished to Solitary Confinement at Night and Joint Labor by Day, in a Letter to* JOHN BACON, *Esquire, President of the Philadelphia Society for alleviating the Miseries of Public Prisons.* By FRANCIS LIEBER, Corresponding Member of the Society; Professor of History in the South Carolina College. Philadelphia: 1838. Published by order of the Society. 8vo. pp. 96.

THERE are few subjects which embrace a larger share of human interests than *Prison Discipline.* On the one hand, it is of the utmost importance to the public peace, order, and security, that offences should be properly, certainly, and duly punished; and it is very desirable, on the other hand, that the offender should be arrested, reformed, and restored to society, with as little expense, exposure, and suffering, as may be consistent with the attainment of these ends.

In this country there are two systems of discipline, differing from each other chiefly in one point. The Auburn system (so called because it is most fully, and, as some think, most successfully, carried out at the penitentiary at Auburn, New York) separates the convicts *by night*, but suffers them to work together during the day, requiring however the most rigid non-intercourse. Hence it is also called the *social* and the *silent* system. The Pennsylvania system (so called because it was first adopted by that state) separates each convict from the presence of his fellows, and confines him to labor in an apartment by himself, where he also eats and sleeps; thus secluding him *night and day* from all intercourse with the world; and suffering none to see or converse with him but the officers and inspectors of the prison, or such as have authority by law. Hence it is called the *separate* or *solitary* system.

The question, which of these modes of discipline is best adapted to secure the legitimate ends of punishment, is not likely to be determined, until time has shown the result of the two plans upon a generation of convicts. It has been said, that we must wait patiently for an experience of ten years; that is, not for ten years of discipline, for that has already elapsed—but for a class of prisoners who have tried the two systems

sufficiently to feel their full power and fair influence, and who have afterwards enjoyed, for an average of ten years, the ordinary privileges of citizenship, in such a form as to test the permanency of the effects. We do not place much reliance upon this test, inasmuch as the designation of this or that individual as a specimen of prison reform, would of itself be highly prejudicial to his interests; and, moreover, the notions of reform entertained by different minds, are as various as the features of the human face.

In the mean time, however, different states and countries are adopting one or the other of the prevailing systems, and are incurring great expense in buildings and arrangements of various kinds, which it will be difficult to persuade them to abandon or essentially modify, if the system they adopt should prove ineligible. The consequences of error must be endured for half a century, perhaps. It is of some consequence, therefore, that all we can adduce by way of argument or evidence in favor of or against either system, should be well considered.

One of the objections, (and, so far as popular feeling is concerned, the most formidable,) to the Pennsylvania system, is its EXPENSIVENESS; at least, this has turned the scale with some who unhesitatingly admit the superiority of its discipline. Hence it is fairly presumed, that this would have been adopted in several instances in this country, if it could have been shown that the profits to the state would have equalled those which the Auburn discipline promises. Our present object is to inquire into the validity of this objection. This we shall do in the spirit of truth and humanity, seeking nothing but the highest welfare of all parties concerned.

It is not relevant to the present object, to consider the origin, nor to discuss at large the limitations of the right of punishment. This has been done with much clearness and ability, in a late letter of Professor Lieber, to the "Philadelphia Society for the Alleviation of the Miseries of Public Prisons," which we have placed at the head of this article. We beg our readers, therefore, to understand, that we take it for a given point, that the objects more or less directly secured as the effects of punishment, are not to be confounded with the ground of the *right* of society to punish. The *right* to punish, is founded in its *justice*, on which also rests the

right to make the law; if the law is just, justice requires the punishment of the transgressor, and the reason for punishing is, that he *ought to be punished*, whether all the objects which, as to the rest, may be properly or naturally desired, and which should be aimed at, are or are not secured. Our object is rather to point out what we conceive to be a wrong, necessarily incident to the Auburn system, and which the opposite system, in its very nature, avoids.

The right of self-protection, we will suppose to be inherent and inalienable to society, as it is to the individual, and that whatever kind and degree of restraint may be necessary to enforce this right, is not only just and proper, but essential to the social state. How far we are authorised to aggravate this restraint, by imposing upon the offender irksome and painful exercises — as working in the tread-mill, or in mines, or gallies, or to humble and degrade him by cropping, branding, flogging, putting in the pillory, etc., with a view to deter others from the commission of the like offence — is not so easily determined.

It will answer our present purpose, to establish the principle, that it is not justifiable, under *ordinary* circumstances, to extend the right of punishment beyond what is necessary for the accomplishment of the three following purposes:

1. By discipline to reform the offender;
2. By restraint and seclusion, to protect society against his violence and criminal intent; and
3. By the mode of restraint, to deter others from the like offence.

By stating them in this order, we do not mean to indicate our opinion of the relative importance of these several purposes; or rather, we do not wish to give any ground for the inference, that we would have government regard the two latter as *subordinate* to the first. On the contrary, government must, *at all events*, aim adequately to secure the two latter, (whether the convict can be reformed or not,) and yet ought, in reason and humanity, to seek the reformation of the convict, as far as it can be done compatibly with the other objects of punishment. We have, however, thought it best to state them in the order above given, as most readily presenting the practical question with which we are chiefly concerned.

In this view, then, the first question with government will be, what discipline, compatible with the effectual protection

of society, will be most likely to reform the offender? And here we have an incontrovertible principle to start with, viz., that any system which has a tendency to extinguish or abate any remaining *self-respect* of the convict, to strengthen or provoke his corrupt propensities, or to destroy or impair his ability to support himself, is defective, inasmuch as each, and all these consequences, so far as they extend, render the moral correction of the prisoner improbable, if not impossible. Such a system is plainly wrong, unless it be impossible to remedy the defect, consistently with the safety of society. If, therefore, the infliction of stripes, or of severe bodily pains and privations, exposure to the gaze of other convicts or of curious visiters, subjection to the arbitrary, and often times capricious and tyrannical, power of official underlings, without opportunity for redress or complaint—if these circumstances, or any of them, tend to destroy what little may be left in the prisoner of proper feeling, they show a fatal defect in the system, so far as it contemplates reformation. Of course, the state has no right to adopt such a system merely because it is less expensive, nor to reject another system, not liable to this objection, merely because it is more expensive. Nor is it enough to say, that this self-respect is generally extinguished before the discipline is applied. If but ten in a hundred, have a spark of it left, the system that will extinguish it in those ten, may fairly be presumed to be neither just nor wise. It is likely to be one that cannot be administered righteously nor successfully, whether we regard the interests of society or those of the prisoner.

Again, the intermingling of convicts with each other, tends to reduce all to the lowest degree of corruption to which any individuals may have sunk. We admit that the facilities for mutual corruption are much abridged by the maintenance of silence by day and separation at night; but still, a thousand opportunities of communication daily occur, which the ingenuity of men, chafed and irritated, as convicts are, will not fail to improve, and with which the vigilance and shrewdness of overseers seldom keep pace. Moreover, the presence of a multitude, under common condemnation, inspires the convict with something like self-complacency—steels his heart against kind influences from within and without, and seems to fortify his position as the enemy of virtue and good order. He feels that he is not worse than the hundreds of men who are in durance with him, nor so bad as

thousands without the walls; and the very association of his person, and labors, and thoughts, with such a mass of corruption as is collected there, must of itself corrupt and degrade the prisoner, though the premises may be kept as silent as the grave.

Now, though a system of discipline which admits the prisoners to associate for labor, for instruction, or for worship, may have its advantages in saving the expense of separate rooms and separate instruction for each prisoner, or in securing a greater amount of labor, and therefore, more profit to the state; yet, if its tendency is, in the remotest degree, *unnecessarily* to strengthen or confirm the corrupt principles and habits of the convict, and to countenance him in his evil purposes, it so far fails to accomplish one of the chief ends for which the right to punish is exercised; and in a certain sense, the right itself ceases; certainly the limits of *just* punishment are transgressed.

Lastly, it will be conceded on all hands, that nothing so much discourages the effort to reform one's life as the conviction that our character and standing are gone; that we are regarded as outcasts from society, and that every profession of penitence, and every struggle to throw off a load of ignominy, will be met with the distrust, if not the frown or contempt of others. If the discharged convict can find a spot on which to begin the world anew, where he can put in force his resolutions of amendment, and enter upon a course of honest industry, with no other disadvantages than any stranger must encounter, he has a strong motive to make the attempt. But, if on the contrary, his name, his countenance, and his whole history are all identified with the records of crime and infamy; if he is liable, at every turn and stopping place, to meet an associate in transgression or punishment, or some one who has seen and marked him in the group of convicts—if he is to be jeered, and taunted, and despised as a jail-bird or a scape-gallows—or what is most probable, if he is to be open to the enticement of some prison acquaintance that would lead him to the haunts of intemperance and licentiousness, and thence to a new career of crime*—if

*Mark Winslow, [brother of the notorious Mrs. Chapman,] fixed his eye on a fine looking young man in prison with him at Charlestown, (Mass.) After their release, they met in the street; Winslow immediately made arrangements with him to take a quantity of counterfeit money and sell it—dividing the profits. Winslow supposed that the young man would be a safe accomplice,

these are the circumstances in which he finds himself placed by his discharge, it is obvious that his ability to gain an honest livelihood, if not destroyed, is so impaired as to be scarcely worth the name. And whatever may be the advantages of a given system in other respects, if it virtually deprives the convict of the opportunity to support himself, it defeats one of the great ends which should be aimed at in exercising the right of punishment, and inflicts a wrong upon the prisoner which can never be redressed, but which in the event, is generally visited upon the community with terrible vengeance.

We have thus attempted to show what kind of discipline the state may employ for the *reform* of the prisoner. It shall not destroy his self-respect, nor expose him to corrupt and degrading associations, nor impair his ability to support himself and carry out his purposes of amendment.

The enforcement of this discipline would of itself require the restraint of the convict's person; but besides, and beyond this necessity, we have admitted that the state has a right, *as a part of his punishment*, to separate the offender from the society whose rights and laws he has violated, and thus to protect itself from farther outrages. Whether there is a right, when he is thus confined, to inflict blows upon him; to load him with chains and fetters; to reduce his natural force, and peradventure, undermine his constitution; to task to the uttermost, his physical strength, or to deprive him of occupation both of mind and body, and shut him out from the light and air, is a question with which we have now no concern. We have the unhappy man in confinement *for the protection of society*, and to accomplish this purpose, our first and chief endeavor should be to keep him safely, cutting off all hope of escape or pardon; and to apply to him such a course of discipline as will be most likely to reform him, and to establish him in habits of temperance, sobriety, industry, and virtuous principle, and at the same time secure to him

because his infamy destroyed his competency as a witness. Winslow was arrested; the young man became a witness for the government, his incompetency being removed by a pardon. Winslow was convicted and committed suicide in prison. This is an illustration of one of the evils of social, though silent, imprisonment. Suppose a discharged convict to be just establishing himself in good business, and under very favorable auspices; what had the state better give, in dollars and cents, than to have his past history published in the neighborhood where he lives, and abide the consequences of such a disclosure?

as favorable an opportunity as he can enjoy, for the continuance of these habits at the expiration of his sentence.

In determining the *mode of restraint*, reference may properly be had to its deterring influence on the minds of others. If to be associated with the multitude in daily labor—if to mark from day to day the accession of new faces to the prison ranks, and the throng of visiters, male and female—if to mingle silent but expressive sympathies, such as even the most hardened sometimes feel in each others' presence—if these, and the like circumstances in the mode of restraint, are likely to lessen or counteract the deterring influence upon others, they prove a radical defect. If, on the other hand, to be perfectly secluded from the world, and from all the inmates of the prison—to be hopelessly separated from one's family, and from all communication with and knowledge of them for the whole term of imprisonment—to be shut out from the scenes of active life, in which one has been accustomed to mingle—to have the same silent and dull routine of duty, day after day, month after month, and year after year; if these, and similar privations are likely to deter others from exposing themselves to the like restraints, so far this mode has the decided advantage of the other; and hence, whether more or less profitable to the state, it should nevertheless be adopted in preference to the other, simply because it better secures one of the ends for which the right of punishment is given, namely, that the *mode of infliction* may deter others from falling into the like condemnation.

So also as to the *kind of employment*. When the government, in the exercise of its conceded right, has three or four hundred men assembled as convicts, how far may it avail itself of their ingenuity and physical strength, to remunerate the expenses incurred in their prosecution, or to defray the expenses of erecting and maintaining prisons and courts of justice, or for an increase of the general revenue of the commonwealth?

It seems to us that it can do so *only so far as their employment will most certainly conduce to one or more of the great ends for which the right to punish at all, is conferred*, namely, the reform of the prisoner, the protection of society against him, and the effect of the punishment on others.

The state is the stronger party, and the right of personal liberty is, with one exception, the most sacred and inviolable which the citizen enjoys. It should never be abridged

for a moment but from stern necessity.* The government should be above the suspicion of any selfish or sinister end in the punishment of crime. History tells us of a period and a government under which "the crimes of the subject were the inheritance of the monarch, so that the judge was rather a collector for the crown or an agent for the treasury, than a protector of right and a minister of law." The fruits of such a system may be readily imagined. It is obvious that *it never should be for the pecuniary interest of the state that a man should be convicted of a crime, or that his punishment should be prolonged in duration or increased in severity.* A moment's reflection will bring any fair mind to this conviction. The case presented, is that of a convict deprived of his liberty, (which, as we have said, is the last step but one in the punitive process,) and then subjected to whatever discipline is least expensive and most profitable to the state, without a due and proportionable regard to all the ends of punishment; we say it involves an unjust and tyrannical exercise of power.

That this view of the right of a state to remunerate, and even to enrich itself, from the labor of convicts without reference to their reformation, is entertained, is perhaps the reason of the fact, that wherever the Pennsylvania system has been rejected and the Auburn adopted, the strong popular argument against the former and for the latter, has been the relative *expense.* Thus the commissioners from the state of Maine, before erecting their present penitentiary, reported in favor of the Auburn discipline, observing in substance, that whatever might be the superiority of the other, the *expensiveness* of it would present an insurmountable objection to its adoption in that state.

That it is regarded as lawful and proper for the govern-

* Every punishment which does not arise from absolute necessity," says Montesquieu, "is tyrannical," and Beccaria observes still more comprehensively, "that every act of authority of one man over another, for which there is not an absolute necessity, is tyrannical." "Indeed, the sovereign's right to punish is founded on this principle. It was necessity that forced men to give up a part of their liberty, and it is certain that every individual would choose to put into the public stock as much only as was sufficient to engage others to defend it. The aggregate of these, the smallest portions possible, forms the right of punishing; all that extends beyond this is abuse and not justice." "Punishment is the counteraction which society provides to prevent its members from violating its restraints. The necessity of this counterbalance creates the right to punish; a necessity by which punishment ought to be measured and regulated. If punishment oversteps this necessity it becomes tyranny."—We give these citations for what they are worth for our purpose, without intending to sanction every debateable point involved in them.

ment to avail itself of the right of punishment, to accomplish something beyond the three objects just named, is more clearly evident from the fact that the results of a course of discipline in these respects, are seldom mentioned in the documents issued by public authority, while the balance of profits is presented, in bold relief, and the gains trumpeted forth as conclusive evidence in favor of the discipline. But the most reproachful evidence is, that the general average of the term of imprisonment, has been extended in some states, for the avowed reason that the existing term is not long enough to enable the convict to become skilful in a trade, or at least so skilful as to make it profitable to keep him.*

It will be said, in reply, that the acquirement of a trade in prison, is one of the essentials of reform — "What can a convict do upon his discharge, without a trade?" But we would ask, whether the learning of a trade is required only in cases where the convict is without one? To learn two trades would seem to be unnecessary, if the prisoner's interest is alone consulted.

It is, moreover, an obvious dictate of reason and humanity, so far as can well be done in a general system, to select a trade to which the convict is best fitted by constitution and previous habits. The trade of a shoemaker, tailor, or weaver, may destroy the health and constitution of a man who might live to a good old age as a house-carpenter, blacksmith, or stone-hammerer. It is claimed as one of the prominent advantages of the Auburn system, that it allows of a wider range of pursuits, and of many facilities, which the separation of each individual convict precludes. We say then, if he has learned a profitable and suitable trade, and pursued it for years with skill and success, the state cannot find it necessary for his reform, to teach him another and an entirely different trade, especially when it is morally certain that he never will pursue it for a livelihood, so long as he has faculties to continue that with which he is already familiar. If, therefore, the trade to be learned is that to which the state can put him with the least inconvenience and expense, and the greatest profit to itself, it is clearly the state's, and not the convict's, interests which are consulted.

* "The profitable labor of the prisoners, is, in fact, the popular feature in the management of the American penitentiaries, and I am inclined to think, that the great desire which exists to rid the community of the *burthen of supporting* criminals, has occasioned, in most of the states, the establishment of penitentiaries."—Crawford's Report to Parliament, 1834; p. 24.

Again; can the convict acquire in prison such a knowledge of this or that trade, as will enable him to pursue it advantageously upon his discharge? This is a very important and pertinent inquiry. If, for example, he learns to make coarse boots or shoes, or coarse clothes, or brass nails, or saddler's ware, and finds, upon his discharge, that the scale on which these articles are manufactured in large establishments, brings them into market at a price far below that at which he can make them and live by his business, it is comparatively of little advantage to him to have learned it. Or if, for any cause, his knowledge is so imperfect or partial, that he is not able to compete with others in securing work as soon and as fast as he needs it, it will not avail him as a means of support, or as a barrier against temptation.

And, if he learns a good trade in prison, it is pertinent to inquire, whether the system of discipline is such, in other respects, as will permit him to set up his trade, upon the expiration of his sentence, with as good prospects as can reasonably be expected under the operation of those principles which render some of the consequences of vice irretrievable, even by penitence and reform? It would not be humane to destroy his life for the sake of teaching him a trade, neither is it humane to blast every hope of retrieving a good name by his prison education. If, after his release, he is liable every day to be recognised as a discharged convict, and to be threatened with exposure unless he yields to the solicitations of his prison acquaintance; or if he has been seen in his parti-colored dress, dogged about by some deputy's deputy, with bludgeon in hand, by thousands of visiters in the yard and in the shops, while his nativity and history are repeated for the hundredth time to the ear of idle curiosity; or if he has been marked in the chapel or Sunday school in his demure attendance upon religious exercises: if this has been his situation, and these his exposures, for two or ten years, his trade will not probably avail him much, whatever may be his skill or disposition to pursue it.

It cannot therefore be regarded, we apprehend, as truly and honestly *a part of the system of reform*, that the convict is required to labor in some appointed trade, unless there is a substantial regard to the points just enumerated, viz.:

1. That he has no trade.

2. That its pursuit shall not impair his health and constitution.

3. That it shall be in accordance with his previous habits of labor.

4. That he shall so thoroughly learn the trade, as to be able to gain a living by it when he is discharged. And,

5. That the peculiar discipline is such, as shall secure to him, at the expiration of his sentence, the best advantages which the circumstances will allow for the prosecution of his business.

Without entering, minutely, into the various occupations which have been introduced into our principal penitentiaries,* we will take *stone hammering* to illustrate our position.

A man of strong mind, great ingenuity, accomplished education, and superior acquirements in natural and philosophical science, is convicted of making and passing counterfeit money, and sentenced to ten years' confinement in the Sing-Sing prison, which is conducted strictly on the Auburn plan. He was for some time head clerk in a great mercantile house in Pearl-street, but by adventuring in a lottery, he reduced himself to the society and practices of knaves, and was finally visited by this severe but well-deserved punishment. The gang of stone-hammerers having been reduced by some late discharges, and a heavy contract being in hand for the supply of stone for the new capitol at Albany, it is judged best to put the New Yorker to this business; and at the nod of the keeper, he is ordered to the stone-yard. Here he is to be held responsible for the steady stroke of the hammer, for upwards of three thousand successive days, (with the intervention only of Sunday,) and this without a word, a look, a whisper, or a sign, to betray his social nature, upon pain of an indefinite number of stripes upon the bare back! Surrounded by living, intelligent beings, like himself, he is to restrain every impulse of his nature, and to maintain an unbroken silence. Who, that is not more or less than man, would improve under such discipline? Is it to be believed that this convict will be thus qualified for usefulness and respectability? In assigning him this post, does the inquiry occur, to those who have the disposal of his time and strength, what employment will be most conducive to his health, his reformation, and his future welfare? Nay, more; would not such a suggestion, in some quarters, excite mirth, not to say contempt? In a

* A celebrated French manufacturer (familiar with the whole subject of machinery and manual labor) enumerates *seventy-eight* occupations suitable to be carried on in solitary cells.

single word, does not the whole discipline of that institution, and all others on the same plan, proceed upon the presumption, that reform is a remote and very uncertain, if not improbable result; and are not slavish subordination, founded in personal fear, together with severe labor, and large gains for the time being, the great points of concern? Is not the state justified in making the most it can out of the prisoner's bones and sinews, while he is in its power; and is not the true test of the superiority of the discipline sought in the balance of profit in the year's business?

Perhaps it will be said, that this is the only course the community can adopt, to remunerate the expense of his arrest, trial, and support under sentence. He must be put to a profitable trade. But it will be admitted, we presume, that in a majority of cases, a very small part of the labor performed by an able-bodied convict, for five or ten years, would defray all this, many times over, if the amount were fairly apportioned; unless it should be claimed that the whole expense of the administration of criminal law, should be saddled on those who are convicted, when perhaps the greatest villains, whose arrest and trial make up by far the largest part of the government's bill of cost, escape conviction by their superior shrewdness, or by the advantages of counsel, or the default and negligence of prosecuting officers. A man is charged with the offence of burglary, committed in the night time, and being convicted by his own confession, is sentenced to twenty years' imprisonment. Another man is guilty of fraudulent insolvency, attempts a defence, keeps a court and jury in session, and parties and witnesses in attendance, and officers of every grade in motion, for days or weeks together, and by dint of hard fighting, postpones the issue of the trial until the costs incurred would of themselves make a comfortable little fortune, and when at last convicted, is sentenced to one, two, or three years' imprisonment. Shall we set the insolvent rogue at liberty when his time is out, and keep the burglar at work to pay the expenses of the prosecution, or the unpaid balance of it?

Besides, in all offences against person or property, remuneration, if made at all, is due to the individuals suffering by the crime, and not to the commonwealth. If a poor woman with a large family, has lost her husband in a sudden affray, and the slayer is doomed to hard labor for twenty years, it seems but just, that, while the purposes of the government

are answered by his imprisonment and its attendant discipline, the avails of his labor should enure, at least in part, to her whose husband was sacrificed to his unbridled temper. Why should the state reap a profit of fifty or one hundred dollars a year, from the confinement of the prisoner, while the family whom he has bereaved of its head and helper, are suffering perhaps for the necessaries of life?*

We will not extend this branch of the inquiry. The points we wish to establish are perhaps sufficiently obvious, viz., (1,) that the object of the state in compelling a convict to labor should be either in execution of his just sentence, as part of the *reformatory* discipline of the prison, or in remuneration of expenses incurred on his account,† and (2,) that the Auburn system involves a gross abuse of the right of punishment, inasmuch as it regards the acquisition of revenue as the prominent object, and adopts that construction of buildings, that mode of discipline, and those employments which will conduce most to this result, however ill-adapted they may be to restore the convict to the path of integrity.‡

Our second purpose is to show, briefly, that one of the most admirable features of the *separate*, or Pennsylvania system, and that which constitutes its *inherent and necessary superiority*, to the silent, or Auburn system, is, that *the very nature of its reformatory discipline, urges the convict to seek labor as a relief.*§

It takes him into custody with the hope, and often with the strong expectation, that he will become a better man. He is stripped of every thing he brings with him; and with his clothes, and hair, and dirt, he puts off every outward connexion with the scenes of iniquity and degradation to which he has been accustomed. He is clothed

* It is on this principle, that "the punishment of confiscation is regarded as unjust, because it falls on the family or heirs, and not on the offender."—Beccaria.

† That a punishment may produce the effect required, it is sufficient that the evil it occasions should exceed the good expected from the crime, including in the calculation, the certainty of the punishment and the privations of the expected advantages. *All severity beyond this is superfluous, and therefore tyrannical.*—Edinburgh Cyclop. Art. Punishment.

‡ "It always seems to us, that there must be something wrong in the construction or management of a prison, *which does not more than support itself.*"—North American Review, July, 1839; p. 28.

§ "Employment should be offered to the prisoner, and be regarded as an alleviation of the punishment, and not as superadded to aggravate it."—Crawford's Third Report on British Prisons, pp. 5, 6.

in a respectable suit of apparel, which is changed as often as comfort and cleanliness require. He is then secluded from the world and all association with it, and is left in silence, with an upbraiding conscience and the Omniscient God. No man, who is a stranger to the experiment, can form a just conception of the effect of this simple and wholesome process, upon the human mind — without a threat or a frown, without a sharp word, a blow, or the remotest allusion to the cat-o'-nine-tails, it has subdued the most stubborn, softened the most ferocious, intimidated the boldest, and brought the most thoughtless to consideration, at least for the time.*

It requires but a few days passed in this manner, to make labor a privilege even to the most indolent, and such labor is furnished as is best suited to the circumstances of the convict. If there is any disposition to idleness or rebellion, it is checked, not by the lash or the bayonet, but by some suitable privation, strictly as a matter of discipline however, and in execution of the sentence, and not as connected with the profit or loss on the year's business.

Now we freely admit, that to divide a house into convenient rooms, with doors, windows, fire-places, and furniture suitable to each, costs more than to throw the whole house into one spacious hall, for the common use of the family; and it may be, that greater profits will flow from the labor of a number of hands, working together in shops, or in the open air, than from the same number of hands, pursuing such a business as each can do, in his room alone.† And if the problem were, what species of prison discipline will produce the largest immediate income to the state, in dollars and cents, we certainly should not offer the Pennsylvania system as a solution. The advantage which its friends have ever claimed in its behalf, is, not that it ensures better profits, but that its discipline is adapted to the great ends of penal legislation — the protection of society in connexion with *the reform of the convict.*‡

* The effect to which we allude, is so admirably illustrated in Messrs. Crawford and Russell's Third Report on British Prisons, that we forbear to enlarge upon it.

† The French manufacturer, (M. Pradier, of Paris,) whose opinion we have before cited, observes, that "the work done by prisoners in separate confinement is far superior to that done by those who work together in silence." There are reasons for this result, which are too obvious to require specification.

‡ "One principal objection formerly urged against this (separate) system of discipline, was, the impossibility of the convict supporting himself by labor dur-

It accomplishes this result more certainly and with less hazard. It accomplishes it without destroying, but rather by fostering, any latent principle of good, either in moral constitution, education, or habits, which a career of criminal indulgence has buried, but not extinguished. The unhappy convict, in his separate and silent apartment, does not lift up his head in an assumed pride and incorrigibility, designed to draw towards him the sympathy or admiration of his fellow prisoners.* On the other system, he is degraded, not humbled — crushed, not moulded — by the hand of arbitrary power. He feels too, perhaps, that the sweat of his face goes to fatten better-dressed rogues, who have sinned on a larger scale, and who have had cunning enough to conceal their villainy, or evade its just consequences. Hence the hour of his release from a degradation so abhorred, is eagerly anticipated as the hour of sweet revenge. The state gains its profits, but the convict is a rogue still.

Should the views we have taken of this subject prove to be erroneous, and the right of the government to secure whatever revenue can possibly be derived from the labor of convicts should be established; there is still another inquiry which we wish to suggest for consideration. Ought not the profits which accrue from the labor of convicts to be appropriated in some form to the improvement of the discipline of the prison where they are earned?

So large is the annual gain in some prisons, on the Auburn plan, that it would require but a few years to accumulate a sufficient capital for the establishment of a penitentiary on the Pennsylvania principle, *free of expense to the state*, and

ing his confinement, and the injustice of taxing the honest and industrious portion of the community, to support the vicious and idle. Hence it was contended, that solitary confinement by night, with joint labor by day, under severe restrictions to prevent all conversation, would have the same beneficial effects that could be expected from our system, and the labor be rendered much more profitable. Experience has shown the impossibility of preventing communication either by looks, signs, or words, on the plan of joint labor, and also demonstrated the practicability of persons supporting themselves during solitary confinement. The profits derived from the labor of prisoners, in the Western Penitentiary, for the last year, will more than defray their whole expense for victuals and clothing. But even were it otherwise, humanity to the prisoner, and justice to society, would admonish us to pursue the remedy most likely to work a moral reformation, even if attended with great additional cost."—Report of the Select Committee appointed to visit the Western Penitentiary, etc.; Mr. Pearson, Chairman. Read in the Senate of Pennsylvania, Jan. 22, 1838.

*"The mere aggregation of individuals, is well known to inspire sentiments of confidence and hardihood."—Crawford's Report before cited.

thus, as we have seen, obviate one of the most popular objections that has ever been urged to the latter. We are told that the Connecticut state prison, at Wethersfield, has in ten years, paid all its expenses of management, subsistence, etc.; has refunded to the state the whole cost of buildings and grounds; had a balance of $10,764 67 cts. in its favor, March 1, 1838, and is expected hereafter to yield a handsome revenue.*

It has long seemed to us, that there are two grave defects common to all forms of prison discipline of which we have any knowledge.

First: that no sufficient provision is made to encourage and stimulate a convict at different stages of a course of reform. The last month of ten years' confinement is passed under the same restrictions and severities of discipline as the first. However difficult and impracticable it may be on the Auburn system, to make such distinctions as the various characters and circumstances of prisoners require, it is surely practicable in buildings constructed on the Pennsylvania plan; and we would do it without any violation of our grand principle of separation and non-intercourse. And wherever large surplus funds are secured from prison labor, what more appropriate use could be made of them than to erect and furnish suitable accommodations for carrying out this classification?† A few large and better ventilated rooms opening upon the surrounding country, and yet properly secured and secluded —more and better instruction—more comfort and respectability in clothing and lodging, and extra indulgences in books and newspapers, and perhaps an opportunity, during the last few weeks of his duress, to write to his family or friends, and thus gradually renew his intercourse with the world; though not specified as the most judicious *forms*, may serve as illustrative of the *kind* of alleviation which we have in mind. We would certainly ask only for such a degree and mode of

* North American Review, July, 1839; p. 28.

† Dumont contemplated a separate prison for persons who were expected to enter again into society, where an entirely different course of treatment would be pursued from that in the prison of detension or of perpetual confinement; and Bentham's celebrated "Panopticon" provided against the first dangers of discharge, by transferring the prisoner, towards the close of his term, to a place of mitigated confinement, where he should be rather under inspection than in custody, and whence he should be gradually allowed wholly to withdraw.

restoration to the respect and confidence of the officers and visiters of the institution, as shall strictly correspond with the *evident* advancement of the prisoner's reformation.

The faithful prophet, Jeremiah, was, with the connivance of the king, thrown into a deep, miry dungeon, in the court of the prison. When it was found that he was likely to die of hunger, the king ordered one of his officers to take with him thirty men, and release the prophet from his perilous situation. The historian tells us, that they humanely provided themselves with cords, and also with "old cast clouts and rotten rags," which they let down by the cords to the prisoner, directing him to place them under his armpits, that the cords might not lacerate his flesh when he was drawn up. It is some such mercy as this that we supplicate in behalf, not of prophets, but of prisoners. We would not have them *jerked* out of confinement, and thrown upon society without preparation, but would have them lifted up by some gentle and gradual process, that shall fit them, as far as may be, to resume the duties and relations of men and citizens.

Second: the other defect which we had in view, is of a kindred character. Nothing is more inconsistent and unreasonable, than to send a discharged convict into the community, without funds, character, or means of support, (the state having pocketed his earnings,) and requiring him to maintain his integrity. Who would expect a patient from an ophthalmic hospital, to enter unharmed upon the business of engraving or proof-reading? or who would wrestle or dance with an ankle joint just recovering from the effects of dislocation? No less preposterous is it to suppose that a man whose vicious habits have been interrupted by a season of penitentiary discipline, and whose purposes of amendment are feeble, and perhaps but half formed, can return to the world, and withstand at once the pressure of poverty, the consciousness of degradation, the returning tide of old habits and sympathies, and the assaults of the devil in the form of a legion of temptations from within and without. This, of all others, is the moment of his extreme weakness, when, if ever, he needs most to be sustained and encouraged, and yet we throw him into circumstances from which few, even of the strongest, could extricate themselves, without being cast down and wounded, if not destroyed.

The suggestion we would make is, that whenever the year-

ly income of the prison exceeds the *actual expenses* of supporting the convict, the surplus should be put to the credit of each laborer, in proportion to his diligence, skill, and good conduct. The fund thus accumulated would be applied, under proper restrictions, to the establishment of the prisoner in business at his discharge, or to the support and comfort of his family, as may seem most conducive to the ends of justice and humanity. Some provision like this is indispensable, and might be easily and wisely made, to meet this common and painful exigency of the discharged convict.

We have extended these observations much beyond our original design. Our object was simply to show that the government, though authorized (it may be) to make the prisoner's labor compensate the treasury for the expense incurred in his prosecution and punishment, has no right to make it the source of revenue—certainly not if it interfere with the great and chief ends of punishment. The whole tendency of the principle we have opposed is dangerous, unjust, and oppressive to the last degree. If the popularity of the Auburn system has grown out of its profitableness, and if this is the result of an unauthorized use of power, it shows a radical and inherent defect of principle, for which nothing can compensate.

LETTER

TO HIS EXCELLENCY PATRICK NOBLE,

GOVERNOR OF SOUTH CAROLINA,

ON THE PENITENTIARY SYSTEM,

BY FRANCIS LEIBER.

LETTER

TO HIS EXCELLENCY P. NOBLE,

GOVERNOR OF SOUTH CAROLINA.

MILD LAWS, FIRM JUDGES, CALM PUNISHMENTS.

Sir—Your Excellency has done me the honor of calling upon me to communicate to you the information I may possess on the subject of penal reform, and penitentiary systems; as also, my views of their tendency toward the diminution of crime: a call, which your Excellency made with reference to the appointment of a committee, by one branch of our Legislature, for enquiry into the policy of the different modes which have been adopted in modern times, either to repress crime more effectually, or to aid, if possible, in the moral or political reformation of the convict. If I can lend any aid, however limited its effect may be, in throwing light upon this subject, of vital importance to all human society, I shall do so most cheerfully. You are perhaps aware, Sir, that the Prison Society, at Philadelphia, lately published an Essay of mine, occupied in part, with a discussion of the subject respecting which you require my communication; I take, therefore, the liberty of sending you a copy, and shall endeavour to avoid repetition in the present letter, as far as a certain degree of completeness and proper connexion in the argument will admit of it.

Among the inheritances which the people of this vast country have received from England, the English law stands pre-eminent: a fabric, reared through centuries by the patient masonry of history: a great system, which despite of its deficiencies and faults, contains, deposited and embodied, some of the choicest of those master-principles, by which nations work out their political civilisation, and which, like living seeds, are carried to distant regions and other tribes, where they grow and branch out for themselves. But neither the English Law, nor that of any nation, so long as that nation lives, is stationary and concluded. The law is a living thing; the daily and hourly application of principles to ever-changing circumstances, conditions, views and opinions. One branch of the British law, which required great reform to suit it to the better knowledge and greater experience of mankind, was the penal law, of which the least praiseworthy part, or, to speak more plainly, the most objectionable, was the spirit, which had dictated the punishments for the various offences. Death, the "*ultimum supplicium*," the last and extreme forfeiture, which can be demanded of man, was gradually made to constitute the main and primary substance of the whole system of British punishment, so much so, that all the other punishments were called "secondary," as though the first punishment which naturally suggested itself to the penal legislator for any offence, was death, for which a minor evil would be *substituted* only upon very weighty additional considerations. Blackstone, (iv, 18,) says: "It is a melancholy truth, that among the variety of actions which men are daily

liable to commit, no less than an hundred and sixty have been declared by act of parliament, to be felonies without benefit of clergy; or, in other words, to be worthy of instant death. So dreadful a list, instead of diminishing, increases the number of offenders." This severity remained almost unchanged as late as the year 1819.* It was a bloody code, and because bloody, at once injudicious and barbarous. It it is well known that by the exertions of such men as Romilly and his associate reformers, the number of crimes punishable with death has been gradually much diminished, especially under the home secretaryships of sir Robert Peel and lord John Russel. The various States, constituting our Union, had, in this particular, as in other reforms of the penal code, such for instance, as allowing counsel to the criminally indicted, and the making of penal prosecutions altogether state prosecutions,† preceded the mother country.‡ Yet since England has reformed her penal code, she is again in advance of some of our states, and among these is our own, the State of South Carolina. The former British penal code, which by this time ought to be known only as a striking example, earnestly admonishing of the exteme danger of ever departing in legislation from a sound principle, still continues to be, in a great measure, in force with us. Every principle in legislation, truth or error, if once adopted, leads consistently on from success and blessing to greater blessing, or from injury and ruin to greater ruin. As we sow, so must we reap.

As the laws stand on our statute book, or as they are embodied in the penal code generally, they are excessively severe or incongruous; the consequence of which is, as in all such cases it must be, according to the nature of things, that the administration of them is in many cases lax and irregular, and in others unexpectedly severe. He who steals from my pocket a handkerchief above the value of twelve pence shall, according to the letter of our law as it stands on the book, atone with the forfeiture of his life. But the thief who steals from a jeweller's shop a most costly article, is punished with whipping and imprisonment only, while at the same time a petty theft from a booth or tent in a market or fair by breaking in, is punishable with death. The utterer of counterfeit money, however small the sum may be, is punishable with death. Robbing a bank at night time by breaking into the building is not a capital offence, but the second conviction of horse-stealing is. It is clear in this case that the very principle of the latter law, namely, to protect by severity, property, necessarily often exposed, and which was enacted bes fore banks existed, is inconsistently abandoned in the case of breaking into a bank, because the law was already made when a new state of thinha happened to spring into existence. If we read the list of offences punishable, according to the law as it stands, with death, and the larger number

*Substance of the Speech of Thomas Fowell Buton, in the House of Commons, March 2, 1819, London, 1819. Under the Plantagenets, 4 crimes were punishable with death; under the Tudors, 24; under the Stuarts, 96; under the Brunswick race, until 1819, 156 crimes

†An interesting comparison of English and American punishments is to be found in T. Sydney Taylor's Comparative View of the Punishments annexed to Crime in the U. S. of America and in England. London, 1831.

‡Many works on the effect as well as the history of capital punishment in England, were written at the time when the abolition of those many disproportionate punishments drew near. I would refer among others to the History and results of the present Capital Punishment in England; to which are added full tables of convictions, executions &c. by Humphrey W. Woolrych, of the Inner Temple, London, 1832.

of which I may be permitted to subjoin in a note,* are we not justified in still applying to this sad record the words of Blackstone, as they were quoted above? Is it not true of this melancholy list, what Canning, no hasty innovator, or advocate of fanciful theories, said of the English penal laws, in the Commons, in 1810: "It is in vain to suppose that they (the people) will enforce your laws which are repugnant to the best feelings of our nature." Are we not forcibly, and ought we not with shame, to be reminded of the words of a Roman statesman, uttered two thousand years ago, so very simple that they appear trite, yet in despite of this triteness, not acted out in practice, "Cavendum est, ne major pœna quam culpa;" and is it not true respecting the administration of many of these repugnant laws, their actual application to real cases, and for them alone they are made, what Lord Holland said in 1813, when Sir Samuel Romilly's bill for abolishing the punishment of death, for shoplifting to the amount of five shillings, was debated in the Lords: "The old law, as one abhorrent from our feelings, and not found to be justified by any necessity, has been virtually abrogated. What necessity then for this bill? Because such virtual abrogation is procured by perjury—by equivocation—by forced construction—by every unmanly subterfuge."§ Lord Holland, however, ought to have added, that although such abhorrent law may be virtually abrogated, it remains a dangerous law, so long as it is on the statute book; for the natural course of this virtual abrogation is, that in many cases, the impunity produced by the disproportionate severity of the law, increases the crime, until the injured become exasperated and call for an example. If popular passion, and perhaps fury, has thus once risen, the first case that occurs, is seized upon, all accompanying, and perhaps mitigating circumstances, are disregarded, and the sacrifice must fall, thus making the very application of the law an injustice, considering that it has not been applied to many previous and often worse offenders. It is then that such tragical cases happen as the one related in a speech in Parliament by Sir W. Meredith,‡ of a young woman under nineteen years of age, whose husband had been pressed. She had two very young children, and, without protector, sank into utmost poverty. The children cried for food, she went out a begging, but obtain-

* "Stealing privately from the person above the value of twelve pence"—"Stealing in a church or chapel over the value of twelve pence"—"Stealing in a booth or tent in a market or fair, by violence or breaking the same, the owner or some of his family being therein"—"Robbing a dwelling house in the day time by breaking, any person being therein"—"Robbing in a dwelling house without breaking the same, any person being therein and put in fear"—"Being accessory before the fact to any robbing in a dwelling house where any one is put in fear"—"Breaking any dwelling house, warehouse, shop or other building attached to the dwelling house, in the day time, and stealing therefrom above the value of twelve shillings"—"Being accessory to any such breaking and stealing before the fact"—"Stealing a slave"—"Aiding a slave in running away"—"Hiring or counselling any person to steal or inveigle a slave"—"Second conviction of horse-stealing"—"Second conviction of any grand larceny"—"Forgery"—"Counterfeiting current coin"—"Making or keeping in possession any die, stamp or mould for counterfeiting"—"Uttering or attempting to pass any counterfeit coin, money, &c. knowing the same to be counterfeit, as genuine"—"Arson"—"Burglary"—"Robbery"—"Murder"—"Rape"—"Satisfying sexual appetite between two males"—"Second conviction of manslaughter"—"Killing a slave with malice"—"Second conviction of bigamy"—"Carnal knowledge of a child under ten years of age"—"Being accessory before the fact to all the above offences"—"lying in wait and slitting the nose, &c.

§House of Lords, April 2, 1813.

‡In the year 1777.

ed nothing, until at last she took some coarse linen off the counter; the shopman saw her, and she laid it down at once. All these circumstances were most creditably testified to, "but it seems there had been a good deal of shoplifting about Ludgate: an example was thought necessary; and this woman was hanged for the comfort and satisfaction of some shopkeepers in Ludgate-street." One child was sucking at her breast when she set out for Tyburn, (the gallows.) Heart-breaking as this story is, it is but a prototype of numerous cases, in principle the same, which cannot otherwise but happen occasionally, where the punishment is over-severe; for cruelty produces impunity, impunity increases crime, increased crime engenders passion and clamor; passion demands a sacrifice. Yet, this is by no means the only way in which cruel and disproportionate laws work impunity. Even of those convicts whose verdict has been according to the law, despite of its severity, the greater number escape, because those who must give their final and executive sanction to a verdict, or who have the privilege of staying its execution, shrink, in their turn, from allowing the law to take its course: pardons are granted. In 1831 it was stated, that of 8,781 persons sentenced to death in England, for the then last seven years, the number of the executed was 407. The pardoning once begun, it extends to other punishments, and that unhallowed, indiscriminate defeat of the intention of the laws, made at great expense, which undermines all obedience and respect of the laws, becomes a general custom, and most demoralizing political agent: "right and law become loosened and shaken."* The penal laws of South Carolina seem to be a surprising anomaly. A people who have the right and easy means to change their laws, allow a set of penal laws to continue as statutes, which they, nevertheless, do not mean to enforce. What then is the reason? Are we more blood-thirsty than others? Are we less willing to do what is right? Are our offenders, even the merest pilferers, so inveterate villians that they must be cut off at once? I believe that the candid answer is, that the general reason for all this inconsistency is neglect. Place our penal laws together before the public, let them see what can be done, and what has been done, and I believe that the erasure of those laws, which altogether belong to another age, and a different society, would be called for by the universal voice of the people.

It is not, however, in England and the United States alone, that reforms in the penal code have taken place; indeed, the penal reforms, which have been effected in several states of the European continent, have been infinitely vaster, and more systematic, than those of England and most of our own states. A variety of causes, of which I will mention those which appear to me the most prominent, has produced the remarkable result, that ever since the beginning of the last century, increasing attention has been paid to the penal laws of various countries, until a universal spirit of thorough and comprehensive penal reform constitutes without contradiction, one of the very peculiar characteristics of our age. All of the following countries have either essentially changed part of their penal systems, especially the various punishments, or have actually decreed entire new and remodelled codes, some of which contain admirable features.† Long as the list

*_Leges ac jura labefacta._ Cic.

†The Governments of all the German States which have lately adopted an entire new

will appear, it is, nevertheless, not complete: Norway, Prussia, Austria, Bavaria, Wurtemburg, Baden, Henia, Saxony, Hanover, Nassau, and many of the smaller Germanic States, France, Spain, Portugal, Great Britain, Tuscany, Naples, Greece, the United States,† the various South American Republics, Brazil, British India, &c. So universal a tendency must needs have some very deep cause, or we should be obliged to consider the vastest changes in history, as mere accidents, and not as the necessary efforts of the gradual developement of the human mind. I conceive these to be the main causes:

That spirit of scientific criticism, dating, in its new impulse at least, from the period of the reformation, had gradually extended into an entire revision of all branches of knowledge, and a scientific desire to reduce every thing to fundamental principles, or rather to find out these fundamental principles. The penal law was not excluded from this searching inquiry.

States having become larger, and governments stronger, they could afford adopting slower, as well as milder modes of punishment, less awful to the sight, in place of those which were rather founded upon quick revenge. There are two prominent causes, wherever we find excessively severve punishments: they were originally decreed from a consciousness of weakness and fear, or dictated by a feeling which strove to punish besides the offence itself, the *daring* of having disobeyed. In every crime, a kind of rebellion was found. This indeed is, in a great measure, reducable to a consciousness of weakness on the part of government. The truly and consciously strong, are free from revenge. By feeling revenge against a man, I raise him in some degree to an equality with myself.

Greater security produced a less sanguinary spirit in general; the age of philanthropy arose, and men like Voltaire—for whatever we may justly think of the tendency of many of his writings, we ought also to remember, how prominent and persevering an assailant of barbarous punishments, and of power persecuting innocence, he ever was, through his whole life—Beccaria and Howard appeared.

The more Government was understood to be an institution for the benefit of all, and the more specific privileges, not unfrequently wrung from others by force, came to be discountenanced, the more diffused also became a general feeling of justice, with which excessively severe laws were incompatable. A general demand of obedience to the laws, for even laws always are regularly applied, and not kept in abeyance until for some reason they should fall upon a single victim, and a general indignation at impunity, are some of the most active causes of the great penal reform; far more so than a morbid philanthropy, as many persons suppose.

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penal code, as also the Government of Norway, have adopted the praiseworthy plan of publishing the labors of the various committees, appointed to draw up the code, first as Propositions, with an additional volume containing the "Motives," or reasons, with an exposition of the whole plan. After these had been a sufficient time before the public, and all objections been heard and weighed, and amendments been made, the proper authorities adopted and promulgated the code. This cautious, patient and liberal mode of proceeding on sograve a subject, ought to be imitated by all penal law reformers.

*The State of Massachusetts appointed, in the year 1837, a committee to reduce so much of the Common Law of Massachusetts, as relates to crimes and punishments, and the incidents thereof, to a written and systematic code. In 1839 the "Preliminary Report" of this committee was printed by the senate, (Senate, docum. 21) of which I transmit a copy with this letter.

People would not any longer endure laws which forced even a Mansfield to charge the jury to find a verdict against their oath, as he did, for instance, when he could not otherwise than charge the jury to find a verdict for theft of less value than the articles which were lying before them were palpably worth, in order to save the criminal from an unjust death.

Lastly, three highly important truths were discovered, or more clearly and firmly established, in the course of penologic enquiries. These are:

1st. That it is not severity alone which gives efficacy to a punishment, but its certainty.

2nd. That punishment can be certain only, if it is, acccording to public feeling, and the spirit of the age, proportionate to the offence. This proportion can not indeed be closely established upon absolute principles, but many sound and practical rules can, nevertheless, be found for its adjustment, and at any rate it must not be offended by startling incongruity of the several laws in the same code: and that punishment becomes uncertain, and impunity, as well as injustice, consequently increase, in the same ratio in which disproportionate severity increases.

3rd. That if it is true that criminals consider themselves at war with society, it was likewise true, that in turn, the state considered itself at war with the criminal, which ought not to be; and that it is both for the advantage of society and conformable to the essential character of the institutions of the state, to treat the offender, even while he is punishing, as a human being, that is, a being who has not lost his moral ingredient.

The essential points in which all these universal endeavors of penal reform in the eighteenth and nineteenth centuries, whether prompted by a sterner sense of justice, or a gentler charity, by a more penetrating scientific spirit, or the results of more patient and comprehensive experience, agree, are these:—"To ascertain and fix more definitely the object of all punishment; to select such punishments as aid in obtaining this object, and to discard all others; to make the penal laws certain, first by wording them with sufficient clearness, secondly by drawing the minimum and maximum limits of the punishment for each offence, as close as the nature of the respective class of offences may permit, and thirdly, by forestalling, as much as possible, undue interpretation and construction; to ascertain a safe mode of trial and sufficient protection for the accused; to give to the whole body of penal laws that uniformity which results from the same fundamental principles pervading the whole code; fairly to proportion the punishments, so that all the punishments of the same code be in proportion, one with another, and that each punishment be in proportion to the offence, according to the general sentiment of the age, respecting its criminality and danger; to avoid, as much as it is in human power, the infliction of any evil, accessory and greater than the duly awarded punishment is intended by the law to inflict; not only to avoid unjust severity on the one hand, but also unjust lenity, or dangerous impunity, on the other, and to insure as much as possible, the certain infliction of punishment for every committed offence; to avoid the increase of crime on the part of the state itself; and to that end, to adopt such punishments only, as will not, according to the nature of man, make the offender worse, and more dangerous through and after the punishment, than he was before; to abolish disgraceful exposure and indelible stamps of disgrace; to offer as much as possible, the

means of political reform, and therefore, to remove every species of punishment which necessarily must prevent it; to try at least the moral reform* of the offender; to stay, as much as possible, the rapid onward course of criminality in each offender, after he commits his first offence, or when the abandoned youth is rapidly hurrying toward it, by seizing upon him by other means than those contained in the penal code for adults, in order to rescue him at once, and by breaking up, by all possible means, the fearful education and training in crime, and the criminal association of adult offenders. Many endeavors have likewise been made to prevent crime by other means; for instance, by general school systems, by associations, affording work to the distressed and laborless, by temperance societies, schools for adults, and other humane endeavors.

Although this spirit of penal reform is so general in our age that it forms one of its peculiar characteristics, persons are not wanting wherever it is attempted, who either treat it slightingly as useless, or actually oppose it, the one from a want of sufficient attention to the subject, the others from erroneous notions respecting penal matters. Whenever an improvement is attempted, the inertia of the indolent and superficial must be overcome. Respecting our subject we are told by some: "The law is good enough; we have got along with it well enough so far, why should we change?" They forget that no law is good enough, which is only good enough. The law, and especially so important a branch as the penal, is only, then, good enough, when it is framed as perfect, as honestly collected experience and wise penetration, with due regard to the means at our disposal, and the relations for which it is intended, can make it. A human law, eventhus framed, with all care, attention and honesty, will remain deficient, and leave room for farther improvement at a future period. Others oppose reform, merely because it is a change; all change is stamped by them as innovation. They forget that nothing is immoveable; that if the law be not changed, the circumstances to which the law applies change, and needs must change, according to the order of things; so that the law, apparently the same, but applied to changed circumstances, has virtually changed, and unfortunately in most cases for the worse. Most wisely, in my opinion, says the historian, Raumer, assuredly no revolutionary man, that those who without reflection insist upon the old law, merely because it is the law, when every thing around it has changed, are frequently the true revolutionists, not always those who desire a change. With regard to reform of penal laws, opposition is frequently, perhaps generally, met with at the hands of a class of men, whom the community in general, justly consider with respect, and whose opinion seems, at first glance, to be entitled, upon this particular subject, to especial deference—I mean the judges. Criminal Judges are much occupied with criminals, and, consequently, are easily betrayed into a belief that they know much of their character; yet the judge, by his official intercourse with the criminals, and few indeed take the trouble of otherwise obtaining information respecting the character of criminals, or the operation of punishments, knows the criminal only with the lawyer by his side. The judge's being occupied with many criminals, and the scum of society, renders him naturally, if not callous, at least less acute in feeling toward them;

* It will hardly be necessary to explain, that by political reform is meant, the acting upon the resolution to obey the law of the land, and lead an unblemished life as a citizen, from whatever reasons this resolution may have been taken; by moral reform is meant that desire to do right because it is right; in short, to be, not only an unoffending citizen, but a good man.

and, in general, the judge is, and ought to be, a representative of the conservative principle, without which no state can any more endure than without a due portion of the movement principle. Judges, however, are frail, as all other men, and their being habitually the more especial representatives of the law, as it is, makes them, not unfrequently, fall into a sort of idolatry of it, ending, by considering the Law as the end and object, not Man, for whom the law is made. When the quoted bill, for abolishing the punishment of death for privately stealing from a shop to the amount of five shillings, was debating, in the House of Lords, Lord Eldon said, "If the present bill be carried into effect, then may your Lordships expect to see the whole frame of our criminal code invaded and broken in upon." Others, and, I believe, Lord Eldon himself, at other times, extended even their remarks, to the danger to which the whole constitution would stand exposed, in consequence of abolishing that iniquitous law. Well might he have been answered. If this be really so, if this law can be supported by enormity only, if the British law is a stately pile, whose particles can be kept together only by a costly cement, mixed and drenched with human blood, then, the sooner it crumble into dust, the better. But for whom is this palace destined? Do the people, whose very blood must make the mortar, dwell in it? For whose protection was it built? Is there no humble yet secure chamber in it, where misguided want and despairing wretchedness may fly to, and even while doing penance, may still find safety?

Others again, opppose those reforms which involve the offering of means for the political or moral reform of the offender, as useless, and treat them as chimerical, not unfrequently as ridiculous. Have they any substantial knowledge of the subject? Have they taken the least trouble to inform themselves upon it? a subject which cannot be hastily judged of by a few conclusions drawn from some general principles, still less by mere assertions. It requires attention, knowledge, patience, experience. Declaring, by a few words, all offenders as irreclaimably lost, is a matter of very grave import. If it be so, let the truth be known and proved by facts: for it would be unwise indeed to detain the community with useless, expensive and disappointing experiments. If it is not so, how rash is the aspersion! Experience, however, shows us, that it is not the truth, and that it is not only for the benefit of the offender, but quite as much so for the whole society, even though we assume no higher ground than that of the merest utility, that a mode of punishment be adopted which offers at least the possibility of a reform of habits, train of thoughts and, perhaps, of the heart. And can we forget, that although men ought to live in society subject to laws, and although these laws must be enforced, nevertheless many of these are sometimes directly, at other times indirectly the causes of crime? Has any civilized state remained free of erroneous laws which have created sudden revulsions in the exchange of labor and produce, and consequent losses, want, despair, and ultimate crime? Has society by justly demanding that every one shall be bound to defend his country and his liberty, not indirectly deprived many a poor wife of her only support, and exposed her to want of food and raiment, gradually leading her to vice and crime? If we contemplate this insufficiency of human laws, shall we not, for the very reason that laws must be enforced, feel inclined on the other hand, not to add to the necessity of punishment, the barbarity of considering every offender as a rank weed, poisonous from its first germ, to be plucked out and burnt? Does society not owe a debt to many an offender?

Experience, not only in America and Europe, proves that crime may be stayed at various stages of criminality in the offender, but even in other parts of the world among people of totally different views and habits, the result has been the same. It must then be something really founded upon the elements of the human soul, and not merely a fancy of dreaming philanthrophists. The Chinese government, on the recommendation of Soong-ta jin, conductor of lord Macartney, established penal colonies from the Saghalian westward. Yoong-ching, third Emperor of the Manchoo race, said in an edict, in which he pardons the colonists and grants them land, because they had behaved well: 'It may be seen from this occurrence, that if criminals have a path of self renovation opened to them, there is reason to hope they will reform their vices and become moral.'† Before the futility of attempts at reforming criminals be pronounced in a sweeping manner, it is necessary to be well acquainted with the very different classes of offenders, both as to character and age, and the different causes of crime. If for instance, a man commits crime because he never learnt to work, there is a very reasonable chance of his behaving better in future, if we can skilfully devise a punishment, which, besides its being a grave and impressive punishment, will not only teach him to work, but even to love working, which will convince him that take all in all, even according to a very limited moral view, there is more comfort in industry than in criminal sloth, and that, barring all higher considerations of religion and the dignity of man, there is inconsistent folly in all paths of crime, because the means chosen defeats its own end.

The punishments chiefly in use in our state are fine, public whipping, the pillory, or public exhibition, imprisonment and death.

Fine is an apt punishment for small or police offences, because they involve no immorrality, or no high degree of immorality, and, the fine being paid, the whole punishment is at an end. But fines for higher offences belong to the most objectionable of all punishments for a variety of reasons. It has a most demoralizing effect upon the community, serious offences can thus be bought off by the wealthy, but must be compensated for by the poor, with imprisonment, the punishment cannot be duly proportioned; for whatever latitude may be left to the judge, it is impossible for him to apportion a fine to the pecuniary capacity of the offender, so soon as he is really rich. How can a fine which, properly apportioned to a poor man, amounts to twenty dollars be raised, as a sense of justice would demand it, in proportion to a fortune of three or four hundred thousand dollars? Or if it were, it would be equally injurious; the state would appear to be desirous of depriving its citizens of their property, and actually would soon become desirous of doing so. The state must never be or appear to be the pecuniary gainer by crime, be this by way of exacting excessive fines, or by deriving a considerable surplus revenue from prisoners. In both cases, it tends to serious mischief. One period of history, as that when the robberies of the starchamber, with the Lauds, Straffords and Westons, pressed for plunder wherever it could be espied, ought to be forever sufficient to warn against the one; and disclosures as we have had them lately in the State of New York, which prove, how often humanity was forgotten, in order to obtain a more brilliant balance of the prison revenue, ought to be equally sufficient, to warn us against the latter. It is one of the exceptionable traits of the French

†Davis The Chinese, I, 426.

for the benefit of the inoffensive part of the community, as in many Eastern countries a leper is bound to wear a distinguishing mark. A criminal who should be prevented by any means of this sort from following his trade, would be considered a poor bungler indeed by his companions in guilt.

The punishment of death, without any additional torture, as a matter of course, ought, according to the almost universal opinion of all the most civilized nations, to be restricted to the crime of murder, and a few others equal in attrocity, if retained at all. I speak of course of the penal code for the citizens at large only. It is different respecting military codes.

If I have used, in the preceding lines, the words, "if retained at all," I do not mean to be understood as siding with those who believe either on christian, religious, or general philosophic grounds, that no man or society of men can ever have, or acquire the right of depriving a fellow man of life.* Not one century has passed, since the establishment of the Christian faith, that

*Among those who from time to time have raised their voice against capital punishment, have been some of the first philosophers and most profound theologians, as well as some of the most esteemed philanthropists; yet the far greater number of these men have declared themselves in favor of the right which society possesses, of depriving an individual of life, who with fore-thought and malice has slain a fellow creature. Among those who in a rare degree united philosopical acumen, and theological lore, with deep piety, and who declared every execution a crime, is the great SCHLEIRMACHER, whom no one indeed has ever charged with fanaticism, even of the slighest tinge. He gave his opinion in a sermon, delivered in the year 1833. Yet, with the profoundest respect toward that eminent man, and the grateful affection of a pupil toward a revered teacher, I cannot otherwise than say, that this sermon appears to me unsatisfactory in a high degree. One point he certainly shows conclusively, if indeed this was necessary, that no passage of the Old Testament contains any injunction binding upon us, to punish any crime with death; but with equal clearness, it appears to me, has Dr. Ammon, another distinguished divine shown, that the New Testament contains no commandment to abolish it. This question is in my opinion, not to be decided upon biblical ground. The question is one of strict right, into which that of expediency or necessity of course largely enters, as in all questions of right, which involve the infliction of an evil, or the doing of a damage to another. The question of the right of society to inflict capital punishment was very thoroughly discussed, as might have been expected, by all those committees appointed in the various German states, for the remodeling of the penal codes, and frequently again by the Estates, before they became the law of the land. The result has been this in all cases, that capital punishment has been retained for murder and open rebellion, or attempts against the person of the chief of the state; that execution is reduced to the mere privation of life, as expeditiously and as free from torturing pain as possible. The works of Count de Sellon, member of the Sovereign Council of Geneva, and of Mr. Lucas, Inspector General of the prisons in France, contain I believe, pretty much all the arguments urged against capital punishment. They have not been able to convince me of the necessity of abolishing it; nor do I say, I am convinced of the necessity of retaining it, where perpetual solitary confinement can be substituted; that is, where the circumstances are such that, from experience we may have any right to expect that imprisonment for life, awarded for murder, will not be broken in upon by a pardon on any other ground, than that of substantial doubts respecting the misdeed having been excited after sentence had been pronounced. Those who, in another part of our country seem so desirous of abolishing capital punishment, ought to consider that there would be no surer preparation for this change, if ever brought about, than the almost total abolition of pardons. So long, however, as it is considered by the convicts more fortunate if they are sentenced for imprisonment for life, or fifteen years, than for seven years, because in the former case they know almost to a certainty, they will be pardoned after the first four or five years, while in the latter, there is much more probability of their being allowed to suffer their term uncurtailed, we must not be expected to put murder virtually on a par with issuing forged notes.

I cannot conclude this note without referring to an argument which I perceive, is frequently directed in this country, against capital punishment. The advocates of its aboli-

some men or sect, have not taken this view of certain words spoken by Christ, and in the natural progress of error, they have frequently, gone so far as to deny any coercive right whatsoever in a Christian government. Anterior to the Reformation, as well as after it, and down to our own times, and in our own country, we find this latter hollow and unbiblical doctrine held up from time to time, partly from fanaticism, which is generally combined with weakness of intellect, or actually originates from it, or wily deception which makes use of fanaticism in others.

In theory there appears, to me, no difficulty respecting the punishment of death; it is as easy, or as difficult, to prove abstractedly the right we have to punish with death, as that of imprisoning for life, or indeed depriving of personal liberty for any given period. Nor is there in my opinion, any reasonable objection against the punishment of death, if restricted as indicated above, on the score of mercy. It will be admitted that it would be outraging the best feelings of our nature, were any other punishment than imprisonment for life substituted for death, if it is the punishment for murder.

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tion say, You cut off a man and send him to his eternal doom before it was the will of God. He gave him time for repentance, but you deprived the poor culprit of this precious and invaluable chance. It seems to me that this whole argument is begging the question; for the very point is, whether capital punishment is lawful and just. If it be not, of course we must abolish it; if it be, then a murderer whose life is cut short under that law, dies according to the will of God and his own order of things, for it is his will that we live in states, and that strict justice be administered—it is the law which even he, the Creator, "has written in our hearts." Thus persons are not wanting, who say that in executing a fellow being man presumes to do more than his God did, who did not hurl destruction upon Cain, when he had shed the first human blood, and I was surprised to find that even Schleiermacher, in the cited sermon, alludes at least to this argument. One hardly knows how to answer such an argument, so much does it stagger reason. Because God does not strike the arm of the thief or the tongue of the perjurer with palsy, shall we not arrest that arm and seal that tongue, by trial and punishment? Because God allows the blessings of his sun and of his rain to fall upon the field which a fraudulent guardian has wrung from his ward, shall we not wrest it from the culprit by trial and verdict? Where should we end, if we once begin to take God's abstaining from direct, special and instantaneous interposition, as a proof that we shall allow all things to go on undisturbedly? Shall I, happening to be present when an assassin lifts his arm to plunge a dagger into an innocent victim, not stay the murderous arm before the evil deed is done, because God, who might do it, does not do it? Yes, fanatical sects have existed, who actually sought the highest degree of piety in absolute passiveness, and those who use the argument just stated, may see to what their error must ultimately lead by fair consistency and a conclusive chain of reasoning. But it was ordained otherwise: man shall be a moral being, guiding himself, not a machine moved from without. May this instance serve as an additional one to shew, how dangerous it has always proved to be to mix dogmatic views with inquiries strictly belonging to the sphere of right. Yet the argument, founded upon the scriptural account of Cain's murder would, in my opinion, prove in favor of those, who maintain the right of capital punishment, if we take the whole account, as we certainly are bound to do, and not merely the fact that God did not send physical destruction upon the murderer's head. God punished him far more severely; he "curses him and his labor;" he makes him "a fugitive and a vagabond in the earth;" he "hides Cain from his face," it is "a punishment greater than he can bear." Cain knew that it was the law written in the human heart, that he who murders has no right to complain if he be slain in turn, for he exclaims, "it shall come to pass, that every one that findeth me shall slay me." How did he know it? No case of murder had occured. And the Lord acknowledged the justness of his fear, for he "set a mark upon Cain, lest any finding him should kill him." He wants Cain saved as an especial case and exception from what otherwise would be natural and right. This argument then seems to prove nothing applicable to human administration of justice; or if it proves any thing, it is in favor of capital punishment for murder.

All imprisonment, however, ought to be solitary, as we soon shall see: now a man of natural great timidity, may prefer even this to death, simply because he has an insuperable fear of death, but I suppose no one else will pretend to say that solitary imprisonment for life is preferable to death on the score of mercy. Mr. Livingston, a strong advocate for the abolition of capital punishment, insists upon perpetual solitary confinement for the murderer, and I confess that when I read the description of the punishment which he felt himself obliged to propose as a substitute for death, (in the Introductory Report to his Code of Prison Discipline,) I could not help reflecting how infinitely preferable death would be to such a life.

In my opinion, the vital question respecting the punishment of death, is not one touching the punishment directly but the trial. The question is, whether men can ascertain and establish a mode of trial which is so safe, and guarantees so well against blind passion, or deception, that it gives sufficient certainty as to guilt, because of all those punishments which cannot be stayed if once inflicted, this is the most serious. But there is in our country, on the other hand, this difficulty: that, owing to the easy access to the chief magistrates, pardons will always be easier to be obtained, than in other countries, a very strong reason, by the way, why we in particular, ought to make the punishments so that the universal opinion of the respectable and considerate citizens should consider them in a fair proportion with the offence, neither too lenient and trifling with the community, nor too severe and trifling with the convict, lest a moral strength to resist overwhelming petitions and even clamor for pardon, be required in the chief magistrate, which cannot be a common attribute of the human character.

Respecting the frightful abuse of pardoning, the proportion of the number of pardons to unpardoned sentences, and the consequent reduction of years of imprisonment to but a small part of what the law decrees, I refer to my translation of the work of Messrs. de Beaumont and de Tocqueville, on the Penitentiaries in the United States, where interesting statistical tables relating to this subject are to be found. I also would mention, that wherever a proper Penitentiary system has been introduced in America, pardons have very perceptibly decreased: for instance in Pennsylvania.

It is well ascertained that the period of human life, in which most crimes are committed, is that from twenty years of age to thirty, especially crimes whose perpetration requires violence. It is this, the period during which the human heart is most subject to rashness and passion. I own, such as matters stand now in our own country, I cannot easily imagine a case possible of a murderer, say of twenty-five years of age, though his crime be of the most fiendlike character, sentenced to imprisonment for life, who, with the changes of governors, united to the almost universal injudicious petitioning for pardon, and the ease with which events are forgotten in a country where the busy and thriving bustle of one day presses so hard upon the preceding one, would not, after some year, be turned again upon the community, and would walk about a living example of the laxity of justice, or be sent to a neighboring community, exposing it to renewed crimes.

I now come to the last species of punishment, which I have proposed to myself to consider in this letter, namely, imprisonment. Privation of personal liberty has invariably become more and more the main punishment in the penal codes of progressive nations. It recommends itself to the wise legislator on many accounts, of which I will only mention, that it is what I

would call a calm punishment; in inflicting it, the State appears not as a tormentor; it, therefore, does not irritate or exasperate the resentful criminal anew, while it is to the callous offender, who cares but little for whipping, or the infliction of any other pain, so soon as it is passed, a dreaded evil; it does not irretrievably degrade as branding or cropping the ears, or any other mutilation does; it does not offend or harden the community by the exhibition of suffering; it may, which is a very great advantage, be better apportioned than almost any other punishment. Indeed with reference to this latter point, no other punishment can compete with it except fine; but imprisonment has this advantage that, while it is very true that the shame necessarily attached to imprisonment will be more acute and give additional severity to this punishment, when inflicted on a well educated man of the wealthier classes, it causes on the other hand a greater loss to an offender, who belongs to the classes which necessarily live from hand to mouth. The fine, however, it has been seen, cannot be proportioned, as strict justice would demand, beyond a certain limit, while this punishment itself must always refer to imprisonment as an equivalent in those cases in which the offender is incapable of paying the fine. Imprisonment alone affords any reasonable chance to effect a political or moral reform in the offender; and lastly, the uniformity of a penal code, by which I mean that the chief bulk of punishments be of the same character, but differently apportioned, (from which the lightest and heaviest punishments alone ought to form exceptions,) and which for reasons given in the accompanying Essay, I consider a necessary attribute of an unexceptionable penal code, can be obtained only if imprisonment be made the main punishment. Yet, unless imprisonment be wisely regulated, there are likewise great objections against it. The two most prominent of these are, the fearful propagation of crime within the prison, by the free intercourse and concentrated communion among the criminals, congregated as they can be no where else out of the prison walls, and the expense which the buildings of the prisons, their necessary officers and the support of the imprisoned unavoidably entail upon the community, unless the State will commit the cruelty of imprisoning without support, as is actually, or was a few years ago, the case in Brazil, where the prisoners are obliged to beg, and are of course frequently exposed to sufferings of the most appalling kind.

Thanks to the humane endeavours of so pure lovers of men, even though lost in the immundity of guilt, to philanthropists, such as Fontana, Howard, and others actuated like them, by sound charity, attempts have been made, more especially since the middle of the last century,* to avoid these evils without

*John Howard, born in 1726, found the following inscription over the entry into the institution for youthful offenders, built in Rome, in the year 1704, by Corlo Fontana, an inscription which has become at a latter period so famous by Howard's communication, and has been aptly chosen by Mr. Charles Lucas, the distinguished penologist of France, as the motto for his extensive work, "On the Reform of Prisons or the Theory of Imprisonment," 3 vols, Paris, 1836–1838:

PARUM EST
COERCERE IMPROBOS
PŒNA
NISI PROBOS EFFICIAS
DISCIPLINA.

It is but little to coerce the wicked by punishment, if thou doest not make them better by discipline. On the same journey, Howard found at Genoa an institution for 600 lads and girls, rebuilt in 1636; over the entry into the weaving room, he read:

SILENTIUM ET OBEDIENTIA.

giving up the advantages of imprisonment, until, by experience, added to experience, the perseverance of the lovers of strict justice, which sternly demands that neither too much nor too little be done in the way of punishing crime, has perfected the system of imprisonment in the degree in which we find it in the present time in some countries. You are well aware, sir, that I allude to the two systems of imprisonment, the one called the Auburn or Silence System, the other, the Pennsylvanian, Separation or Eremitic System. As it is common, whenever a great reform is preparing, that all errors are run through, before the ultimate proper mean is found, so there have in this instance not been wanting men, who, we may well say, madly asserted that all punishment of crime was useless, and that the only way of preventing it, was the stopping up of all its sources. Every sound criminalist will grant, that prevention of crime is infinitely better than punishing it, and that by preventing pauperism and promoting general education, much will be done toward the prevention of crime; but it shows but little knowledge of the human heart and human society, to suppose that there will ever exist any community free of violators of its laws. We need of course, not occupy our attention with these visionary theories, though but lately re-asserted.

Repeated experience in various countries had shown that it was absolutely impossible either to prevent the prisoners from becoming not only seriously contaminated by others, but also, from mutually generating a still higher criminality than that which each criminal brought with him into the prison; or, to effect any reform in the prisonor, unless communion among them could be entirely intercepted. To effect this, two different modes were resorted to; both founded upon the same principle, but differing in their execution. In the one system, the prisoners are separated by night, in solitary cells; but in the day time, they work in common, without being permitted, however, to converse or commune with one another by signs. This is called the Auburn, or Silent System. In the other, the Pennsylvanian, or eremitic system, the prisoners are always separated, day and night, without any interruption, by being placed in solitary cells. Both Systems not only admit, but enjoin labor as indispensable and fundamental, and one of the necessary ingredients, of any sound and safe penitentiary system. For a long time it remained an undecided question, which of the two was preferable; experience alone, could finally decide, whatever the anticipations of one or the other side might be. Ample, and yearly increasing, experience has decided, and, in my opinion, triumphantly so, in favor of the Pennsylvania System—that is, in favor of uninterrupted solitary confinement at labor. It is, as yet impossible, incontrovertably to establish the superiority of either system, by mere statistical tables, showing an increase or decrease of crime, if indeed it can ever be established in this way. The larger or smaller number of offences, depends upon a thousand causes, unconnected with punishment. Nor can any exhibit of re-committals prove much, either in England or the United States, because we have no sufficiently accurate police lists to ascertain re-committals, especially not in our country. A criminal may easily pass from one state into another, where nothing is officially known of his crime,

For these and other historical notices respecting the gradual progress of the science and art of punishment (for it is both like the art of healing,) I must refer to a work to which I shall presently have to advert in another respect, containing the fruits of valuable researches; it is Dr. Julius's Moral Condition of the United States, 2 vols. Leipsic, 1839, the second volume of which is wholly occupied with crime and punishment.

defending the Auburn system and disapproving of the Pennsylvanian, says: „The danger of solitary confinement with labor, has certainly been overrated." Considering the quarter whence this assertion comes, it must be considered as the beginning of a new period in the controversy on the two systems, for thus one point is given up, upon which I believe, turned at least one half of all the attacks directed against uninterrupted seclusion from its opponents in New-England.

The objections on the ground of expensiveness, are two-fold: it is maintained that the buildings necesary for total seclusion require a great outlay, and that the various specics of labor which can be carried on in a solitary cell, are far less in number than those which require united labor and more room, so that the means of its own support are redneed in a penitentiary on the eremitic plan. It is very true that a spacious cell with a yard will always cost more than a cell in which prisoners are rather boxed up in a frame work, than lodged, as is the case in the Auburn penitentiaries. Still, it ought to be observed, that a great prejudice on the point of costliness, has arisen from the very high expense of the Eastern penitentiary, the first which was erected on the eremitic plan. This was partly owing to circumstances unconnected with the Penitentiary system itself, partly to the fact, that experience had not yet then been sufficiently collected. One of the latest penitentiaries on the eremitic plan, is the Philadelphia county prison, for 408 prisoners, costing $300,000, or each cell $735 29. The penitentiary at Auburn for 700 prisoners, costs $450,000, or $584 41 the cell. These expenses decrease, the larger the number of prisoners is, for which the penitentiary is built; but it must be remembered that the larger the penitentiary on the Auburn plan, the more rigorous necessarily becomes, and must become, its discipline; while the eremitic system allows of much greater extent, without injury to the essential parts of the system, so that the difference of cost would greatly diminish. Yet, even if this were not the case, the greater security, the redemption of first offenders and consequent great saving of property, the heightened moral tone of the community, which is always an effect of a just and pure penal code, acted out by the citizens at large with political alacrity, would be sufficient compensation. When we speak of the losses of properey occasioned by crime, persons not sufficiently acquainted with the subject generally think of thefts and robberies only, which have been detected and tried; but thieves may carry on their nefarious occupetions for years before they are detected. Facts have lately come to light before committees of parliament which show the enormous, and almost incredible loss of property, caused by pilfering and stealing of all sorts, for instance, on board the canal boats. If, therefore, we can vigorously break in upon that criminal affiliation, which is necessary for this systematic thieving, and which avowedly is in the highest degree promoted by prison acquaintances, we shall find that the money laid out for eremtic penitentiaries, which alone can effectually prevent these affiliations, is not wasted, but on the contrary, well invested for the community.

Respecting the second point, all that ought to be desired is, that a penitentiary may support itself; for although I allow that the prisoner owes a far greater debt to this community than that of his support alone, namely, the debt for all the expenses which crime creates by the necessary support of penal justice, police, &c. it is not to be denied that it is dangerous

to make an institution, in which there are men so wholly at our command, yield a public revenue. The desire for more and more profit leads but too easily to such oppressive measures against those who cannot complain, as have from time to time been officially complained of by examiners into the Auburn prisons. In our state, I doubt not, but that very convenient in-door labor could be found for the prisoners. Shoe making is in all penitentiaries a favorite occupation, and our importers of negro shoes would willingly contract with the penitentiary instead of sending for shoes elsewhere. So would weaving cotton cloth be a sufficiently profitable occupation for prisoners.

How, on the other hand, is the mode of operation of the Auburn system, or that penitentiary system which is founded upon silence of a large number of congregated men? The prisoners, it is allowed, must be prevented from communing by word or sign, if the system shall have the slightest reforming effect; even safety alone demands that no communion should take place between men who work together, are infinitely superior in number to their officers, whose work puts many instruments into their hands which would well serve as weapons, and who withal are in a state in which force alone can keep them—in a state of imprisonment. Yet the desire of communion is a primitive and elementary desire of our soul; to repress it then, means are requisite as severe as the desire is urgent; for nowhere can nature be repressed with gentle means. To enforce silence a punishment, pending as it were over each prisoner, to fall on him instantly when silence, the great basis of this system has been broken, and of sufficient rigor to repress the desire of utterance, as natural and urgent as the appetite for food, is absolutely necessary—I mean the whip. Those who watch over the prisoners must be furnished with the whip or some other instrument for instantaneous corporal punishment, and the authority to use it at discretion within a certain limit, say six lashes, must be given them. The Auburn system is founded on silence; silence, and even that not in a perfect degree, can by physical and moral possibility be maintained only by the scourge—the Auburn system rests essentially upon the whip. So soon as the London criminals learned that the silencial system was to be introduced in the British prisons, they prepared themselves at New-Gate for this new order of things by practicing with one another the language of signs, as we learn from the report of the surgeon of that prison. No agent of any Auburn penitentiary, nor any prisoner who knew it by experience, has ever denied to me the necessity of the whip. But the keepers know that communion, nevertheless, does take place. They become suspicious, and if they must prevent communion even by signs, it is clear that they must frequently mistake accidental movements for intentional signs; unjust infliction of lashes is the consequnce. Besides, who counts the lashes whether they are within the number allowed by law, when the keeper is irritated? The convict? He cannot complain. Indeed it would be an odd system which first gives the necessary right of punishment to a keeper over a criminal, and afterwards gives the right to the criminal each time to impeach the officer. Who shall decide? Certainly not the criminal, yet on the other hand "quis custodiet ipsos custodes?" Who guards against the guards? The original principle itself, that this system rests upon the instantaneous infliction of bodily pain, as well as the irritation thereby caused among the convicts, requiring new, frequently increased severity, give from the beginning a character of harshness to this whole system. The perfectly natural course of things has been, I believe, in all Auburn prisons, cer-

tainly in all prominent ones, either that rigorous severity has gradually increased until public opinion became outraged; mildness being found insufficient to maintain the system; or the main principle, the prop and stay, nerve and essence of the whole, silence, was abandoned altogether. In addition to this, we must consider that Auburn penitentiaries may be made very profitable. A desire of showing a large surplus at the end of the year once existing, and being coupled with the other necessary requisite of this system, the power of inflicting instant punishment with the lash, nothing is more natural, not according to the peculiar wickedness of some individuals, but according to the common nature of man, than that cruelty should in many instances have increased from an anxiety to make the penitentiraies profitable state institutions, and thereby please the legislatures. Again and again have committees, appointed by the legislatures, reported upon these points, and again and again has their voice been disregarded. The most prominent penitentiaries upon the plan of separation by night and common labor in silence by day, are those at Wethersfield in Connecticut, at Auburn and Sing-Sing in the State of New-York, and at Charlestown near Boston. In 1834 a committee of the General Assembly of Connecticut for inquiry into the state prison made a long report of 119 closely printed papers, showing that excessive severity had taken place, partly in order to make the prison more profitable. A milder course was adopted; an attack and murder of one of the keepers by the convicts took place; and the discipline became severer again. Of the reports by proper committees upon Sing-Sing, prison several have emphatically denounced the harshness exercised there, for instance that printed by the Assembly, February 6, 1833 refer to page 9—11 in particular,* and the report which was printed by the Assembly March 30, 1839. This report repeatedly states that the prisoners are wholly governed by stripes, inflicted without controul, and that one of the important object sought to be obtained by the penitentiary system, the reformation of the convicts is abandoned and lost." (P. 5.) It says, that "other convicts have been disabled, from severe scourging, and been sent to the hospital to be cured; and even that sanctuary, it seems, does not always prove a protection from the cat; for it is sufficiently proved that some, who were at the time on the sick list and detained in the hospital, have been stripped and flogged. Contractors for labor at the prison, and prison guards, have sometimes been permitted to inflict severe chastisement upon convicts," &c. (Pp. 6 & 7.) But I must refer your Excellency to the whole report, because it requires the serious consideration of every one engaged in the penal reform of any civilized society. Auburn was considered, in 1832, to be governed with more mildness than Sing-Sing; so prisoners, who had been at Sing-Sing and Auburn, distinctly stated; but it seems that the officers of that penitentiary found, likewise, that it was impossible to maintain the Auburn system by comparatively gentle means; severity, therefore, gradually increased, until cases occurred, believed to be most shocking by the community, and official inquiry was made. The Governor of the State of New York recommended the removal of the agent. The testimony taken by the legislative Committee, respecting these severities, was lately strengthened, not a little, by what was divulged in a case of libel, by Elam Lynds, the Auburn agent, against Oliphant and Skinner,

*I ought to mention that against this an officer of the Sing-Sing prison published: Comments on the report of the Select Committee &c. Mount Pleasant 1833.

Onondaga Circuit, Sept. 1839.* No complaints on the score of excessive severity, have, to my knowledge, been made against the Charlestown prison, near Boston: on the contrary, there we find the very principle of silence abandoned, and "indulgence of necessary or occasional speaking"† is granted. If, nevertheless, that prison produces as admirable results as we are frequently told, and those who tell us so do not labor under great delusion, the effect must be solely owing to the uncommon genius and almost unique moral power of some rare individuals, over the convicts—a state of things which, in its nature, must be so rare that we cannot conscientiously found a plan of imprisonment and possible reformation on it. For in laying out plans of lasting institutions and extensive operation, it is one of our first duties to ground them upon the nature of man, as it appears from common experience, upon the average talent of mankind, but not upon intellectual eminence, which may be found once upon an age. That, however, it be possible to have an effective, lastingly sound penitentiary, upon the Auburn plan without rigidly enforciug silence, with men for keepers, agents and inspectors, such as honest and respectable men commonly are, no one who has paid the slightest attention to modern punishment, will venture to assert. I, for my part, believe the moral or political good effect of the Auburn penitentiaries, is altogether exceedingly precarious, or very rare, but without silence, and consequently without its strict enforcement by physical means, it is as difficult for me to imagine it, as an orator that is dumb. In Geneva, in Switzerland, an opposite process has taken place, and, in order to appreciate this instance, I ought to assure your Excellency, that from an examination of the many reports upon prison discipline and penal reform published in that republic, it appears to me, that serious attention has been paid there to the subject. The republic of Geneva adopted the Auburn plan, guided by a mistaken apprehension, that the eremitic system, which none there knew from personal examination, was too severe; but it appears, from a late work of Mr. C. Aubanel, the superintendant of the Geneva penitentiary, that they have already found it necessary, in the natural course of things, to adopt for the division of convicts of the longest sentences, besides separation during night, solitude by day; in short, to exchange the silencial system for the eremetic.‡ So has the Belgian government directed the introduction of the eremetic system in the *maison de force*, at Ghent, so famous because separation by night and silence during day, have been acted upon in that prison for half a century.§ I know of no case where an eremetic penitentiary has been changed for one on the Auburn plan.

Let me now, Sir, turn to the second point. What is the opinion of those who possess the greatest practical and personal experience? I have stated already in the essay, mentioned before, that all the agents of Auburn penitentiaries, with whom I am acquainted, admit that the eremetic system is the

* The whole testimony of the trial is to be found in an extra number of the Auburn Journal, Oct. 16, 1839.

† Tulius' Moral Condition of the United States, vol. II. p. 200, where the above words are given in brackets, as quotation."

‡ I do not possess Mr. Aubanel's last work, and quote from the work of Dr. Julius, a sufficient authority for accuracy.

§ The concluding pages of a Vindication of the Separate System of Prison Discipline, from the misrepresentations of the North American Review, Philad., 1839, are referred to for the point of general acknowledgment in favor of the eremetic system, as indeed that whole judicious pamphlet for the general subject of this letter.

ART. V.—SOME REMARKS ON THE METALLIFEROUS VEINS OF THE SOUTH.—By OSCAR M. LIEBER, ASSISTANT GEOLOGIST TO THE STATE OF ALABAMA.

IT is deeply to be regretted, that in our country so little attention has been paid to what might be termed the comparative anatomy of veins—a careful investigation and comparison of the various characteristics of veins and groups of veins, a subject in which Professor Cotta, of Freiberg, has made himself so justly celebrated. The practical importance of these observations will alone render them worthy of prosecution. American mining is, however, in so incipient a stage of development, that it is but natural that these matters should as yet receive little attention. Still, when we perceive such clever articles, as one in this Magazine, on the "Mining in Wall-street," pointing towards a prospective advance in mining, it may not be improper to call attention to so important a topic as vein geology. Under this impression, at least, I venture to offer a few observations on the subject, and to present the conclusions to which they appear to conduct us. It should, nevertheless, be recollected, that the writer is guided rather by the desire to excite in others a similar interest to that which he himself feels, and to assist in the development of this important branch of the geology of his portion of the country, than by the arrogant wish of seeking to propound theories, which shall be incontrovertible.

Cotta makes the true remark, that geology is a science, based upon facts solely, and that theories can be admissible only so long as they explain the facts observed. The moment that these disagree with the theories, the latter must be abandoned. This we must always recollect, and likewise should we remember, that the simplest explanation will ever possess an advantage over the more elaborate hypotheses.

The immediate topic upon which it is proposed to dwell somewhat in these remarks, refers to a certain class of metalliferous veins in the South, and my object is to point out its leading features.

At the time when I first entered upon the duties assigned me in the geological survey of Alabama (in the fall of 1854), the copper excitement was at its greatest height. Peculiarities of the surface rocks and minerals, which presented some similarity with those in the neighborhood of the mines of Ducktown, in Tennessee, induced an active search for copper. The singular dissemination of this metal throughout the western portion of the metamorphic rocks of Alabama, although occurring in minute quantity only, acted as a strong incentive. At the time, it occurred to me, that it would be highly probable that, if copper should really be found in available quantities, its occurrence would differ from the exceptional case of Ducktown, and that quartz true veins should be sought for. For a long time the search proved unsuccessful, and only latterly has it been my good fortune to meet with those possessing cupriferous contents. The locality to which I allude is at Dr. Ulrich's vineyard, in Tallapoosa County, some nine miles south-west of Goldville. The veins at this spot had been originally worked for gold, though without success, as the richest ore was worth only from 10 to 12 cents per bushel. Ga-

lena was also found, and this led to the belief, that argentiferous ores might appear at a greater depth. After a considerable expenditure of money, the mining operations were, however, abandoned. Lately, while blasting out a cellar at the junction of the gneiss (the chief country rock) and the talcose slate, a number of small quartzose veins were discovered, which were found to contain copper pyrites in very considerable quantity, when we reflect that a depth of only twelve to eighteen feet from the surface had been reached, and that the veins are very small. The veins north of this point are evidently dipping towards it, showing that, in all probability, the main lode will finally descend between the two distinct country rocks. Malachite and other minerals, resulting from the decomposition of the pyritiferous copper ores, are almost entirely wanting, a fact which proves that the copper never extended much above its present level in the veins.

At an old gold pit, about four miles north-east of this place, a considerable amount of galena was found, disseminated in minute particles throughout the quartzose gangue. The mine was abandoned, on account of the lode entering a more solid country, and the gold diminishing in quantity. Copper was not found, that I am aware of. This may have been owing to the fact, that a sufficient depth was not attained.

Basing the conclusions upon the theory of Professor Cotta, that the contents of a large and important class of metalliferous lodes were derived from solutions, which leached the materials from igneous rocks beneath—(see the translation of his article in the October, November and December numbers of 1854 of this Magazine)—there is strong inducement to believe that these veins belong to an extensive group, which we find also in South and North Carolina. It is, probably, also discernible in Georgia, but there I have had no means of collecting evidence.

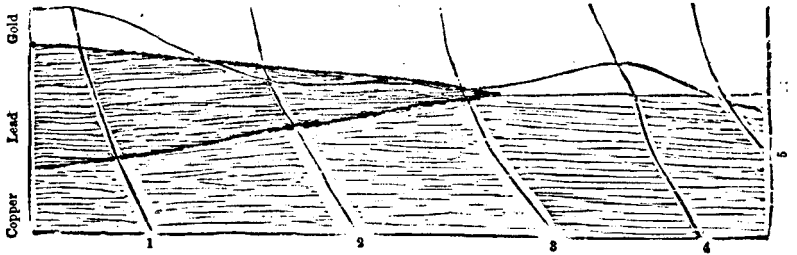
In South Carolina we have an instance in an old gold mine, in Chesterfield district, where galena and copper pyrites occur. At the time of my visit, the mine was in a very deplorable state of abandonment, and the works being all under water, the observations could extend only to surface evidences, and the examination of the heaps of ore and attle.

Another vein of this description is seen at the Morgan mine, in Spartenburg district, South Carolina, which has been described by Mr. Manross. In the Charleston *Mercury*, of the 6th February, 1855, an extract from his report is given, in which we read that the contents are, besides phosphate and carbonate of lead, galena, and lower in the vein, copper pyrites. Mr. Manross observes, that "the only change which can be perceived in the metallic contents of the vein in descending, is the greater abundance of copper ore." This alteration in the character of the contents was observable, although a depth of eighteen feet only had been attained.

It is impossible to mention all the veins of this class in North

Carolina, where, if not more numerous than elsewhere, at least more of the kind have been opened. Among them, we find the auriferous and cupriferous lode of the McCulloch mine, where, however, I have not heard that any galena or other plumbiferous ores have been met with, and the Vanderburg mine, which I examined with some care, in the course of last year (1854). The vein has not yet attained any very great size, but its geological features are of the utmost interest. It has been worked for gold, but, at a depth of from fifty to sixty feet, copper first presents itself, chiefly in the shape of the green and blue carbonates. Only when we descend to twenty or thirty feet below this point, do we meet with the undecomposed sulphurets of this metal, of which a variety are found. Galena, in small quantity only, has been discovered here, in conjunction with the copper.

In carrying out our investigations on this subject, we shall frequently have occasion to regret that in our country all mines are of such comparatively recent origin, and that, as yet, the depth attained in no instance admits of the correct and satisfactory establishment of a definite knowledge concerning the true and final character of metalliferous lodes. If European men of science can lament this fact with their mines, how much more occasion have we to deplore an ignorance on the subject! Confining our suppositions, therefore, to the little only with which we are definitely acquainted, we would come to the conclusion that we have an extensive group of veins in the Southern States, which present a very similar character in all cases belonging to that class, although local differences may be perceptible. There are certainly, also, other vein groups in the South widely differing in their characteristics from that before us. The features possessed by this group seem to be found chiefly in the disposal of the contents, of which gold appears uppermost, or nearest to the surface, lead central, and copper lowest, as far as we have been able to extend our experience. In few instances only do we meet with the whole complete succession; in some the lead may be wanting, and the copper follow immediately upon the gold, while in others the auriferous portion of the lode may have been removed by abrasion and decomposition. In the accompanying diagram, it has been my object to endeavor to offer an explanation of the local varieties which may present themselves, but which, with all their differences, only strengthen the belief in the similar general character of the veins, and in the probability that they consequently belong to the same extensive group.



In this cut the black line indicates the outline of the surface, and shows the veins to be cut off above, at various levels.

In vein No. 1 we have an instance, in which the whole series of the metals is developed.

In No. 2 no gold is found, but the thickness of the lead is still considerable.

In No. 3 we find all the metals again, though but little gold and lead.

In No. 4 the gold rests immediately upon the copper, without any lead occurring between.

In No. 5 all portions of the vein, down to the copper, have been removed.

In so far as this suggestion appears to convey a full explanation of the various cases before us, it may not be unworthy of attention.

It might be asserted, as an argument against this theory, that we frequently find copper and lead ores amid the auriferous portion of the veins, and gold associated with galena and copper pyrites. A second thought will, however, scarcely admit this as a refutation. In the diagram, the object has been to explain grand effects, and not to deal with trivial matters, which refer only to hand specimens, and exert no power upon the main character of the lodes. Even as local and unimportant occurrences, indeed, nothing can be adduced from these, which can offer an objection to the theory, even if we except the translocation of metallic bodies, by galvanic action, since the filling up of the lodes.

Let us take for granted, then, for the moment, that really the series of metals is that exhibited in the cut. We suppose them, according to Professor Cotta's theory, to have been deposited not only in harmony with laws which govern their various degrees of solubility, but in accordance with the changing contents of the solutions, owing to the fact that they may have been supplied from different or changing sources, and the varying temperature of the upper portions of the country, as well as the general difference of this from that of the solutions. Here already we find a full explanation of the local differences of the position of minerals, which really seem remarkably exceptional. The mother liquid, whose duty it was to fill the crevices in the country rock, may, for instance, after depositing lead and copper, have received a fresh supply of gold, and hence the gold in the ores of the former, or, after copper had been precipitated, lead may have been introduced into the solution, and consequently we find galena among the sulphurets of copper. Nor is it unreasonable to suppose that a liquid which, at a high temperature, and subjected to immense pressure, could hold in suspension all the ingredients of a lode, and which, when one or both of these conditions were partially removed, deposited a certain mineral, according to its degree of solubility—still possessed the power to retain certain

smaller quantities of the same substance, which were thrown down at a subsequent period, when the attending circumstances had rendered the solvent unable to exert its former powers. The intense heat and powerful pressure which were required to produce these results, are unfortunately beyond our power of control and reproduction, and, therefore, we can scarcely ever hope to attain satisfactory results in the laboratory. Still we must believe that, if future developments prove this theory to be correct, those portions of the country rocks which are connected with the parts of the lodes now known to us, must, at the date of the precipitation of the contents of the vein, have possessed a temperature approximating to that of the solution. In this we find an explanation of the apparent horizontal distribution of the contents of the veins. This is, however, only the case on a grand scale; for, as usual, so also here, do we perceive signs of an irregularly vertical position having been adopted by the individual constituents of every portion of the vein, and the minerals all assume their respective positions with regard to the axis and selvages of the lode.

The gangue rock of this group is a ferruginous quartz, usually of a yellow or pink color. In some parts it is very porous, or rather cellular in its structure, owing to the decomposition of various pyrites. The upper portion is frequently friable; lower down it is more compact. The auriferous portion commonly contains hydrated peroxide of iron, derived from the decomposition of iron pyrites, and often retaining the crystalline form of the latter. In the cupriferous portion chiefly do we find spathose minerals and arsenical pyrites, and undecomposed iron pyrites abound here also.

The strike seems almost always to be N.E., but at various angles. The Vanderburg lode, however, strikes N.W. The dip is usually to the S.E., and very steep. The Vanderburg is an exception, and dips S.W. Their linear extent on the surface is, of course, very variable, as is also their thickness.

The country rocks in which we find these veins, differ widely from one another. Thus Mr. Manross states that at the Morgan mine to be a micaceous slate, while at the Vanderburg it is dioritic slate, and at Dr. Ulrich's, chiefly gneiss. This fact is comparatively unimportant, for the vein crevices appear to have been formed subsequent to the deposition and consolidation of all the metamorphic rocks of the region; and though it is reasonable to suppose that one rock should be markedly less ruptured than another—for the varying degrees of hardness must have exerted some influence upon the force necessary for severing them, and, consequently, the veins will be either decreased or increased in number, or will expand or contract accordingly—still, this would have no effect upon the character of the contents, nor afford an objection to the veins in the various rocks being grouped together.

In offering this solution to the problem he has given himself, the writer feels considerable diffidence, since he possesses, after all, a knowledge of but very few cases. Attention, however, being thus called to the matter, others may, perhaps, feel themselves induced to take up the gauntlet, and prosecute these researches with greater effect. Among the number who might have done much to develope this portion of the geology of our country, we must deeply regret Mr. Ellory, whose energetic examination of the interesting mines of North Carolina was the cause of his early death.

Practical men in our country are much inclined to undervalue scientific research; yet, in this instance, it is to be hoped that they, too, will perceive the importance of a thorough investigation, for, if future observations prove these remarks to be correct, we should be possessed of no bad guide in the determination of the final character of those veins, which belong to this group, and, as usual, science would lend a helping hand to practical operations.

Art. VI.—HISTORY OF THE ENGLISH IRON TRADE SINCE 1830.*

At the close of the previous article, the subject of boiling pig iron was under consideration.

From the time of drawing a heat, it is ten or fifteen minutes before the puddler is again able to charge. Six heats of $3_{\frac{1}{2}}$ cwt. may be worked in the twelve hours.

There is also a difference in wages.

Say for puddling refined metal . . .	8s. per ton.
" boiling pig	10s. "

The yield also is in favor of the refined metal, not only in the puddling, but likewise in the after process of heating and rolling.

On the subject of boiling pig-iron, our author thus remarks:—

Boiling pig-iron, although not so advantageous to the ironmaster, is nevertheless generally done where they have not the convenience of refineries; it was adopted with the idea of its being a cheaper mode of working, in saving coals, labor and yield; but this is met by the extra quantity of coals used in the puddling, bearing on a smaller make, besides which the wages are higher, and there is a greater waste in the more expensive process. Also, a greater expense is incurred in keeping the furnace in order, as the pig iron works hotter than the refined metal, and injures the bottom as well as the walls of the furnace.

In South Wales the boiling process has been very generally done away with, as it is not found to suit the general nature of the iron. The Staffordshire and Shropshire iron is, however, well suited for boiling, being of a strong-bodied nature, and there this method of working is still used to some extent,

* Continued from page 240, Vol. V.

sels, showing at the same time that such substitution would be productive of a considerable saving in the construction of all kinds of ships.

This, however, being an entirely new application of zinc, it could not be expected that the suggestion would be immediately acted upon. The public must be convinced first that zinc bolts could be used with the same facility, and possessed the same strength as copper or brass bolts.

In order to leave no doubt on those points, the Vieille Montagne Company have caused experiments to be made during 1852, in ten French seaports, publicly, and in the presence, in each, of a great number of owners and masters of vessels, merchants, scientific men and government functionaries. All these experiments were entirely satisfactory, and proved that zinc bars have all the strength, tenacity and malleability desirable for ship fastenings. Minute records were made of the different trials, signed by the parties present, and were printed in pamphlet form, which may be seen at the general agency office of the Company.

Let us add that the successful application of zinc bolts for fastenings is now no longer a problematical vagary, but an established fact, there being at present afloat a ship of the British navy, the *Albion*, a two-decker, of 90 guns, *entirely zinc fastened.*

It is proper here emphatically to repeat the remark already made with regard to the action of sea water upon yellow or Muntz metal:

"In every case in my experience," says Armstrong, "where it has been necessary to have bolts of that metal removed, I have found them broken asunder, or so brittle that the slightest force was sufficient to break them. From the appearance of the metal, its nature seemed to be quite changed, rather resembling broken earthenware than brass."

Sea water has no such destroying influence on pure zinc bolts, and the sooner the use of such a treacherous material as Muntz metal is abandoned, and that of zinc substituted, the better, as a matter of economy and safety for ships.

Constructing Ships entirely of Zinc.

There could be no more difficulty in building the hull of a vessel of zinc than building it of iron; on the contrary, its possession of all other requisite properties being established, it is evident that the greater malleability of zinc would facilitate the shaping, boring and riveting of the plates.

The attempt has already been made, and the result has realized the most sanguine expectations of the parties interested. The square rigged schooner *Comte Lehon*, built of zinc, was launched, in 1854, from M. Guibert's dockyard, at Nantes, and made a first and successful voyage to Rio de Janeiro, whence she sailed for Marseilles, and is now a regular trader.

The zinc plates used in this instance are of No. 8 wire gauge (corresponding to No. 30 zinc gauge); they overlay each other one inch, and are riveted with wrought zinc rivets, 1 1-4 inch apart.

A zinc vessel, while it is hardly inferior in strength to one of iron, has over the latter many advantages:

1. It will cause no deviation of the compass.
2. The plates not being liable to corrode or rust, do not require painting.
3. In ordinary cases of collision, while iron would in all probability crack or break, causing a leakage in the vessel, zinc would yield and bend without endangering the safety of the vessel and hands, or interrupting her course.
4. In the event of stranding near shore, and in a position and under circumstances allowing salvage, the zinc hull might be cut or sawed in pieces, having a real value, while the iron hull would be abandoned as worthless.

QUARRIES AND CLAYS.

THE TALLADEGA MARBLE QUARRIES.

From the Talladega [For the Mining Magazine.] Democ. Watch

At the present moment, when property in your county is about to be greatly enhanced by the conveniences consequent upon the proximity of a railroad, and when the utility and furtherance of the project may be dependent upon the existence of those resources, which it is intended to develope, a few remarks upon the marble quarries of Talladega county, can scarcely be unwelcome to those who take an interest in the mineral productions of your State. It is with this impression at least, that I beg to tender the following brief observations, since some time must necessarily elapse before the reports upon the geology of the State can be laid before the public.

Those quarries which were in operation, when I examined them, are Mr. Taylor's, Dr. Gant's, Mr. Nix's, and that of Messrs. Alex. Herd and Brothers. Unfortunately I have not at present my notes on Mr. Taylor's quarry with me, as the description of that, as well as of one of Dr. McKensie, has already been furnished in a previous report to Prof. Tuomey. The following remarks will therefore be confined to those of Mr. Nix and of Messrs. Herd & Bros. Mr. Tuomey having in a published report already described Dr. Gant's.

A few preliminary remarks on the general geology of the portion of the county alluded to, are necessary. The metamorphic rocks (i. e. the slates &c., in Hillibee, Randolph Co., Tallapoosa Co., and Coosa Co.), of Alabama, like all the rocks of the more northern Alleghanies and Blue Ridge, consists of vast parallel folds,—these mountain ranges being what German geologists term *falten-gebirge* (fold mountains,) in contradistinction to those in which an anticlinal axis is observable, and in which the dip, the inclination of the strata, is opposite in the two sides of the ridge, as well as to those in which the strata dip toward all points of the compass from one apex. This fact explains the phenomenon, observed throughout these eastern American mountains, that, with few, merely local exceptions only, the dip of all their constituting rocks is the same in direction, viz: S. E., varying only in the angle of inclination. These immense folds were the result of the combined agency of the gradual cooling of our sphere in ages past, and consequent contraction, and of great lateral pressure. The peculiar position (as will be seen hereafter), and the open works of the marble quarries necessarily afford admirable means for observing facts connected with this interesting peculiarity.

All who have paid any attention to the marble quarries of Talladega county must have been struck with the fact, that they seem to be confined to the immediate proximity of the metamorphic rocks, situated, as it were, in a band of marble, which separates the other limestones (for marble is a true limestone, differing only from the ordinary limestone in being of sufficient hardness to receive polish) from the metamorphic rocks. This may be owing to the metamorphic agencies, which converted the latter rocks to their present shape, having also exerted some influence upon the adjoining limestone.

In all the quarries named, with the exception only of that of Messrs. Herd, the marble immediately underlies the talcose slate, and in the instance, which forms the exception, a narrow stratum of sandstone and above this another of quartz rock are the only intervening beds.

A great variety is perceptible in the Talladega marble, both with regard to its intrinsic merits, and the thickness of its beds, a difference thus adapting the diverse marbles to distinct purposes, and making the one or the other more perfect, according to the uses to which it is applied.

The quarry of J. M. N. B. Nix, Esq. has, of the two of which I have proposed to speak, been in operation the longest. At his quarry a fine section

has been laid bare, showing the postion of the marble and that of the superincumbent talcose slate. The colors of his marble pass from blue to pure white, but the most abundant seems to be that in which the two colors alternate with varying intensity. I am indebted to Mr. Nix for the statistics of his works, with which he has had the kindness to furnish me, and, although they are only approximative, they may prove interesting to many of your readers. These works were commenced in 1850, and the apparent decrease in the number of hands after the first two years is owing to the fact, that during the years 1850 and 1851 his hands were chiefly occupied in stripping the soil and clay from above the marble, and in building. Hence, during those years, as well as the succeeding one, few hands were occupied at his dressing works.

Years.	Tons of Marble Quarried.	No. of hands employed in Quarrying.	No. of hands employed in dressing on the spot, and at Selma and Montgomery.
1850	100	20	12
1851	150	20	12
1852	150	10	12
1853	300	20	21
1854	400	20	21
Total	1100		

At present the same number of hands, as last year, are employed. When, however, the railroad is completed, Mr. Nix informs me, that he proposes to increase his force to one hundred hands, of which one half at least will be negroes, as their labor and behavior is found to be preferable. A sixty-horse engine, besides the water-power, is employed in sawing the marble. This quarry is situated in the southern half of a section 36, township 20, range 4 east, and is nine miles from the proposed hundred-mile station on the railroad. During the several years, in which this marble has been in use, its qualities have been amply tested, and it will, consequently, be unnecessary to dwell further upon its characteristics.

The quarry of Messrs. Herd and Bros. in section 18, township 20, and range 5 east, and five miles from the hundred-mile station, has been but recently properly worked, though opened first in 1850, and should by no means be mistaken for the one so long operated in by Mr. George Herd, deceased, since the latter can in no point of true value compare with it. Its situation—a hill rising to perhaps fifty or sixty feet above the neighboring creek,—as well as the quality of the marble, has admirably adapted it to its present purposes. Not only is the beauty of this marble to be found in the purity of its coloring, but also in its peculiar liveliness. Indeed, I have not observed a single specimen at this locality, which presented that dead, plaster-of-Paris appearance, not unfrequently seen elsewhere. Though white, of varying nuances or shades, is the universal color of the beds hitherto exposed, those bluish cloudings so common in Italian marble, and which are often desired, from the relief they afford to the else universal, dazzling white—are not uncommon. In no instance have I observed the parallel streaks of a darker color, which give to some of the marbles in use the appearance of being weather-stained. This is not surprising, when we consider that these striæ are the result of minute, intercalated beds of talcose slate and that such impurifications are scarcely ever met with in this quarry. The only stratum of the kind observable, where the quarrying is at present carried on, is 8 feet 3 inches from the top of the marble, and none other has been met with beneath, although they have penetrated to a fully equal depth below it. The apparent

difference of a specimen of this marble, held by the side of a piece from Italy, was only to be noticed in the greater compactness or finer grain of the former. There is, however, another great want of similarity between the two. The Italian marble is not stratified, while all Alabama marble is. Owing to this great difference the latter is not adapted to statuary purposes, for of course it works easier on the bed, than on the edge. So great is this inequality in some instances that, as Mr. Nix informs me, a hand who can work ten feet in a day's drilling on the bed, can only accomplish two on the edge. All the latter work not effected by the blasting, is therefore left to the saws. At Messrs. Herd's quarry the difference between the bed and the edge is found to be so slight, that the common workman is scarcely able to detect it, although as a matter of course, the sculptor's chisel would soon make even this trifling difference apparent. It is nevertheless a circumstance, which will enhance the value of this marble for solid work, such as columns, obelisks, &c. The great hardness of this marble is another peculiarity, which it is necessary to mention. That this is the case is seen from the fact that, while other Talladega marbles enable a hand to drill as much as 200 inches in a day with ease, 90 to 100 inches seem to be the maximum at this quarry.

The rather minute description of Messrs. Herd's marble appears desirable, since their quarry has as yet furnished the market with but little of its rock. As the owners, aided by long experience in the business, are energetically prosecuting their operations, and are now about to place an engine of thirty-five horse power on the spot, it is to be hoped that before long my remark will no longer be true. A rough estimate would indicate that about 3000 cubic feet of the rock have, as yet, only been removed from that locality.

The price of the marbleis, I understand, on the spot, universally $2 per cubic foot, when rough; $10 per feet dressed plain; or 75 cents roughly sawed, per square foot of two inch slabs, though when dressed the price for the same is $2. We hope that the proprietors will continue to benefit themselves and their customers by a continuance of the energy they have hitherto exhibited.

OSCAR M. LIEBER.

SHELL-MARL IN MISSISSIPPI.

It has already been published in several papers of our State, that I have discovered on my geological tour through the south-eastern counties of the State of Mississippi, a very important and really inexhaustible deposit of Shell-Marl. The deposit is in the southern part of Clark county; I found it first on the plantation of Gen. W. B. Trotter, in a deep gully, with high and perpendicular bluffs, on Section 3, Township 10, Range 7 West, about 20 feet under the surface, cropping out in the gully. This really invaluable deposit of Marl, is evidently a member of the Tertiary (Eocene) Lime Formation which is so well developed in the south-eastern part of our State. This formation is similar to the Cretaceous formation of the Secondary period, of which it is most evidently a continuation. It consists:

1. Of a hard Carbonate of Lime, or white Limestone, in many localities eminently fit for burning Quick-Lime:

2. Of a soft Aluminous Carbonate of Lime, an inferior kind of Marl, and

3. Of a fine Green-Sand, full of tertiary shells and of a superior quality, generally better than our Green-Sands of the upper and lower Cretaceous formation of the Secondary period, and eminently fit for a Marl of Prairie and heavy clay soils.

The deposit of fine Marl, above mentioned, takes the place of the Green Sand of the tertiary Lime formation; it consists to a large extent of the detritus of shells and their former inmates, the decayed Mollusks. This bed of Green-Sand is not confined to Gen. Trotter's plantation, I found it also outcropping along the bluff of the Chickasawhay river. This bluff is in that locality (Sec. 3, Township 10, Range 7, West) very nearly 100 feet high; the

Year.	Marcs.	Year.	Marcs.
1830 . .	6,659	1842 . .	82,840 3
1831 . .	5,997	1843 . .	69,199 6
1832 . .	32,774 3	1844 . .	122,994 3
1833 . .	94,149 2	1845 . .	153,447 3
1834 . .	82,782 1	1846 . .	160,793 5
1835 . .	84,700 5	1847 . .	204,104 4
1836 . .	17,204 3	1848 . .	261,105 1
1837 . .	58,449 1	1849 . .	342,239 5
1838 . .	63,615 4	1850 . .	387,019 7⅞
1839 . .	103,765 2	1851 . .	353,719
1840 . .	19,248 7	1852 . .	395,695
1841 . .	82,112 1	1853, 4 months,	117,468
	Total, . . .		3,362,184 2⅞

THE PRICES OF ORES, ETC.

The price of copper ore of 20 per cent. is 15 reals per quintal, and decreases one real for each one per cent. down to ten, and increases in the same proportion up to 25 per cent.; above this, the increase is 15½ cts. per each one per cent.

One of the most serious embarrassments of the miners is the lack of water, and the high price it consequently commands.

The remainder of the Report treats of several legal enactments relative to the mines, and passes to notice the general necessities of the province. These it is not necessary to enter upon in these pages. The inexhaustible character of the mineral wealth of South America is wonderfully magnified in the mind by contemplating the active scenes in a single province of Chili.

ART. V.—A SKETCH OF THE GEOLOGY OF THE STATE OF MISSISSIPPI.—BY OSCAR MONTGOMERY LIEBER, LATE GEOLOGIST TO THE STATE OF MISSISSIPPI.

IT is now very nearly three years since I was elected Geologist to the State of Mississippi; for though I became nominally Assistant Professor of Geology at the State University, the duties were entirely confined to the geological survey. My connection with this office was somewhat brief; for, finding various specialities exerting an irksome influence on myself as well as the survey, I resigned, after having been occupied for seven months only, so that my examinations could but be of a cursory nature. Notwithstanding this, as I extended my survey over the whole State, omitting only the entirely unimportant portion, in order that I might be able to decide in what part of the State special investigations would be most necessary, I shall be able to give a very correct general view of the geology of that State, which was at

the time the extreme boundary of proper geological inspection. I am rather late in making this report, but still it is better than to allow the whole to pass into oblivion; for no report of mine was printed, and hence, there is little known of the geological features of Mississippi. It may appear strange that this article has been tendered to the Editors of this valuable Magazine, since mining, except possibly for coal, will scarcely find a field in that State, as the carboniferous limestone, or possibly a Silurian limestone, is the oldest formation to be found; but the subject is of sufficient interest, I believe, to merit its insertion.

Before proceeding to the report itself I would remark, that my investigations tally accurately with my esteemed and valued friend, Professor M. Tuomey's report of Alabama, dovetailing, if I may be permitted to use the term, in every respect into his; while this is by no means the case with regard to Dr. Troost's reports and map of Tennessee. In my opinion, the survey by the latter has created a very incorrect opinion of the geology of our South-western States. In his map we find almost the whole western half of Tennessee occupied by the cretaceous rocks, with no tertiary or alluvium whatsoever. In Mississippi there is no outcrop of the cretaceous in the northern portion of the State west of the eastern portion of Tippah, and, surely, geological formations cannot be supposed to take their course from the political boundaries of States! Dr. Troost may have discovered cretaceous limestone beneath the tertiary deposits in deep excavations or Artesian wells; but this does not afford sufficient grounds for omitting the superincumbent rocks in his map; for then we might place New Orleans on the cretaceous, because, in boring an Artesian well in that city recently, they are said to have penetrated this formation. Dr. Troost was, doubtless, misled by the fact that all this northern portion of the tertiary contains no fossils—at least, I was unable to discover any—and he may have regarded it as a recent accumulation of clay and sand, and, as such, may have thought it not worth while to allow it a place on his map.

I shall commence my report with the older rocks, and then gradually proceed with those of a more recent geological date, until we arrive at the alluvial deposits which form such a magnificent soil for the unsurpassable cotton plantations along the great "father of rivers."

The carboniferous limestone, or, possibly, a Silurian limestone, is the most ancient rock in the State. There is an outcrop of this limestone due south-east of Jacinto, the county seat of Tishamingo, where it is quarried for technical purposes. Unfortunately, I was unable to procure any fossils which might have enabled me to determine the exact geological position of this rock; and, as I proposed to make more accurate investigations afterwards, I contented myself with a cursory examination of

such places at the time. Judging from the nature of contiguous rocks, I should not hesitate to say that this is really the carboniferous limestone, and that the first outcrop of the Silurian group, which spreads so extensively over North Alabama, will be found further east and beyond the Alabama line.

The millstone grit has several outcrops, north-west, west, and south of the limestone just mentioned. Most of them are in Tishamingo, but some also in Itawamba county, the rocks being visible at the surface even at a considerable distance south of Fulton, the Court-house of that county. This outcrop I did not observe myself, but at the boundary line between the two counties, at Mackey's Creek, I saw this rock, and in such grand masses that it could not be mistaken by one who had just had the pleasure of enjoying a geological trip through North Alabama. The huge blocks of this rock are scattered along the bed of the creek; and thus the rushing water forms here and there beautiful cascades, and gives rise to the liveliest scenery of the kind in the State.

The coal measures have not yet been discovered in Mississippi, and I may pride myself on having been the first to call attention to their probable existence. It is impossible to say, without entering upon a more minute examination than I was able to do at the time, and perhaps even making use of borings, whether true coal may be found in Mississippi. The bearings, and the nature of the adjacent rocks—the millstone grit on the east, and the cretaceous deposits on the west—certainly prove to every geologist, that here coal may be expected to occur; but, as this part of the country is entirely covered by the continuation of that tertiary deposit which appears in Alabama, north of the cretaceous rocks, there is no surface evidence to prove whether or not the coal has given out at this point.* I drew the attention of the inhabitants of that part of Mississippi to the fact; but, having returned to South Carolina after resigning my office in Mississippi, I have been unable to ascertain whether my observations led to any useful results.

The older cretaceous, the green-sand, appears quite extensively, commencing at about the middle of Tishamingo, running almost due north and south through that county; on the one side passing into Tennessee, on the other into Itawamba county, where, however, it soon disappears under the tertiary, but must continue its course along the newer cretaceous to Alabama,

* I am particular in making this statement, partly because it is almost the only point of interest in the State for a mining periodical, partly because my reports, being ordered to pass through the hands of another officer, were so mutilated that, when read to the trustees of the University, I was made to say, that no coal could possibly be expected in Mississippi, although *it might be found in Alabama*, which every child in geology knows to be one of the richest coal States in the Union.

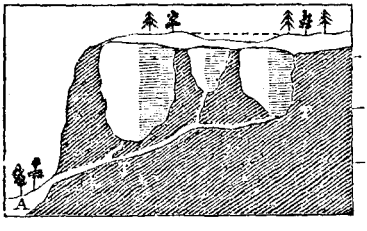
where it forms a northern fringe along the cretaceous limestone, running east and west through the State. Gentlemen residing in this portion of Mississippi informed me that they had discovered the valuable fertilizing qualities of the green-sand, and were using it in gardens, though, I believe, they had not extended its use to their fields, which, however, I urged them to do.

The cretaceous limestone, vulgarly termed the "rotten limestone," the rock of the prairies, embraces a very large portion of Mississippi; commencing in Tennessee, it enters Mississippi in the north-eastern corner of Tippah county and the north-western one of Tishamingo, and gradually widens towards the south, when it makes a curve and enters Alabama. The eastern boundary line in the county of Tishamingo is synonymous with the western margin of the green-sand, which is also the case in northern Itawamba. In the southern part of this county, where the green-sand is not visible, we find it adhering pretty closely to the banks of the Tombigbee, along which it passes through the counties of Monroe and Lowndes, and enters into Alabama east of Columbus. The western boundary of the prairie limestone takes a south-western course through Tippah, omits only a very small portion of Pontotoc and Chickasaw counties, grazes Yallabusha, divides Choctaw almost in the centre, includes nearly the whole of Winston and Kemper, a small angle of Neshoba, and a considerable portion of Lauderdale. The greatest breadth of this formation is between Choctaw and Lowndes counties. It is the richest in fossils in the State, if we take it in the aggregate; *exogyra costata*, and *gryphœa mutabilis*, being the most common. It furnishes some of the richest soils in the State, always excepting the alluvium of the Mississippi.

Of the tertiary there are two different fields; the one west of the cretaceous is, however, infinitely the most extensive, and embraces an area greater than all the other formations together. It stretches from Tennessee down to the coast of the Gulf of Mexico, and, in the southern portion of the State, extends from the Mississippi river to the Alabama line, except where, along the river, the alluvium encroaches upon it. The fossiliferous portion of this vast deposit seems to be confined to the bluffs near the river; and I have been unable to obtain a solitary fossil in the northern parts; still, the similitude between all these deposits and those of the far-famed locality of Vicksburg, as well as the majority of Southern tertiary rocks, leave no doubt of their geological date, nor is there any intermission, any material change, nor any other intervening formation. Ferruginous clays of a yellowish color seem to predominate; though, towards the south, there is a vast extent of sandy pine region. In the north, especially in the counties of Marshall, Tippah, and Lafayette, we find a very extensive and heavy deposit of a pure white pipe

clay. In some places it arrives at the immense thickness of seventy feet, but thins out towards the east. In this, or in close proximity with it, we find lignite, in more or less conspicuous quantities, and of a very dark color, so that it is not surprising that it should have been looked upon as veritable coal by those ignorant of geological facts and dates. In Attala county, at a place called Rockport, north-east of Kosciusko, we find a very substantial and firm tertiary sand-rock—a very fine-grained conglomerate, which differs considerably from the majority of the sand-rocks of this period, being far less loose in its construction. Nevertheless, from its position there is no possibility of its belonging to a more ancient formation.

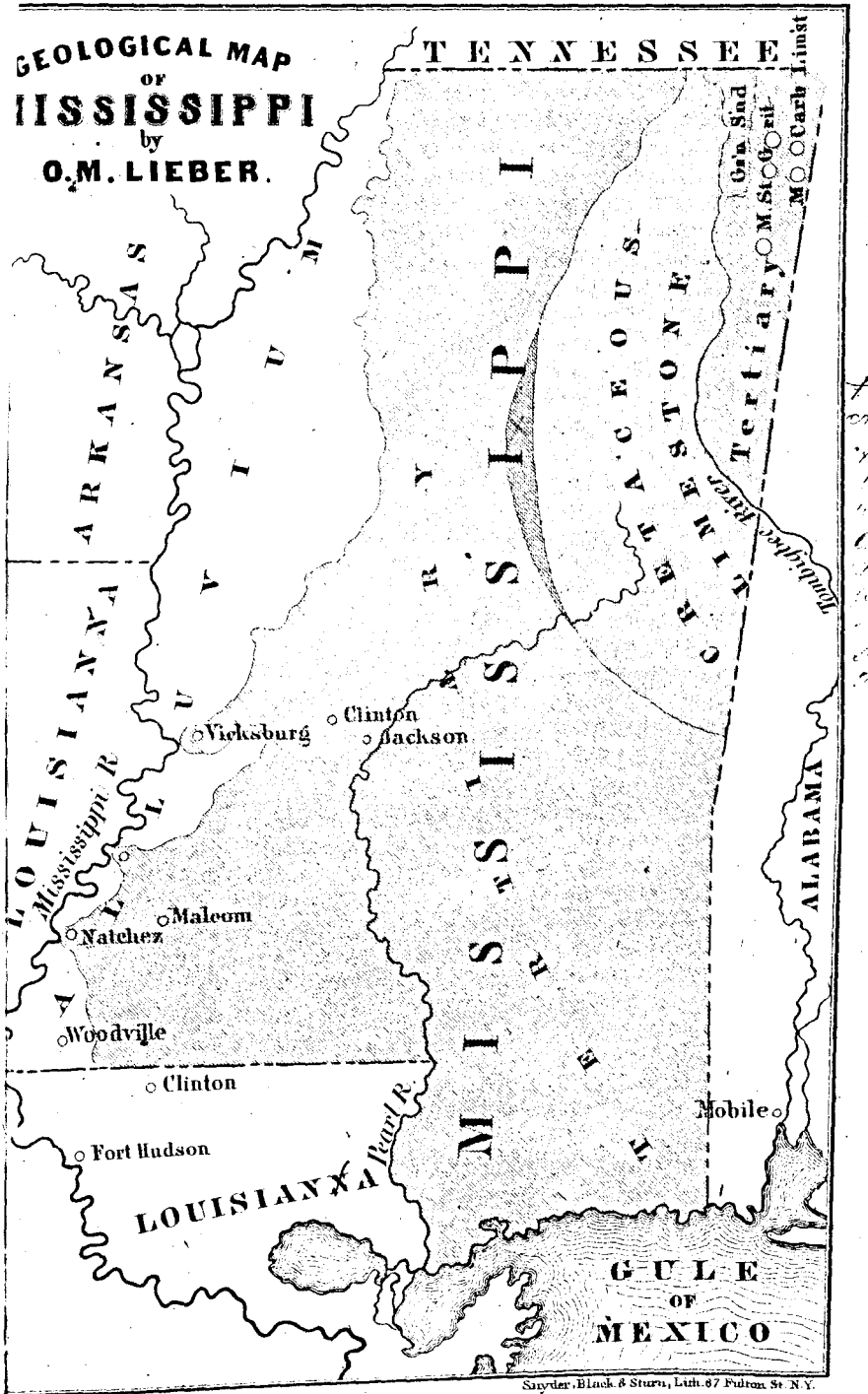
Along the boundary of the tertiary, in Tunica county, I observed a very remarkable geological phenomenon. For about one to two hundred feet from the precipice there occur immense basins of greater depth than width in most cases, and with almost perpendicular sides, a narrow, and very even and regular ridge running round them, so that the whole presents the appearance of a gigantic honeycomb. Some of these I roughly estimate as over a hundred feet deep. I can only account for the excavations by the water, which might accumulate in slight depressions, finding or making subterranean channels, like those represented in the figure, through which gradually the earth was carried along. In the figure, "T" represents the tertiary, and "A" the alluvium.



The alluvium of the Mississippi river covers a very large extent of country, the chief bulk of which, in the State we are discussing, lies in the northern half, and consists principally of an island, bounded on the west by the Mississippi, on the north by the Yazoo Pass, on the east by the Tallahatchee and one of its tributaries, and on the south-west and south by the Yazoo river. This embraces the counties of Tunica (almost entirely), Cochoma, Bolivar, Sunflower, Washington, and Issequena. The alluvium, however, extends beyond this island, and includes a portion of Tallahatchee, Carroll, Holmes, Yazoo, and Warren, where the northern alluvium is bounded by a peninsula of the tertiary, which forms a bluff at Vicksburg. Then we have three smaller portions of the alluvial deposits; the first commencing in Warren, south of Vicksburg, and ending in Claiborne; the second beginning at the Rodney bluff, in Jefferson, and ending at the Natchez bluff, in Adams; the third commencing south of Natchez, embracing the greater portion of Wilkinson, and thence passing into Louisiana.

The mineral wealth of Mississippi is confined to the possible existence of coal. Iron is there also, but not in sufficient quantities for practical purposes. Lead ore, in the shape of rich sulphuret, has been found; but with regard to this, I may refer to the same appearance of the metal all over our Southern States, where it is constantly met with in portions of the country where it is geologically impossible that it should naturally exist. Professor Tuomey, in his "First Biennial Report on the Geology of Alabama," page 43, makes the following remarks under the head of "lead ore:"—"Fragments of sulphuret of lead, or galena, are scattered throughout the State in a manner that would indicate some common origin. Had they been confined to the region of the Silurian or carboniferous limestones, one might refer them to the ruins of veins of this ore that are often found in these rocks; but they are equally abundant where this is impossible. I have specimens picked up on the surface of the coal measures, and others from Clarke county, where no such veins can occur. Pieces of considerable size are found in the vicinity of Indian mounds; and the belief is induced that the position of these scattered fragments may be traced to Indian origin." In a note, on the same page, he observes:—"All States from which Indians have recently departed have legends of lead and silver mines, that were known to, but afterwards hidden by them; and the tenacity with which these are believed and retained is truly surprising. Journeys have been undertaken to the West to ascertain the position of these mines, but hitherto without success. The Indians, being no geologists, located the mines—in the cases that have come to my notice—in the most unpromising positions. The men with mineral rods have been industriously on the trail. I must do them the justice to say, that where they indicated the presence of 'mineral,' the excavation was neither expensive nor difficult. The one I last saw was in an Indian mound, on Village Creek, where the miners had reached within one foot of the vein!" A hasty glance at the map will show that lead can only occur in a very small portion of the State.

Mississippi will never be essentially other than an agricultural State, and as such it takes precedence over most other States of the Union, and produces, in various places, a greater amount of cotton than can ever be made in older States. The richest soil is undoubtedly the alluvium. But of it we have two varieties, as already mentioned, an older and a newer one. The former is of a more bluish color, while the latter is of a deep chocolate brown, and for agricultural purposes the best. This, as a rule, is found nearer the river than the former. Next in value, as arable land, we have some of the superficial deposits above the tertiary—as near Vicksburg; but the surface consists of small, but very abrupt hills, so that the soil soon washes away. The original growth is cane, pecan, and ash. At one time this


GEOLOGICAL MAP
OF
MISSISSIPPI
BY
O.M. LIEBER.
TENNESSEE
ARKANSAS
LOUISIANA
ALABAMA
MISSISSIPPI
Mississippi R.
Pearl R.
Tombigbee River
Grn. Sand
M.St.Cr.
Carb. Limst
Tertiary
CRETACEOUS LIMESTONE
Vicksburg
Clinton
Jackson
Natchez
Malcom
Woodville
Clinton
Fort Hudson
Mobile
GULF
OF
MEXICO
Snyder, Black & Sturn, Lith. 87 Fulton St. N.Y.

CONTINENTAL MINING COMPANY.

The following Board of Directors and Officers were elected by Continental Mining Company, on June 13th :—

Samuel W. Hill, Horatio Bigelow, A. H. Hanchett, W. F. Roelosson, E. P. Morgan, J. Venen Brown, and C. T. Harvey, Directors. Samuel W. Hill, President and General Superintendent. Horatio Bigelow, Secretary and Treasurer.

EMPIRE MINING COMPANY.

The following persons were elected Directors of said Company, on June 13th:—

Samuel F. Tracy, C. J. Stedman, D. Bethune Duffield, Sylvester Larned, and J. Venen Brown, Directors. Samuel F. Tracy, President. J. Venen Brown, Secretary and Treasurer.

RIPLEY COPPER COMPANY.

At the annual meeting of the stockholders of this Company, held at the Treasurer's office, Boston, May 17th, the following Board of Directors were unanimously elected :—

Henry Weld Fuller, of Boston; Stephen Ball, A. W. Spencer, Horatio Bigelow, and H. J. Bukley, of Detroit, Michigan. At a subsequent meeting of the Directors, H. Weld Fuller was re-elected President; H. Bigelow Secretary and Treasurer.

HOWARD MINING COMPANY.

At the annual meeting of this Company, held at their office, in Boston, June 5th, the following Board of Directors were unanimously elected :—

William S. Thatcher, of Boston; Benjamin F. Hallet, Benjamin Howard, Aaron Hobart, Jr., William E. Coffen, Edward F. Adams, and Luther W. Clarke, of Michigan. At a subsequent meeting of the Directors, W. S. Thatcher was chosen President, and Edward F. Adams Secretary and Treasurer. The stock is divided into 20,000 shares, the subscription price to which was $2.50 per share.

NEW ENGLAND COPPER COMPANY.

The annual meeting of the stockholders was held at the office of the Company, Nos. 9 and 11 Kilby street, Boston, June 5, when the following list of Directors was unanimously elected :—

G. P. Loring, of Boston; James W. Stone, William G. Howe, David Perkins, George S. Harris, Alvin Smith, of Enfield; Luther W. Clarke, of Michigan. At a subsequent meeting of the Directors, G. P. Loring was elected President, and G. S. Harris Secretary and Treasurer.

CLARK MINING COMPANY.

The following Directors were unanimously elected at the annual meeting, held at the Treasurer's office, in Boston, June 7th :—

John T. Heard, of Boston; Henry Mellus, J. W. Clark, H. Bigelow, and Walter A. Northup, of Michigan. At a subsequent meeting of the Directors, John T. Heard was chosen President, and Horatio Bigelow Secretary and Treasurer.

REMARKS

ON

THE STUDY OF THE CIVIL LAW.

FROM THE AMERICAN JURIST, NO. III., JULY, 1829.

BOSTON.

FREEMAN & BOLLES, 81, COURT STREET.

1829.

1. *An Historical Essay on the Laws and the Government of Rome; Designed as an Introduction to the Study of the Civil Law.* 8vo. pp. 298. Cambridge, [Eng.] 1827.
2. *Précis Historique du Droit Romain, depuis Romulus jusqu'à nos jours, &c.;* or, *An Historical Summary of the Roman Law, from Romulus to our own time.* By Mr. DUPIN, Advocate in the Royal Court at Paris. 18mo. pp. x. and 106. 4th edition. Paris. 1822.

THE civil law, or, to adopt the language of Sir William Jones, 'the decisions of the old Roman lawyers, collected and arranged in the sixth century by the order of Justinian, have been for ages, and in some degree still are, in bad odor among Englishmen;' which, he adds, 'is an honest prejudice, and flows from a laudable source; but a prejudice most certainly it is, and, like all others, may be carried to a culpable excess.' (*a*) This hostility to the Roman law is generally ascribed by historians and lawyers to the spirit of liberty, which has been so conspicuous in the English nation, and to their detestation of the arbitrary maxims of a code, whose fundamental principle was, that 'the will of the prince had the force of law.' Blackstone is of opinion, that the *common law*, however compounded, or from whatever fountains derived, having subsisted immemorially in the kingdom and survived the rude shock of the Norman conquest, had become endeared to the nation; but being only handed down by tradition, and not committed to writing, 'was not so heartily relished by the *foreign clergy*, who came over in shoals during the reign of the Conqueror and his two sons, and were utter strangers to our constitution as well as our language.' The accidental discovery of Justinian's Pandects at Amalfi, he adds, had nearly completed the ruin of the common law; for this circumstance brought the civil law into vogue all over the west of Europe, and that law became 'the favorite of the *popish clergy*, who borrowed the method and many of the maxims of the canon law from this original.' (*b*) The Norman kings, too, according to Sir John Fortescue, found the constitutional maxims of the

(*a*) Law of Bailments, p. 12. (*b*) 1 Black. Com. 17.

civil law so congenial to their notions of sovereignty, that they exerted themselves to introduce that law into the government of England;(*a*) but this was so odious to our 'sturdy' English ancestors, that, according to John of Salisbury, 'they burned and tore all such books of civil and canon law as fell into their hands.'(*b*)

But, although the monkish *clergy*, devoted as they were to the will of a foreign primate, (Theobald, a Norman abbot, made archbishop of Canterbury,) received the civil law with eagerness, yet the *laity*, who were more interested to preserve the old constitution, and had already severely felt the effect of many Norman innovations, continued wedded to the use of the common law; and, in coincidence with this feeling, even one of the kings, Stephen, forbade by proclamation 'the study of the laws then newly imported from Italy,' which the primate above named had attempted to make a part of the studies at Oxford. This proclamation of king Stephen, we are told by historians, was treated by the monks as a piece of impiety; and, though it might prevent the introduction of the civil law process into the English courts of justice, yet did not hinder the clergy from reading and teaching it in their own schools and monasteries. The nation thus became divided into two parties; the ecclesiastics, of whom many were foreigners, applied themselves to the civil and canon laws; while the laity, both nobles and commoners, adhered with equal pertinacity to the old common law; both of them, as Blackstone observes, 'reciprocally jealous of what they were unacquainted with, and neither of them, perhaps, allowing the opposite system the real merit which is abundantly to be found in each.' (*c*)

The same jealousy of the Roman law prevailed above a century after the period last mentioned; when, in the reign of Richard II., the nobility, with a sturdiness surpassing even that of their sturdy ancestors, declared, (as Blackstone remarks) with a kind of prophetic spirit, that 'the realm of England hath never been unto this hour, neither by the consent of our lord the king and the lords of parliament *shall it ever be*, ruled or governed by the civil law.' (*d*)

Indeed, so much of this hostile spirit has remained in the land of our ancestors, that even so lately as the reign of the

(*a*) Fortescue De Laud. Leg. Angl. c. 33, 34.
(*b*) See Jones on Bailments, p. 13. (*c*) 1 Black. Com. 19. (*d*) Ibid.

last king, in the ever-memorable attack made upon his lord chief justice Mansfield by the unsparing pen of Junius, which seared as it went, a partiality for the civil law was prominently set out as one of the severest reproaches against that distinguished judge: 'In contempt or ignorance of the common law of England,' says Junius, in the spirit of an old English baron, and with that severity and boldness which felt no awe in assailing either the highest law officer or the sovereign who appointed him, 'you have made it your study to introduce into the court where you preside maxims of jurisprudence unknown to Englishmen; *the Roman code*, the law of nations, and the opinion of foreign civilians are your perpetual theme; but who ever heard you mention Magna Charta or the Bill of Rights with approbation or respect? By such treacherous arts the noble simplicity and free spirit of our Saxon laws were first corrupted. The Roman conquest was not complete until Norman lawyers had introduced their laws and reduced slavery to a system. This one leading principle directs your interpretation of the laws.'(*a*)

Exceptions, indeed, there have been to this state of feeling even during the period just mentioned. In that well written work called Eunomus, which we are inclined to think is not so much read at the present day as it deserves to be in the course of our legal studies, it is candidly admitted, though in cautious terms, that the civil law, 'in due subordination, deserves on many accounts to be studied by the professors of our own. The law of England often borrows the rules of the civil law in the construction of wills and trusts; the latter was the offspring of the civil law, and both are treated by it with great precision and exactness. Our law, too, has perhaps borrowed, at least agrees with the civil law in many other particulars.'(*b*) These remarks, in our judgment, need not have been made in so guarded language; we think it may be said, without such qualifications, that a great part of what we familiarly denominate 'common law' is 'borrowed' from the Roman code. It is true, indeed, that certain fundamental principles are recognised alike in all codes—as well in the Institutes of Menu as of Justinian. But when we find in the common law the same body of principles regulating the merely conventional rights of property, similar rules of evidence, and

(*a*) Lett. 41. (*b*) Eunomus, Dialog. 1. § 18.

even matters of practice, handed down to us in the language of the Roman law, we cannot hesitate in pronouncing the former to be derived from the latter. In proof of this, it would be sufficient to refer to that 'best of our juridical classics,' Bracton, whose work follows the civil law so closely, that some writers without much examination have discarded it from among the common law authorities. Yet, as Sir William Jones remarks, though Bracton had been a civilian, he was 'a great common lawyer, and never, I believe, adopted the rules and expressions of the Romans, except when they coincided with the laws of England in his time.' (*a*) It is true, indeed, that in the well known case of Stowell *v.* Lord Zouch, in Plowden's Reports, (*b*) it is said, by counsel, that 'Bracton and Glanvil are not authors *in our* law;' and the counsel adds, in respect to the former, in language which now excites a smile, that he cited Bracton 'as an ornament to discourse where he agrees with the law,' and 'for consonancy and order where he agrees with better authorities;'—a character of him which that profound juridical antiquary, Selden, pronounces to be founded in gross error, notwithstanding some great men have adopted it. (*c*) Lord Hale, too, says of Bracton's work, 'The book itself in the beginning seems to borrow its *method* from the civil law; but the greatest part of the *substance* is either from the course of proceedings in the law, known to the author, or of resolutions and decisions in the Court of King's Bench and Common Bench, and before justices itinerant.' (*d*) This authority fully supports the character given of Bracton by Sir William Jones, and justifies the remarks of Mr. Reeves, that 'Bracton was deservedly looked up to as the first source of legal knowledge, even so low down as the days of Lord Coke, who seems to have made this author his guide in all his inquiries into the foundation of our law;' (*e*) a very extraordinary guide for Lord Coke to select, if, as the counsel in Plowden contended, Bracton was not to be cited as an authority in our law, but only 'as an ornament to discourse.'

To the proofs of the affinity of the Roman law and our own we might, after the example of some distinguished writers, add even the much boasted *trial by jury*. This mode of trial has been shown, with a high degree of evidence as we think,

(*a*) Jones on Bailments, 75. (*b*) Plowd. 357.
(*c*) Dissertat. ad. Fletam, c. 1. (*d*) Hale's Hist. Com. Law, ch. 7, p. 150.
(*e*) 2 Reeves' Hist. Eng. Law, 89.

by that very learned antiquary, Dr. Pettingal, to be substantially derived from the Romans, who also had themselves received it from the Greeks. (*a*) Such a mass of evidence is to be found on this subject by those who will take the pains to examine the question, that Sir William Jones, whose scholarship and legal knowledge eminently qualified him to judge in the case, and who had arrived at the same conclusion with the author here cited, expresses himself in the following strong terms: 'I have always been of opinion with the learned antiquary, Dr. Pettingal, that they [the judges at Athens] might with propriety be called *jurymen;* and that the Athenian juries differed from ours in very few particulars.' (*b*) As this, however, is a different view of the origin of juries from that which has been handed down in our elementary books, we here subjoin an extract from Dr. Pettingal's preface; intending to recur to this subject on some future occasion:

'This kind of judicial process was first introduced into the *Athenian* polity by Solon; and thence copied into the Roman republic, as probable means of procuring just judgment and *protecting the lower people from the oppression or arbitrary decisions of their superiors.* When the *Romans* were settled in Britain, as a province, they carried with them their *Jura* and *Instituta*, their *Laws* and *Customs;* which was a practice essential to all *colonies;* hence the Britons, and other countries, of Germany and Gaul, learned from them the *Roman* laws and customs; and upon the irruption of the Northern nations into the Southern kingdoms of Europe, the laws and institutions of the Romans remained when the power that introduced them was withdrawn. And Montesquieu tells us, that under the first race of kings in France, about the fifth century, the Romans that remained, and the Burgundians, their new masters, lived together under the same Roman laws and police, and particularly the same forms of judicature. *Esprit des Lois, liv.* xxx. *ch.* 11. How reasonable then is it to conclude, that in the Roman courts of judicature, continued among the Burgundians, the form of a *jury* remained in the same state it was used at Rome. It is certain, Montesquieu speaking of those times mentions the *Paires* or *Hommes de Fief*, homagers or peers, which in the same chapter he calls *juges*, judges or jurymen. So that we hence see how at that time the *Hommes de Fief*, or Men of the Fief, were called *Peers*, and those peers

(*a*) Pettingal's Inquiry into the Use and Practice of Juries among the Greeks and Romans. 1769.

(*b*) Jones's Speeches of Isæus, Prefatory Disc. p. 25.

were *juges*, or jurymen. These were the same as are called in the Laws of the Confessor *Pers de la Tenure*, the Peers of the Tenure, or Homagers, out of whom the jury of Peers were chose, to try a matter in dispute between the lord and his tenant, or any other point of controversy in the manor. So likewise in all other parts of Europe, where the Roman colonies had been, the Goths succeeding them continued to make use of the same laws and institutions which they found to be established there by the first conquerors.'

The learned author justly adds,

'This is a much more natural way of accounting for the origin of a jury in Europe than having recourse to the fabulous story of Woden and his savage Scythian companions, as the first introducers of so humane and beneficent an institution.'

Feeling the force of the facts above stated, and of the occasional examinations of original authorities which we have been able to make, we cannot but entertain a strong conviction that a very large portion of our common law, perhaps nearly all, except the law of real estate, is derived from that very Roman law, which has for ages been the subject of so much jealousy in England, and to which English lawyers have been so reluctant in acknowledging their obligations. And, under this conviction, we have sometimes been quite as much amused by the vehemence of a certain class of professional authors who have exhausted their lilliputian artillery in trying to batter down the venerable fabric of the common law, which they have supposed, and very honestly we have no doubt, to be wholly of barbarous origin and therefore of little worth, as we have at other times by the equally conspicuous enthusiasm of their adversaries, who with about the same justice have poured out their idolatry to their supposed native English law, with what the caustic Gibbon too harshly calls 'that blind and partial reverence which the lawyers of every country delight to bestow on their municipal institutions.'(*a*)

But the prejudices which once existed against the civil law are fast wearing away in England. In our country it can hardly be said that the effects of them are felt. We have hitherto been so much of a business nation, that we have contented ourselves with discussing and settling the rules by which the rights of property and persons were to be regulated, without having found leisure to inquire, whether those rules originated among the uncultivated natives or the civilized conquerors

(*a*) Decline and Fall, ch. 44.

of our mother country. Our situation has in this respect been favorable; we can now take up the study of the civil law, as a wonderful repository of human reason, with as much impartiality as we could the Institutes of Menu or of Confucius, if they were equally useful to us in the study of our own jurisprudence.

The study of the Roman code has, within the last half century received a fresh impulse even in Europe, where we could hardly have expected that any department of it had left room for new investigations. This impulse is in a considerable degree to be ascribed to the writings of the eminent German jurist, Hugo, who, in the year 1780, was made professor of law at the university of Göttingen (where we believe he still remains) when he was only twenty-four years of age. He immediately projected a general reform in the method of study, and changed the common scholastic mode for one which was more lucid and founded upon the more solid bases of philology, history, and sound philosophy. He then composed elementary books to be used at his lectures; and commenced the publication of his *Civilistisches Magazin*, or Magazine of Civil Law, which contained interesting treatises on different topics of jurisprudence. Among other things, it is not an uninteresting fact to professional and other readers, to know, that in aid of his proposed improvement he translated into German, the celebrated 44th chapter of Gibbon's Roman History, which contains the well known historical sketch of the Roman Law; a work which some of the continental writers have, though in too strong terms we think, pronounced to be more profound than the treatises of Gravina, Heineccius, or Bach. But Hugo undoubtedly perceived the insufficiency of Gibbon's sketch for a professional reader, however well suited to a general scholar; for he afterwards wrote a history of the Roman law himself; and this, as might be expected, was soon preferred to that of Gibbon; he adopted in it, however, that writer's divisions of the subject.

The example of professor Hugo was soon followed. At the close of the last century M. de Savigny made himself known by a work upon the Law of Possession, according to the Roman code; which placed him in the first rank of jurists. He was appointed professor of law at Landshut, in 1808; and in 1810 was transferred to the University of Berlin, where he is now in the full enjoyment of the honors and rewards to which his genius and learning entitle him.

During the period now under consideration the constitution and laws of the German empire were much shaken by the power of France, and a portion of the German states annexed to that kingdom. The new French *Code* was, of course, to be extended to that new territory of France. This event brought that celebrated code under the notice of the German civilians, and led to much discussion and frequent comparisons of its provisions with the existing laws of the German states. Some jurists of the very first rank became desirous of making a general reform in the legislation of Germany. Among these was M. Thibaut, who was desirous of having a *civil code* applicable to all the states of the Germanic confederation; while others would have had distinct codes for each state. This difference of opinion produced a controversy. M. de Savigny wrote against the scheme of a general code; contending, that we ought not to take away from a people the laws which had been formed by their national habits and usages and modified by the spirit of successive ages; that a system of laws slowly matured by enlightened jurists, was always to be preferred to a new body of legislation, formed, as it were, at a single casting. He supported himself by the evidence of history as to the formation of the Roman law, which attained to its highest perfection in the age of Papinian, Paul, and Ulpian; a period, when there was a very small number of *positive laws*. These doctrines of Savigny met with much opposition; and his opinion, 'that our age was incapable of producing a good system of legislation,' gave great unpopularity to his views. He was, however, supported by Hugo, who declared himself against M. Thibaut. The great point of inquiry then became, whether we could promise ourselves more advantages from the establishment of a system of *positive legislation*, than from perfecting the *science of law*. Hugo and Savigny maintained the negative, and became the heads of a new school, called the *Historical School* of Jurisprudence. A journal was established, entitled *A Journal of Historical Jurisprudence*, to which Hugo, Cramer, Heise, Haubold, Hasse, and other eminent jurists contributed.

From that period to the present time, the law has been enriched with numerous distinguished works of continental writers, which have contributed to keep up the impulse originally given in the manner we have mentioned.

But, perhaps, a circumstance which above all others stimulated the civilians to new exertions in their professional inquiries,

was the brilliant discovery made at Verona, in 1816, of an ancient *palimpsest* manuscript, containing the Institutions of Gaius, covered over with a transcript of the Epistles of St. Jerome. The recovery of this work, it is well known, is due to Mr. Niebuhr, whose name is now familiar to every reader, and we might almost add, in every branch of learning.

This discovery is justly considered by the learned editors of the work itself as one of the most important that has been made since the revival of letters. In the official report, made to the Royal Academy of Berlin, on the 6th of November, 1817, one of them says—'This manuscript gives us not only a series of principles on points of law entirely new to us and of great interest, but also some curious views of certain parts of the law already known; there is not a single page which does not impart some instruction. I may say, therefore, that of all the discoveries respecting the ancient Roman law, made since the middle ages, there is no one so important as that which I have the honor now to communicate, and for which we take pleasure in making our acknowledgments to Mr. Niebuhr.' This great event accordingly excited the most intense interest throughout Europe; and we should give a more particular account of it on this occasion, if the limits of the present article permitted, and if some of our popular journals had not already noticed it. We shall, if necessary, recur to it hereafter.

The distinguishing characteristic of the present method of studying the civil law in the continental schools is, that it shall be *critical*. While its professors pay all respect to the authority of eminent jurists, they require that we should ascend directly to the sources of the law, and bring to our aid everything which can be furnished by history and by the study of languages and philosophy; the knowledge of the Roman law is regarded *as the foundation of all jurisprudence*, for Europeans; and, above all, this mode of study inculcates upon us, that we must, as their writers express themselves, enter into the conceptions of the jurists of a nation, which more than any other was ambitious of the perfection of its law.

The effects of the impulse thus given to the modern study of the civil law have been various, and of greater or less importance in several respects. The most important of them, perhaps, has been, that the jurists of Europe have had a more extensive correspondence with each other than has ever before

been known; they have travelled over all parts of the continent, have examined all the libraries, and discovered numerous manuscripts of great value; by collations of which they have been enabled to correct or explain the received texts of the ancient legislation, and to settle doubtful points in them as well as in the writings of the juridical commentators. Among the matters of minor importance, but yet of rational curiosity, we may mention, that the long existing perplexity of the civilians in respect to the origin of the character used in citing the Pandects, *ff*, is at length removed. The common tradition in all the elementary books of our common lawyers (who follow the civilians) has been, that this character was only a corruption of the Greek letter π, the initial letter of the Greek name of the Pandects, Πανδεκται. But we now learn, by Savigny's masterly work on the history of the Roman law during the middle ages, that the manuscripts of the 12th century remove all doubts as to the true origin of this sign; it is nothing but the letter *D*, a little contracted or narrowed, and having a stroke across it in the usual manner, in order to show that it stands for an abbreviated word; but the copyists and editors have gradually changed it into the character *ff*. It is not a little remarkable, that the true explanation had already been given by several authors of the 16th century, but had been overlooked by their successors. (*a*)

We now proceed to give a brief account of the two works at the head of this article. The first of them is designed as an *introduction* to the study of the civil law. The author's object, as expressed in his preface, is,

'To offer a view of the principal revolutions which have taken place in the constitution and in the jurisprudence of the most celebrated people with whose history we are acquainted. The subject is in every point of view highly interesting. Indeed it may fairly be asserted that none of the numerous branches of study, which must be cultivated to obtain a knowledge of antiquity, is fraught with so much real and practical interest as that of laws and governments. It is not disputed that the manners and habits, the manufactures, the commerce of a great nation offer abundant materials for the gratification of a very natural curiosity; but still they are, in most instances, an object of curiosity only. If the importance of every study were to be computed by its utility alone, this would have but slender pretensions in comparison

(*a*) Vol. iii. p. 407, as cited in the Thémis ou Bibliothéque du Jurisconsulte.

with that of laws and of political institutions, which may be and often are actually reproduced in our own times and even in our own country. Indeed it is a fact so well known, that it need scarcely to be mentioned here, that the jurisprudence of Rome has formed the groundwork of the jurisprudence which to this day governs almost every nation of Europe. England is perhaps less indebted to it than any of the continental nations; but even the English law *owes it many and deep obligations;* and the neglect into which the study of it has fallen in this country must be imputed to motives very different from its want of connexion with our own system of jurisprudence.'

The learned and sensible author then goes on to show the great value of a knowledge of the civil law, as an aid in classical studies.

'It must be remarked,' says he, 'that there is one class of persons to whom some knowledge of the Roman jurisprudence is absolutely indispensable; those who have a desire, not only to catch the spirit, but even merely to understand the literal meaning of the Roman classics. In those writings, an acquaintance with which the unanimous consent of ages has agreed to consider as essential to a liberal education, allusion is as frequently and as familiarly made to the prætor's tribunal, or to a *vocatio in jus*, as in the works of our own popular authors we find casual mention of a grand jury or a writ of *habeas corpus.* Of course, in both instances, the author supposed his allusion to be perfectly intelligible to those who were likely to read his works; and if the lapse of time and change of language place us in a very different situation from the contemporaries of the writer, we must, if we aspire to place ourselves on anything like an equal footing with them in this respect, endeavor to overcome, as far as we are able, the obstacles which our situation puts in the way.'

We have often thought of this subject in the point of view last mentioned, as well as in its relation to jurisprudence; and we entirely concur in these opinions of our author. In proof of the justness of his remarks respecting *classical* studies, we are satisfied from our own observation, that of the commentators on the classics, taken as a body, the civilians have been the best. And, if we can transport ourselves to a period of two thousand years hence, when Burke, and Fox, and Pitt, and other English statesmen, and we may add Shakspeare, and other poets, shall have become ancient classics to our posterity,—who, we may ask, will then be able fully to comprehend them, and feel the force of many of their expressions

and allusions, unless he has some knowledge of the constitution and laws of England? The case is the same with the works of the statesmen and other writers of antiquity. If, then, a just and accurate knowledge of man is of any value to us,—and all agree that it is of the highest importance,—it is essential that we should make ourselves acquainted with the *governments and laws* of those ancient nations, whose history we would study with the expectation of deriving any advantage from them.

The work now before us is well adapted to the purposes of a general introduction to the civil law. It is not rendered forbidding by a mass of technical learning, and yet is sufficiently full to initiate both the student of law and the general scholar in this branch of knowledge. It is arranged in seven general divisions, as follows: 1. The Roman Constitution, previous to the establishment of the empire. 2. The Legislature [i. e. the legislation] of Rome, previous to the establishment of the empire. 3. The Pontifical Law. 4. The Prætorian Law. 5. The Roman Jurisconsults. 6. The Constitution of Rome under the Emperors. 7. The Imperial Jurisprudence.

Under these general divisions are discussed, in as clear and satisfactory a manner as the author's limits would allow, various interesting particulars which every well informed man, in or out of the profession ought to make himself acquainted with; as, the relative condition of the Patricians and Plebeians; the Senate, Curiæ, Comitia, Leges, Plebiscita; Patria potestas, Patron and Client; the Twelve Tables; the manner of enacting laws; the Priesthood; Dies fasti et nefasti; actiones legum; the Prætorian Law; the Patrician Jurisconsults; Responsa Prudentum; difference between the *causidici* and professed jurisconsults; Schools and Sects of Lawyers; Constitution of Rome under the Emperors, and improvement of the Jurisprudence; Codes of various Emperors; Justinian; Sources of the Roman Law, and comparison with the laws of England; the Institutes, Digest, Novellæ, etc. with numerous other particulars which we have not room to state.

Such is the plan of this useful and interesting work; which, though of small compass, is the result of much reading and reflection; and, among the books read by the author, we are glad to see occasional references to the eminent *German* lawyers of the present day, whose works however, we regret to add, are probably not better known in England than they are in this country.

We ought not to omit mentioning, that in the course of the work, our author takes occasion briefly to discuss some of the contested points in Roman history and jurisprudence; and his conclusions are always such as approve themselves to the judgment of practical men. On *constitutional questions*, his inclination is decidedly in favor of liberal principles, but moderated by a due regard to what is *practicable*, rather than what would be metaphysically exact in the social order.

In his opinions upon the subject of legislation, or, as he chooses to call it, *legislature*, (for which use of the word lawyers would require some authority, and which we do not find even in the capacious repository of our new American Dictionary,) we observe the same cautious and well-considered decisions as in other cases.

Among the controverted points in the juridical history of the Romans is that of the celebrated embassy, which Livy and other historians assert was sent to Athens, in order to procure materials for a body of legislation for the use of the Romans. He observes, very justly, that it is difficult to refuse credence to such authority as exists in favor of its having actually taken place; that it must have been a subject of great notoriety at the time, and not so likely, he thinks, to have been impaired by tradition as many other Roman stories were. But, as he observes, *the total silence of Cicero*, whose works abound with remarks on the Roman laws, and who had occasion frequently to mention those which were supposed to have been derived from Greece, very nearly amounts to a decided contradiction of it. He adds, in rather too strong terms we think, that this is one of those supposed historical facts, 'which modern criticism has in general rejected.' It is true that Gibbon and some other writers have boldly rejected it; but, as our author himself says in a note, there have not been wanting those who have taken up the other side of the question. And among these latter we would name one of our own time, who is himself a host in a question of this kind, and who should not have been overlooked; we mean that very high authority, Heeren, professor of History at Göttingen, who says in emphatic language, that 'the doubts, which have been raised respecting the embassy to Athens, are by no means sufficient to shake our confidence in a fact which is so positively stated.'(a)

(a) Heeren's Handbuch der Geschichte der Staaten des Alterthums, *or*

Another disputed point of *constitutional* law, is the well known one relating to the *Lex Regia;* which, according to a passage of Ulpian, cited in the Digest, lib. i. tit. 4, *transferred to the emperor all the power which had formerly belonged to the people.* 'It has frequently been doubted,' as our author observes, 'whether this passage was genuine; and as it has only been transmitted to us through the medium of Justinian's compilation, many have accused that emperor of interpolating a forged authority for the purpose of giving a legal color to his own enactments. But the recent discovery of the Institutes of Gaius has completely refuted this opinion; and among the numerous obscure points of the Roman jurisprudence, which have been elucidated by that valuable work, there are not many of more importance than this. The testimony of Gaius on the subject of the Lex Regia leaves no room to doubt that such a law was actually passed. *Gaii Instit. Com.* 1. § 5.' p. 217.(*a*)

The remarks of our author upon the Imperial *rescripts* deserve notice, particularly as an incorrect notion of them has been propagated by the older common law writers, and has thence found its way into our juridical classic, Blackstone, and might mislead the student. He makes the following correction of the commonly received opinion:

'With regard to the *Rescripta* or personal decrees, which formed one of the most valuable branches of the imperial legislature, a very erroneous opinion has been advanced. They were the answers or judgments of the prince in particular cases where a disputed point of law was referred to his decision; and thus scarcely differed from the authorized *responsa prudentum*, since they were actually framed by the most eminent jurisconsults of the empire. Montesquieu, and Blackstone who has copied him, have inveighed against the impropriety of making private decisions (applicable only to few cases) serve for general rules of legislature. The fact is, *they were not considered as such.* Their authority was only that of legal precedent; and, like that of the *responsa prudentum*, could only depend on the applicability of their principles to anal-

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Manual of the History of the States of Antiquity, p. 421, edit. 1817. A translation of this valuable work has been lately made by Mr. Bancroft, of Round Hill; and we may justly take some credit to ourselves, that the first *English* translation of it has been made in America.

(*a*) We subjoin the passage of Gaius, from the second Leipsic edition, which is the one we have before us:—Nec umquam dubitatum est, quin id (the emperor's decree or edict) legis vicem optineat, cum ipse Imperator *per legem* imperium accipiat. *Gaii Institutt. Com.* i. § 5.

ogous cases. Blackstone, who was fully aware of the improvements the English law had undergone by the means of similar decisions, might certainly have better appreciated the value of this branch of the Roman jurisprudence; for certainly no English lawyer of the present day, experiencing as he continually must the practical authority of the law reports, will hesitate to confess that the *statutes* of the realm are not of more frequent use in our courts than the *rescripts* of Westminster Hall. Those of the Roman emperors were certainly not less confined in their application.' p. 223.

Among our author's criticisms, we may notice the following; which, though not of much importance, yet gives us more distinct and precise conceptions of the use and import of words frequently occurring in the works of the Roman lawyers and other writers.

The words *populus* and *plebs*, he remarks,

'though frequently confounded by translators, were in fact very distinct. The former comprehended the whole body of the free citizens; the latter was applied to such of them alone as were not of the patrician order. Every free citizen of Rome was entitled to a vote in the *Comitia*, or popular assemblies; and by the majority of votes every affair of importance connected with the administration of the state was decided.' p. 18.

We recollect that several years ago, when we felt a natural indignation at the reproaches cast upon us by certain British writers, one of the champions on our side of the controversy, in the warmth of argument, asserted that in this country we had no *plebs;* but according to the classical acceptation of this word, as above explained, the case is exactly the reverse.

Again: The customary formula, *Patres Conscripti*, is repeated in the daily exercises of our youth, even by students at the universities, without an accurate knowledge of its origin; for this can only be obtained by a knowledge of the Roman constitution, in which they are very imperfectly instructed.

'The original application of the term *patres*,' says our author, 'is doubtful. Their number is said to have been first limited to an hundred; an assertion which cannot be looked on but with great distrust, since it is supported only by an uncertain and improbable tradition. On the overthrow of the monarchical government, Brutus increased it to three hundred; and very few additions, if any, were made during the flourishing periods of the republic. It is worthy of observation, however, that the *newly enrolled* members did not assume the title of *Fathers*. Either

they were the first who had been elected for other qualifications than that of age, or the recent date of their admission did not entitle them to the distinction; but it was thenceforward customary to address the body of the Senate by the words *Patres* et *Conscripti*. This is one of the many forms of speech in which, for the sake of brevity, the adjunctive particle was afterwards disused.' p. 12.

Further examples of this abridged mode of speaking may be found in Ernesti's Clavis Ciceroniana, verb. *Conscriptus*.

We quote a remark or two of our author upon the mode of framing laws; which, though not new, deserve the attention of those persons who think the business of legislating to be a very simple one. We are perpetually told by men, who have never themselves attempted to draw an act, that our laws ought to be short and plain, so that everybody may understand them as well as lawyers; qualities, we agree, which are excellent in themselves, but no less difficult to incorporate into our laws than into a contract, a deed, a will, or any writing not of a legal character. If the subject-matter of a law or of a common contract is in itself intricate and difficult to be comprehended except by the particular class of men to whose business it relates, how is it to be expected that the language which is to describe those intricacies and difficulties can be made plain to every man in the community? But let us hear the author's remarks in relation to the characteristics of the Roman laws:

'There is one other circumstance relating to these laws [the Twelve Tables] which cannot be passed over in silence; their extreme brevity. That "admirable concision" which has often been proposed as a model, and quoted as a reproach to modern legislators, was not without its motive. It was intended to leave ample scope for dubious comment and interpretation. It will be seen hereafter, that the intention was fully accomplished. Few of the laws that have been preserved consist of more than one short sentence; so that the strict maxim alone could be conveyed in the text, while every deviation from it, to suit the emergency of particular cases, *was left entirely to the discretion of the judge.* The consequences of this laconism proved, that the convenience resulting from the brevity of laws may be more than counterbalanced by the disadvantages attendant on it.' p. 86.

The same difficulty has been experienced, during our own times, in the application of the celebrated French code; which, though perhaps the most comprehensive that was ever made, yet from its very conciseness leaves too much to construction;

and indeed, without the benefit of constructions *ab extra*, as, by usage aided by numerous supplementary enactments and endless commentaries and expositions of the civilians, even that celebrated code with all its excellencies would be wholly insufficient for regulating the complicated concerns of society; in which, as in the natural world, scarcely any two cases will be found precisely alike, and where our various legal and moral rights and duties differ from one another by delicate gradations, which are perceptible only to minds long practised in the discrimination of those rights and duties. Just as in the fine arts the skill of a painter is necessary, to distinguish in a picture the numberless shades of color, which run into each other, and whose united effect is perceived and felt by every spectator, but whose differences are discernible only by a practised eye. In France, accordingly, it is the fact, we believe, that the community at large are as much puzzled to know the exact bearing and extent of the *two thousand two hundred and eighty-one* concise and perspicuous laws of their code, as the people of Massachusetts, for example, often are to ascertain the meaning and application of the more prolix and obscure enactments of their voluminous statutes. In making comparisons, therefore, between our own and the French law, we must know not only the statutes or positive enactments of the respective countries, but how much of their law consists in usages (which must ever exist) and how much in constructions given to the positive law; all which must be looked for in the Digests and Abridgments, as we call them in our professional language, and the corresponding works called *Repertoires* of Jurisprudence by the French. We have, for example, as every lawyer knows, the valuable Abridgment of American Law by Mr. Dane, which the learned author has with vast labor been able to condense within the space of seven large octavo volumes, and which to persons out of the profession seems to be unnecessarily bulky. But, in comparison with the best Abridgments or Repertoires of France, the simplicity and conciseness of whose law is so often recommended to our imitation, Mr. Dane's work shrinks to a pigmy size. The most modern and most valuable French work of this kind, the *Repertoire de Jurisprudence*, by Mons. Merlin, is now extended to nineteen closely printed quarto volumes. The simple fact that a work of this bulk is found necessary in France, where, according to some fanciful theorists, a code was to supersede

all other law books, we may truly say speaks volumes upon this subject.

From our remarks, however, upon the subject of codes, the reader must not understand, that we should by any means object to a more methodical and systematic mode of legislation than has been practised. Method and system are as necessary in the law as in any science. Our statutes have much superfluous phraseology and are too carelessly drawn; even those of a general nature are too often made to suit a particular case, and are accordingly framed either with a studied ambiguity in order to conceal the real object, or at least without taking that large and general view which the public good requires. If, therefore, any improvement is to be made in our legislation, it should be done in the manner lately adopted in England; not by setting out de novo, and making at a single casting an entirely new code, or, in the cabala of Jeremy Bentham's school, by *codifying*, but by carefully revising and methodizing the existing laws; always preserving as nearly as possible, the very words of the statutes where they are now clear, and in other cases, where necessary, resorting to the language of the judicial decisions in which they are expounded. The author of the work now before us justly observes, that

'Every system of law which is accommodated to the growing exigencies of the state, and gradually increases according to the wants of the citizens, must possess a great superiority over the best of uniform codes, which are comparatively the work of a moment; inasmuch as the former must of necessity be adapted to the manners and habits of the people, among whom it is begun and from whom it receives almost daily additions.' p. 152.

The multiplication of laws, which has been a subject of frequent complaint in modern days, is undoubtedly an evil; but when we consider the innumerable and complicated relations arising from the constant changes and progress of society, particularly in a new country like our own, we shall the less wonder at the multitude of our laws. And, as to the fanciful wish of some philanthropic persons, that our laws might be made so plain as to be intelligible to every man in the community, we might as rationally attempt to abolish and sweep away all those improvements which constitute the superiority of modern society over that of past ages, but which at the same time give occasion to new laws for its due regulation. The mere necessity of terms peculiar to the different arts and

sciences and the various professions and kinds of business in common life, though by no means the greatest of all difficulties, presents an insurmountable obstacle at the very threshold of all attempts to legislate in *popular* language; for, until we can banish all the arts and sciences, we must retain the language which is appropriate to them. The divine and the physician, the merchant, the mechanic, the seaman and the farmer cannot dispense with their terms of art; and the lawmakers, whose duty it is to make rules for regulating the social relations of all the different professions and callings in life, must frequently use language which will not be understood by everybody without the aid of an interpreter, any more than it would be possible for every man to make himself master of every one of those professions and callings. But we have not room to enlarge upon this topic in the present article; we therefore repress all further observations upon it, and will only add one other remark respecting the work under consideration.

One defect of this performance ought not to be overlooked; we mean a total omission to give an account of the *Agrarian* laws of the Romans, which produced so many political convulsions in their government. To general readers, as well as lawyers, who would have just notions of the Roman history and constitution, a correct view of the agrarian laws is indispensable; and we are the more surprised, that this well read and sensible author has barely mentioned them (at p. 77) without any explanation, as Mr. Niebuhr, in his celebrated Roman History, has lately given a view of them which is new to English and American readers, though it has for some time been well known to the learned of Germany. Our readers, we persuade ourselves, will pardon us, if we detain them a few moments upon this subject.

The commonly-received opinion has been, that the agrarian laws were resorted to for the purpose of making an equal division of the private property of individuals, and restricting all landholders to five hundred jugera, or about 350 acres; an opinion, which has been adopted even by such men as Machiavelli, Montesquieu, and Adam Smith. But the original object of these laws was, the distribution of the *public* lands, which had become the property of the nation either by conquest, or purchase with the public money, or otherwise. We must not, however, infer as some writers have hastily done from Mr. Niebuhr's remarks, that the agrarian laws did not

interfere at all with *private rights;* this would be only escaping from one error to fall into another, and would be irreconcileable with Cicero's severe animadversions upon the demagogues who promoted laws of that kind. The manner in which private rights were violated would require some detail, and will be explained on a future occasion. In the mean time we will inform our readers, that we understand an article on this subject is to appear in that valuable German work, the Conversations-Lexicon, to which we referred in our last, and the first volume of which will be published in this city before the next number of our journal. (*a*)

The second work at the head of our article will require but a brief notice on this occasion, as it has already been well translated and published entire in a valuable law journal, which was begun at New York in 1822, but was soon afterwards discontinued; we mean the *United States Law Journal and Civilian's Magazine.* Mr. Dupin, the author of the work before us, is well known in Europe as an eminent advocate at the Paris bar, and as the author of various works on jurisprudence. We find at the end of his present volume a list of no less than twenty-seven different publications by him, comprising forty-six volumes of different sizes, and among them twelve quartos of *Plaidoyers* and *Consultations,* answering to what we call *arguments* and *opinions.* The translation of the present little work, to which we have just alluded, was made from the edition of 1821. We have before us the *fourth* edition, 1822, which, so far as we can decide by the translation, does not differ materially from the former. The work is divided into eight short chapters, on the following subjects:—1. The Roman law under the kings; 2. The Roman law to the time of the Twelve Tables; (*b*) 3. From the time of the Twelve Tables to the time of Augustus; 4. From Augustus to Constantine; 5. From Constantine to Justinian; 6. The compilation of the corpus juris, or body of Roman law; 7. The

(*a*) A concise account of these laws has also been given in the North American Review, vol. 16, p. 439 of the review of Niebuhr's work.

(*b*) At the end of this chapter we find a short paragraph which is not in the New York translation, and which is as follows; 'Several authors advise beginning a legal course of study with these laws [the Twelve Tables], which in fact indicate the origin and principles of many established regulations; but others, with whom I myself agree, think, on the contrary, that the study of them is only advantageous to those who wish to sound the depths of the science; and that to common readers we must say—procul, ô, procul este profani!'

Roman law after Justinian, and the fate of his legislation; 8. The Roman law in the 19th century. The work is concluded by an Appendix, explaining the *abbreviations* used by the civil lawyers in citing the Roman law and the writers upon it. We need only add, that from the very limited extent of this work, which is not longer than a single lecture of a professor, the reader will not expect anything more than a mere outline of the history of the Roman law; but it is clearly and distinctly drawn. The author, as we have observed, is a friend of liberal principles in government; so much so, indeed, that we find, by the following notice prefixed to this edition, that his work has come under the censure of the police of France: 'The first edition of this historical summary had the honor to be seized by the police in 1809; the reason of this will be easily guessed by reading the fourth chapter;' where, it is true, he uses a boldness of language which we should suppose would be deemed offensive by the officers of the police.

We conclude this article with a few general remarks upon the study of the civil law.

The history and constitution of Rome, as a republic, must ever be highly interesting and important to us who also live under a republican government; for, if there is any such thing as learning wisdom by the history of other governments, it can only be when we obtain an accurate knowledge of them; and this demands a careful and exact study of their constitutions and laws. Apart from these more general considerations, however, the utility of the civil law as an important aid in the study of our own, cannot now be questioned.

But if we extend our views beyond the confines of *municipal* law, we find the civil law to be the basis of that *international* code, which governs us and all the nations that constitute the great community of Europe. The interpretations given to that law, the reasoning of foreign nations upon it, and the instruction we have in the works of its elementary writers, all proceed from foreign statesmen and jurists, who have been taught in the schools of the civil law; whose modes of thinking and language, particularly their technical language, will not be intelligible to us without some acquaintance with the same code. Our statesmen at home, therefore, our diplomatic agents abroad, and our practising lawyers of eminence, who are daily called to the examination of important questions more or less intimately connected with the rights and duties

of foreign nations, must make themselves in some degree acquainted with foreign laws; and for this purpose a knowledge of the civil law is indispensable.

We might add to these considerations, that in a liberal course of professional studies, general or *comparative jurisprudence* must be a constituent part; and in this point of view the Roman law is of far greater importance than that of any other nation. The remarks of Blackstone on this subject (which we fear are not so much read as many other parts of his book) deserve the serious attention of the profession:

'The evident want of some assistance in the rudiments of legal knowledge has given birth to a practice, which, if ever it had grown to be general, must have proved of extremely pernicious consequence. I mean the custom by some so very warmly recommended, of dropping all *liberal* education, as of no use to students in the law; and placing them, in its stead, at the desk of some skilful attorney, in order to initiate them early in all the depths of practice and render them more dexterous in the mechanical part of business. . . . Making, therefore, due allowance for one or two shining exceptions, experience may teach us to foretell that a lawyer thus educated to the bar, in subservience to attorneys and solicitors, will find he has begun at the wrong end. If practice be the whole he is taught, practice must also be the whole he will ever know; if he be uninstructed in the elements and first principles upon which the rule of practice is founded, the least variation from established precedents will totally distract and bewilder him; *ita lex scripta est* is the utmost his knowledge will arrive at; he must never aspire to form, and seldom to comprehend any arguments drawn à priori from the spirit of the laws and the natural foundations of justice.' (*a*)

The example of lawyers in other nations, one would think, needs but to be known, to stimulate us to the liberal course of study here recommended. They think it useful to study the laws of other nations besides their own. We accordingly find that the admirable Commentaries of Blackstone have been already translated into French and German; and we have now before us an excellent French Law Journal, in which there are many discussions on points of English law as compared with the civil law. We have also before us a learned history of the English law, in German, written by a professor at Berlin; (*b*) and there are doubtless many other works of a

(*a*) 1 Black. Com. 31, 32.

(*b*) The title of this learned work is, Englische Reichs und Rechtsgeschichte, etc. By Dr. Geo. Phillips. 2 vols. 8vo. Berlin, 1827.

similar description which have not yet come to our knowledge.

While, then, we are endeavoring to advance the *science* of law in our own country, particularly by means of law schools and lectures on the *common* law, we ought at the same time to take care that the *civil* law should not be wholly neglected. We have just had an illustrious example of professional liberality in the donation made by our learned countryman, Dr. Dane, to the University of Cambridge, for the advancement of *American* law. And we earnestly hope, that some benefactor of equal liberality will soon be found, who will devote a portion of the well-earned fruits of an honorable life to a chair for the civil law in that ever-cherished institution. This would complete the department of jurisprudence in our university law school, and at once give it the preference over every other.

Need we fortify the argument in favor of this interesting and useful study by examples of its fruits? Both England and our own country, happily, can furnish them. Great as the talents of Lord Mansfield were, he owes no inconsiderable part of his professional reputation to the constant use which he made of the civil law, particularly in the application of it to contracts of a mercantile nature. And who, we may ask, has not read with delight and wonder the finished work of Sir William Jones above cited; which, however, as every student of the civil law knows, and as he himself admits, is nothing more than a summary of principles drawn directly from the writers in that law; principles, which, though new at that period in England, had been settled for centuries on the continent of Europe. And, as that inimitable writer observes,—'in questions of *rational* law, no cause can be assigned, why we should not shorten our own labor by resorting occasionally to the wisdom of ancient jurists, many of whom were the most ingenious and sagacious of men. What is good sense in one age must be good sense, all circumstances remaining, in another; and pure, unsophisticated reason is the same in Italy and in England, in the mind of a Papinian and of a Blackstone.'(*a*)

In our own country too we can exhibit honorable examples of high professional distinction, which has been in some degree at least obtained by this study. Among our advocates we may

(*a*) Law of Bailments, 14.

mention that eminent jurist of the Philadelphia bar, who has enriched our law with his able Dissertation on the Jurisdiction of the United States' Courts; and among our judges every man will point to the illustrious chancellor of New York, whose opinions from the bench, and whose lectures from the university chair are alike imbued with the wisdom of the Roman law, skilfully adapted and applied by the native energy of his discriminating mind to the interpretation and improvement of our own.

With this strong conviction of the high value of the Civil Law—its great utility in our legal studies and its essential importance in the administering of our own, particularly the equity, mercantile, and testamentary law of the several states, and the equity, admiralty, and international law as administered in the courts of the United States—we cannot but earnestly hope soon to see the proper rank assigned to this branch of jurisprudence both in our law schools and among our practisers at the bar.

The following list of Roman Jurists is extracted from the work first named at the head of this article.

List of the Principal Roman Jurisconsults, with the number of times they are quoted in the Digest, and the number of Fragments, (commonly called Laws) there inserted, which are taken from their works.

I. Jurisconsults anterior to the Age of Cicero.

No.		No. of times quoted in the Digest.	No. of Fragments of the Digest, extracted from their works.
1	P. or C. Papyrius	2	"
2	Appius Claudius (Decemvir)	2	"
3	App. Claudius Centumanus Cæcus	3	"
4	Cn. Flavius	2	"
5	P. Sempronius Longus Sophus	1	"
6	Tiberius Coruncanius	2	"
7	Q. Mutius	1	"
8	Sext. Ælius Pætus Catus	6	"
9	P. Attilius	1	"
10	P. Scipio Nasica	1	"
11	M. Cato	5	"
12	P. Mucius Scævola	4	"
13	M. Manilius	3	"

No.		No. of times quoted in the Digest.	No. of Fragments of the Digest, extracted from their works.
14	M. Brutus	7	"
15	C. Livius Drusus	1	"
	II. Jurisconsults of the latter period of the Republic.		
16	Cicero	7	"
17	P. Rutilius	5	"
18	Q. Ælius Tubero	1	"
19	Q. Mucius Scævola (Pontiff)	50	4
20	C. Aquilius Gallus	16	"
21	S. Sulpicius Rufus	93	"
22	Q. Cornelius Maximus	2	"
23	Antistius Labeo (the father)	1	"
24	Granius Flaccus	1	"
25	Ælius Gallus	2	1
	III. In the time of J. Cæsar and of Augustus.		
26	A. Offilius	73	"
27	A. Cascellius	16	"
28	Trebatius Testa	96	"
29	Q. Ælius Tubero, pupil of Offilius	17	"
30	Cinna	3	"
31	Alfenus Varus	19	54
32	Aufidius Namusa	6	"
33	C. Ateius Pacuvius	1	"
34	P. Gellius	1	"
35	Antistius Labeo (the son)	541	63
36	Ateius Capito	7	"
37	Blœsus	1	"
38	Vitellius	1	"
	IV. From Tiberius to Vespasian.		
39	Massurius Sabinus	220	"
40	Cocc. Nerva (the father)	34	"
41	C. Cassius Longinus	160	"
42	Sempronius Proculus	136	37
43	Falcinius (Priscus)	16	"
44	Fabius Mela	39	"
45	Cartilius	2	"
46	Cocc. Nerva (the son)	15	"
47	Attilicinus	27	"
	V. From Vespasian to Hadrian.		
48	Cælius Sabinus	18	"
49	Pegasus	28	"

No.		No. of times quoted in the Digest.	No. of Fragments of the Digest, extracted from their works.
50	Juvent. Celsus (the father)	5	"
51	Priscus Javolenus	11	206
52	Aristo	81	"
53	Neratius Priscus	128	64
54	Arrianus	6	"
55	Plautius	4	"
56	Minutius Natalis	3	"
57	Urseius Ferox	4	"
58	Varius Lucullus	1	"
59	Fufidius	3	"
60	Servilius	1	"

VI. Hadrian and Antoninus Pius

61	Lucius Celsus (the younger)	173	142
62	Salvius Julian	778	457
63	Aburnius Valens	4	20
64	Lœlius Felix	2	"
65	Vindius Verus	4	"
66	S. Cæcilius Africanus	3	131
67	Volus. Mæcianus	18	44
68	Ulp. Marcellus	256	158
69	Val. Severus	4	"
70	Ter. Clemens	1	35
71	Publicius	3	"
72	Pactumeius Clemens	1	"
73	Campanus	2	"
74	Octavenus	23	"
75	Vivianus	23	"
76	S. Pedius	60	"
77	Tuscius Fuscianus	1	"

VII. M. Aurelius and Commodus.

78	Caius or Gaius	4	536
79	S. Pomponius	409	588
80	Q. Cervidius Scævola	63	307
81	J. Mauricianus	6	4
82	Papyrius Justus	"	16
83	Papyrius Fronto	4	"
84	Claudius Saturninus	"	1
85	Tarruntenus Paternus	1	2

VIII. From Severus to the Gordians.

86	Callistratus	"	101
87	Æm. Papinian	153	596

No.		No. of times quoted in the Digest.	No. of Fragments of the Digest, extracted from their works.
88	Arrius Menander	5	6
89	Tertullian	3	5
90	Jul. Paulus	45	2087
91	Dom. Ulpian	20	2461
92	Venul. Saturninus	4	71
93	Messius	1	"
94	Ælius Marcianus	6	282
95	Cl. Triphoninus	21	79
96	Lic. Rufinus	1	17
97	Æm. Macer	"	62
98	Heren. Modestinus	2	345
99	Florentinus	"	42
	IX. From the Gordians to Justinian.		
100	Hermogenianus	"	107
101	Aurelius Arcadius Charisius	"	6
102	Julius or Gallus Aquila	"	2
	X. Uncertain.		
103	Puteolanus	1	"
104	Paconius	1	"
105	Furius Antianus	"	3
106	Rutilius Maximus	"	1
107	Antæus	1	"

minute before 12 o'clock Saturday night to one minute after, was an adjournment "to the ensuing week." But no such word-catching is necessary. The legislature intended no change in the fundamental principles of jury trial, as is manifest from another Act on the same subject passsed at the same session, which, in all fairness, should be construed *in pari materia* with the aforementioned Act of 1818.

Another Act of 1818. 7 Stat. 320.

The 8th section of the Act of 1818, concerning the City Court of Charleston, which was intended by the same means to remedy the same mischiefs as the other Act, is in these words: "Petit jurors shall be drawn to serve one week, unless they be actually charged with an issue, in which case they shall be adjourned from time to time, or continue to sit until such issue shall be disposed of." Here, more plainly than in the other Act, appears the distinction between those stages of a case which are previous to the retirement of the jury, at all of which the jury may be adjourned, and the private consultation of the jury, which must be continuous until it has resulted in a verdict. Here, too, the words "actually charged with an issue," are equivalent to the words "empanelled and charged with the trial of any issue, civil or criminal," which are used in the other Act. Either phrase comprehends the whole of a jury's engagement with a cause, and to confine either so as to embrace only a jury to whom the charge on final instructions from the bench has been addressed, would pervert the proper meaning of words, and exclude from the remedy of the Acts cases interrupted by the expiration of the jury's term in the progress of the testimony or of the argument, in which cases the mischiefs are just as apparent as in the cases that would be included, where the summing up has taken place.

The adjournment of a jury in the city, where all the jurors could certainly go home on Sunday, would be more convenient than in a country district; but considerations above mere convenience forbade the adjournment at any place, of a jury, after retirement and before agreement. Since 1818, various cases have occurred in the District Court of Charleston, in which the jury being out at 12 o'clock Saturday night, have been continued in confinement; but no example has yet been given of adjourning their unfinished consultation to another day.

Acts refer to certain law rather than to doubtful.

It has been supposed that the Acts of 1818 must be construed subject to the common law maxim, *dies dominicus non est dies juridicus*. If I have succeeded in conveying my impressions upon some of the other heads which have been discussed, it must appear that, as to the origin of its authority here, its extent, and the consequences of its violation, that maxim, in reference to the sitting of a court, is at least doubtful: The familiar law which secludes the jury

COURT OF ERRORS.

Hiller v. English.

Conclusion.

after their retirement from all out-door influence, is beyond doubt, and to that was the legislation of 1818 intended to be conformable.

If, then, the jury being out have not agreed when Sunday comes, and (the term still continuing) they ought not to be either discharged or adjourned, what shall be done, when, in the course of Sunday, they are ready to render their verdict? The Acts of 1818 suggest that the same course should be taken which should be taken on any other day; but independent of these Acts, charity and necessity authorize the receiving of the verdict, for relief of the jurors.

This court is, therefore, of opinion, that the verdict in this case is not void, and the motion is dismissed.

RICHARDSON, EVANS and FROST, JJ. and JOHNSTON, DUNKIN, CALDWELL and DARGAN, CC. concurred.

WITHERS, J. was absent in Charleston, at the rehearing of this case, and at the decision of it, and therefore gave no opinion.

Motion refused.

Whether the court can sit on Sunday —

APPENDIX.

[Sir Henry Spelman's Original of the Terms, written in 1614,—(to which reference is constantly made on the subject of *dies non juridici*,)—is not within my reach. The following extracts from Lord Mansfield's opinion in *Swann* v. *Broome*, with the annotations and references which are subjoined, probably contain much of what would be found in Spelman's Treatise, and present means of obtaining the history of the English law concerning Sunday.]

Extracts from Swann v. *Broome*, 3 *Burr.* 1597.

LORD MANSFIELD.

The single question is whether the Court can sit on a Sunday, and give a valid judgment.

No express direct authority has been cited in proof of the affirmative side of this question. Those authorities that have been urged in support of it have been only argumentative, from whence such a conclusion might, as it is said, be drawn.

But the history of the law and usage as to Courts of justice sitting on Sundays, makes an end of the question.

Anciently, the Courts of justice did sit on Sundays. (A)

The fact of this and the reasons of it appear in Sir Henry Spelman's Original of the Terms.

It appears, by what he says, that the ancient Christians practised this. In his chapter of law-days, concerning the first Christians using all times alike, he says: "The Christians at first used all days alike for hearing of causes, not sparing (as it seemeth) the Sunday itself." They had two reasons for it. One was in opposition to the heathens, who were superstitious about the observation of days and times, conceiving some to be ominous and unlucky, and others to be lucky; and therefore the Christians laid aside all observance of days. A second reason they also had, which was, by keeping their own Courts *always open*, to prevent Christian suitors from resorting to the heathen courts. (B)

Tidd, 44, 106.

(A.) I Wm. Bla. 499. Lord Mansfield: "Can it be supposed that the court did not sit on Sunday, when the terms were first framed, and so many returns were made on Sunday?"

After the general conversion of the Anglo Saxons to Christianity there must have been amongst them an observance of the great festivals of the church.—The terms are supposed to have had origin in or before the time of Alfred, and to have been arranged so as to avoid the principal seasons of religious solemnity, and those when the husbandman was most busy. If afterwards the courts sat on Sunday, less attention was paid to that weekly festival—first of all and most universally observed amongst Christians—than to Christmas, Easter and Pentecost, which were especially excluded from the terms. This could have been only at a very early period. In the league between Edward, the elder, (son of Alfred) and Guthrum, the Dane, it was ordained, "Festis diebus omnibus et legitimis jejuniis, ordalium (the ordeal by fire or water) nullus ingreditor neve ad jusjurandum addicitor." (Saxon Laws, fol. 55.) Here Sunday is included in all festival days, and there is a prohibition, either of all legal proceedings, or of certain modes of trial in criminal cases.

The laws of Ina, early in the eighth century, also contained provisions of severe punishment for secular labor on the Lord's day. Saxon laws, fol. 2.

(B.) Before the conversion of Constantine, the church was a distinct society from the State. For the government of themselves, and to escape the scandal of carrying controversies amongst themselves into a heathen court, the primitive Christians gave power of judicature to the bishops, whose gravity and wisdom had obtained authority in the church. 2 Bac. Abt. 717. This submission to the bishops, at first voluntary, and after the conversion sanctioned and enforced by the Emperors, was the beginning whence proceeded the association of the Bishops with the Earl in the county courts, and the whole jurisdiction of the ecclesiastical courts in England.

To the time preceding the conversion of Constantine must be referred the usages and reasons spoken of in the text. Constantine (as may be seen in the next note) made imperial constitutions which exempted Sundays and the fifteen

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Spel. c. 4, p. 76.
1 Ld. Raym. 705.

But in the year 517 a cannon was made: "Quod nullus episcopus vel infra-positus die dominico causas judicare præsumat." And this canon for exempting Sundays was ratified in the time of Theodosius, who fortified it with an Imperial Constitution. "Solis die (quem dominicum recte dixere majores) omnium omnino litium et negotiorum quiescat intentio." The whole cannon is also decreed verbatim in the Capitulars of the Emperors Carolus and Ludovicus. (C)

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days of Paschal solemnity, (other festivals were afterwards added) from forensic litigation; and never afterwards, except a short period in the time of Julian, the Apostate, were there heathen courts to which Christians could be called under the empire.

If reference is made to the island of Great Britain, after there were Christian courts there, they were the courts of the State—no heathen courts existed cotemporaneously, and the usage of all Christians enjoined a special observance of the Lord's day.

(C.) From an imperial constitution of Constantine: "Sicut indiguissimum videbatur diem solis, venerationis suæ celebrem, alteriantibus jurgiis et noxiis partium contentionibus occupari, ita gratum ac jucundum est eo die quæ sunt maxime votiva (*good offices*) compleri; atque ideo emancipandi et manumittendi die festo cuncti licentiam habeant, et super his rebus actus non prohibeantur." Cod. Theod. Lib. ii. Tit. viii, de Feriis, leg. 1.

"Scaliger, *de emendat tempor*, p. 776, mentions a law of Constantine wherein the Paschal weeks, one before and the other after Easter Sunday, are ordered to be days of vacation from all proceedings at law." Bingham's Orig, Eccles. 7 vol. of his works, p. 87, 227.

Law of Valentinian, sen: "Die solis qui dudum faustus habetur, neminem christianum ab exactoribus volumus conveniri, contra eos, qui id facere ausi sint, hoc nostri statuti interdicto periculum sancientes." Cod. Theod. Lib. viii, Tit. viii. De exsecutoribus leg. 1. Repetitur Lib. xi, Tit. vii. De exactionibus, leg. x.

Law of Valentinian, jun: "Solis die, quem dominicum rite dixere majores, omnium omnino litium, negotiorum, conventionum quiescat intentio. Debitum publicum privatum ve nullus efflagitet; ne apud ipsos quidem arbitros vel in judiciis flagitatos, vel sponte delectos, ulla sit agnitio jurgiorum. Et non modo notabilis, verum etiam sacrilegus judicetur, qui a sanctæ religionis institutio ritu ve deflexerit." Cod. Theod. Lib. xi, Tit. viii. de exactionibus, Leg. xiii. Repetitur Lib. viii, T't. viii. de exsecutoribus Leg. iii.

Law of Valentinian, jun., and Theodosius the Great: "Omnes dies jubemus esse juridicos. Illos tantum manere feriarum dies fas erit—(two months of harvest and vintage—the kalends of January—the natales of Rome and Constantinople—the birthdays of the Emperors—the anniversaries of their inauguration)—sanctos quoque Paschæ dies, qui septeno vel præcedunt numero, vel sequuntur in eadem observatione numeramus. Nec non et dies solis, qui repetito in se calculo revolvuntur." Cod. Theod. Lib. ii, Tit. viii, de Feriis, leg. ii.

Two laws of Theodosius the Great forbade criminal actions and corporal punishments in Lent. "Quadraginta diebus, qui auspicio ceremoniarum Paschale tempus anticipant, omnis cognitio inhibeatur criminalium questionum."—Cod. Theod. Lib. ix, Tit. xxxv, de Questionibus leg. iv. "Sacratis quadragesi-

There are likewise several other canons taken notice of in Spelman's Original of the Terms. One of them was made in the Council of Tribury, about the year 895: "Nullus comes, nullusque omnino secularis, diebus dominicis, vel sanctorum in festis seu quadragesimœ aut jejuniorum, placitum habere, sed nec populum illo præ-

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mæ diebus nulla supplicia sint corporis, quibus absolutio exspectatur animarum." Ibid, leg. v.

Honorius made a law adding to the exceptions from the observance of the *feriæ forenses*, the cases against masters of vessels who dealt fraudulently in the transportation of the public corn. Lib. xii, Tit. v, lex. xxxviii; and Honorius and Theodosius, jun., added another exception in cases against the Isaurian pirates. Lib. ix, Tit. xxxv, leg. vii. Another law of Honorius (lib. ix, Tit. iii, leg. i,) required the Judges to visit the prisons on Sunday, to look to the comfort of the prisoners.

The imperial laws above mentioned (except that for which reference is made to Scaliger) are found in the Theodosian code, which was first promulgated in the Eastern Empire, A. D. 438, and soon afterwards confirmed in the Western Empire, and of which the last of the *Novellæ* that were interchanged between the two empires, was in the year 448 before the canon of 517.

The Justinian code (A. D. 529, 534) contains some of the same laws, and some additional ones on the same subject. Lib. iii, c. xii, De Feriis, particularly (leg. viii,) a law of Theodosius, jun., enjoining the stay of all actions public and private, during the Paschal days, except "emancipandi et manumittendi licentiam;" leg. vii, a law of Justinian adding to the *feriæ forenses* before established by Valentinian, jun. and Theodosius the Great, Christmas, Epiphany, Pentecost, and the days of the Passion, of the Apostles; leg. iii, which required judges, people in the city and all artisans to rest, "venerabili die solis," but permitted husbandmen in the country freely to pursue their agricultural business (which a law of Constantine had also permitted in certain seasons;) and leg. xii, in these strong terms: "Dominicum itaque diem ita semper honorabilem decernimuset, venerandum, ut a cunctis exsequestionibus excusetur: nulla fide jussionis flagitetur exactio: taceat apparitio: advocatio delitescat: sit ille dies a cognitionibus alienus: præconis horrida vox silescat: respirint a controversiis litigantes, et habeant fœderis intervallum, ad sese simul veniant adversarii non timentis, subeat animos vicaria pœnitudo," &c.

See also the Pandects, Lib. ii, Tit. xii, De Feriis, Leg. ii, iii, ix, for exceptions in the heathen laws concerning the *feriæ forenses* observed before the time of Constantine, similar to those which were introduced into the constitutions of the Christian Emperors.

That which, in the text, is given as a Canon of 517, that laid the foundation for exempting Sundays from lawsuits, is really no more than the fourth title of the Capitulars of the Council of TARRACON, held A. D. 516. This council was only a Provincial council held in Spain, under Theodoric of the Ostrogoths, then King of Spain and Italy. The prohibition was directed against the clergy only, in reference to the usage already established of their expounding laws and administering justice, except in criminal matters; for, in that age, the decrees of councils derived their chief efficacy from the assent or confirmation of the civil powers; the disobedience even of the clergy was, without the aid of the civil magistrate, subject only to spiritual punishments, and all laws, as well in

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sumat cohercere." Another of them was made in the Council of Erpford, in the year 932, and afterwards became general, upon being taken into the body of the canon law by Gratian. And Sir Henry Spelman takes it, he says, to be one of the foundation stones to our Terms. "Placita secularia dominicis vel aliis festis diebus, seu eti-

matters spiritual as in those temporal, which restrained the laity, had the sanction of the civil authority. The purpose of this capitular was not to restrain the public tribunals, (for over them the council had no jurisdiction, and for them laws already existed under the Empire, and, probably, under the Ostrogoths,) but to prevent the indecency of the clergy's sanctioning abuses, which the license of the times indulged. The *capitulum quartum*, of which the title has been given, is as follows.—"Ut nullus episcoporum, aut presbyterorum, vel clericorum die dominico propositum cujuscumque causæ negotium audeat judicare: nisi ut hoc tantum, ut Deo statuta solemnia peragant. Cætoris vero diebus convenientibus personis, illa quæ justa sunt habeant licentiam judicandi, exceptis criminalibus negotiis." Labbe et Coss. Concil. Tom. iv, p. 1562, 1564.

The Council of MASCON was held under Clothaire, in France, A. D. 585.

Canon 1. Directed the keeping of the Lord's day: forbade the strife of lawsuits, or the pleading of causes, or the making of a necessity for yoking oxen on that day: expected all to be intent in singing hymns and praises to God. "If any one contemn this admonition, he shall be punished according to the quality of his offence. If he be a lawyer, he shall lose his privilege of pleading; if he be a rustic or a slave, he shall be severely beaten with rods; if a clergyman or monk, he shall be six months suspended from the communion of his brethren."

Canon II. Required that, in the six most holy days which followed Easter Sunday, no one should presume to do any servile labor, but, with one consent, all shall attend the service of the Paschal festival, "vespere, et mane, et meridie." Labbe & Coss. Concil. Tom. v. 980–1.

The council of ERPESFUST, Germany, was held A. D. 932, present—king Henry.

Capit. II. Forbade the holding of secular pleas on the Lord's days, the prinpal festivals, or even the lawful fast days: and declared that, for the advancement of religion, the most glorious King Henry had granted that no judicial power should have license to banish or condemn Christians for seven days before Christmas, and from Quinquagesima to eight days after Easter, and for seven before the nativity of St. John the Baptist; that there may be greater freedom in going to church and passing the time in prayer. Labb. & Coss. Tom. ix, p. 591.

The foregoing extracts from the proceedings of Councils, are set down in the *Decretum Gratiani*, pars ii, Causa xv, Quest. iv. p. 1172, except that, in the last extract, instead of the words italicised, it is said "the holy Synod hath decreed;" to the days enumerated are added, "from Christmas to the octave of Epiphany;" and the whole of the days enumerated are introduced as "supradictis diebus, id est"—shewing that they include all of the principal festivals and fast days.

7 Bingham's Works, p. 26.

Besides the canons mentioned in the text and in this note, many other canons, mostly of French and Spanish Councils, may be found forbidding the violation of the Lord's day, especially by the working at husbandry, which Constantine

am in quibus legitima jejunia celebrantur, secundum canonicum institutionem, minime fieri volumus." It goes on and appoints vacations; but these vacations were enlarged by the Council of St. Medard: "Decrevit sancta synodus, ut a quadragesima usque ad octavam Paschæ, et ab adventu Domini usque ad octavam Epiphaniæ, necnon in jejuniis quatuor temporum, et in litaniis majoribus, et in diebus dominiciis, et in diebus rogationum (nisi de concordia et pacificatione) *nullus supra sancta evangelia jurare præsumat.*" By which expression is meant, that no causes should be tried or pleas holden on those days.

These canons were received and adopted by our Saxon Kings. (D) C. 7, 8, 9. f. 77, 79.
And Edward the Confessor (E) made the following Constitution:

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and the Justinian Code had permitted, but the Church never well approved. A new canon on the subject was not evidence that no law before existed, but only that former laws had been ineffectual.

(D) 1 *Hale's History of the Common Law, p.* 36. "There are divers canons made in ancient times and decretals of the Popes, that never were admitted here in England."

Note C, by Sergeant Runnington. "The Canon law which obtained throughout the West, till the twelfth century, was the collection of canons made by Dionysius Exiquus in 520, the Capitularies of Charlemagne, and the decrees of the popes from Siricius to Anastasius. No regard was had to any thing not comprised in these. Between the eighth and eleventh centuries, the canon law was mixed and confounded with the Papal decrees from St. Clement to Siricius, which, till then, had been unknown. This gave occasion to a new reform or body of the canon law, which is the collection still extant under the title of *Concordia discordantium canonum*, first made by IVO DE CHARTRES in 1114, and perfected in 1151, (time of King Stephen, and fourteen years after the finding of a complete copy of the Pandects at Amalfi) by GRATIAN, a benedictine monk, from texts of scripture, councils and sentiments of the Fathers, in the several points of Ecclesiastical polity, and containing those constitutions which have been denominated, by way of evidence, *the Drones*, and forming the first part of the canon law. It is now generally known by the name of the *Decretum of Gratian*, which was formed in imitation of the Pandects of Justinian, and is a confused immethodical compilation, full of errors and forgeries. * * * * The authority of the canon law in England, (much abridged and restrained) depends upon Stat. 25 Hen. 8, c. 19."

Reeves' History of the English Law, chap. 1, shews that the separation of ecclesiastical from civil causes, was made by an ordinance of William the Conqueror; that the canon law first known in England, was formed by permission and under the authority of the Government; that in a national Synod, held A. D. 670, the *codex canonum vetus ecclesiæ Romanæ*, was received by the clergy, and in the time of William the Conqueror, with the assent of his great council, the Episcopal laws were reviewed and reformed: that in 1152, the teaching of the civil and canon law was forbidden by Stephen, apprehensive of the consequences to which the novel and bold opinions in the collection of Gratian might lead, but that the study was promoted by the clergy, and furnished authority for every species of usurpation. See *Hallam's Middle Ages, chap.* 7.

(E) *Reeves' History E. L. Introd. ch.* "Edward the Confessor is said to have

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"Ab Adventu Domini usque ad octabas Epiphaniœ, pax Dei et sanc-

made a complete code of English law, for which the character of an eminent legislator has been conferred on him by posterity. By the loss of the volume which contained his collection, we are left much in ignorance as to the unwritten customs of the times. It is not so with the written laws, for we have many of these still remaining."

"The first of the Saxon laws now in being, are those of King Ethelbert. These are the most antient laws in our nation, and are said to be the most antient in modern Europe. This King reigned from 561 to 636. The next are the laws of Hlothaire and Eadric, and of Wiletred, all Kings of Kent. Next are those of Ina, King of the West Saxons. After the Heptarchy, we have the laws of Alfred, Edward the elder, Athelstan, Edmund, Edgar, Ehelred, Canute. Besides these, are canons and institutions, councils and other acts of a public nature. These are in the Saxon language, and were, some of them, collected in one volume, in folio, by Mr. Lambard, in the time of Queen Elizabeth, to which additions have since been made by Dr. Wilkins. (in 1721) They compose, altogether, a body of Anglo Saxon laws for civil and ecclesiastical government." [In the Library of the Court of Appeals at Charleston—mutilated and called "Saxon Laws." The English translation of these Saxon codes, published by the Record Commission in England, under the superintendance of Mr. Thorpe, has not reached our Libraries.] See 2 *Inst. proeme.*

"We have refrained from mentioning some laws which have gone under the name of Edward the Confessor, as they have been rejected for spurious, upon the fullest consideration of antiquarians. They are in Latin, and bear internal marks of a later period. They are supposed to have been written or collected about the end of the reign of William Rufus; and are to be found in the collections mentioned above."

Sir Matthew Hale, in his History of the Common Law, ch. 1, refers to Lambard's collection, and speaks of the laws of Edward the Confessor, as a compilation, whereof the English were always very zealous. *In note B. Sergeant Runnington* says, "In truth, what were in reality the laws of Edward the Confessor, is much disputed by antiquarians, and our ignorance of them seems one of the greatest defects in English History. The collection of laws in Wilkins, which pass under the name of Edward, are plainly a posterior and ignorant compilation. Those to be found in Ingulf are genuine, but so imperfect and contain so few clauses favorable to the subject, that there is no great reason for contending for them so vehemently."

Hale's Hist. C. L. c. 4. "The manual, styled the Confessor's laws, was but a small volume, and contains but few heads." Again, "many of the ancient laws which were approved and confirmed by William the Conqueror, and his *commune consilium*, are set down by Hoveden: and they are transcribed in Mr. Selden's notes upon Eadmerus, p. 173—the same which Ingulfus mentions to have been brought from London, and placed by him in the Abbey of Crowland, in the 15th year of William the Conqueror."

Hume's Hist. of Eng. ch. 3. "The laws that pass under Edward's name were composed afterwards."

Spelman's Glossary, Balivus. "Ipsasque ideo leges a recentiore vel auctas vel ad Nomanicum idiotisma redactas suspicor."

The laws of Canute expressly enjoin that all jurisdiction of ordeal and oath shall be intermitted on all festival days, the fasts of the four times, and all other

tæ ecclesiæ (F) per omne regnum; similiter a Septuagesima usque ad octabas Paschæ; item ab Ascensione Domini usque ad octabas pentecostes; item omnibus diebus quatuor Temporum; item *omnibus Sabbatis ab hora nona et tota die sequenti usque ad diem Lunæ;* item vigiliis sanctæ Mariæ, sancti Michaelis, sancti Johannis Baptistæ, Apostolorum omnium et sanctorum quorum Solemnitates a sacerdotibus Dominicis annunciantur diebus; et omnium sanctorum in Kalendris Novembris, semper *ab hora nona vigiliarum et subsequenti solemnitate.*" (G)

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fasts solemnly appointed; likewise they declare a vacation of legal proceedings from the festival of Advent to the octave of Epiphany, and from Septuagessima to the fifteenth day after Easter. (Sunday is included amongst festival days.) Sax. laws, fol. 100.

In the laws of Alfred the ten commandments are recited and confirmed, but there is no other express reference to suspension of legal proceedings on the Lord's day. In the chapter concerning holidays, fol. 41, license is given to the free for twelve days from Christmas, the day Christ subdued the devil, the feast of St. Gregory, seven days before Easter, and as many after, the feast of St. Peter and St. Paul, and in the autumn the whole week before the feast of the Virgin, and the festival of all Saints; license is given to servants on the four Wednesdays of the four weeks in which public fast was used to be announced. In the chapter concerning sacrilege, fol. 30, double punishment is imposed upon theft committed on the Lord's day, Christmas day, Easter day, Holy Thursday, and the day of Purification, as well as in time of Lent. See note A.

(F.) *Reeve's Hist. E. L. ch.* 4. "The Anglo Saxons were governed by two reasons, the church and the necessity of cultivating the earth and collecting its fruits; in distinguishing the periods of term and vacation, the former they called *dies pacis regis*, the latter *dies pacis Dei es sanctæ ecclesiæ;* a division answering to that of the *dies fasti* and *dies nefasti* of the Romans, and to that of the *dies juridici* and *dies feriales* of the Civilians and Canonists.

A constitution made in the Synod held at Eanham, under King Ethelred, in the tenth century, forbade *judicium, quod anglice ordal dicitur, et juramenta vulgaria*, at times of festival and fast; also from Advent till the octave of Epiphany, and from Septuagessima till fifteen days after Easter. *Dugd. Orig. Jurid. p.* 89 *ch.* 32.

(G.) Mr. Foss, in his *Judges of England*, ch, 1, insists that originally there were only three terms, which were the three periods left after deducting the three longer intervals appropriated by this law to God and the Holy Church; so that Michaelmas Term formed no separate division, but, as well as Trinity, was comprehended in the long judicial period that commenced after the octave of Pentecost, and lasted till Advent, interrupted by no sufficient number of fasts or festivals to divide it into two; but that gradually a fourth vacation was made by the necessity of allowing time for collection of the autumnal products.

"That there were only three legal terms in the time of William the Conqueror, is strongly corroborated by the fact, upon which all historians are agreed, that he (and indeed several of his successors) always held his court, or as it was called "wore his crown," at three special periods of the year—Christmas, Easter and Whitsuntide. Regal magnificence and hospitality, the arrangement of the revenue, and the consideration of national affairs, would necessarily occupy se-

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These canons and constitutions were all confirmed by William the Conqueror (H) and Henry [*the First ?*] (I) the Second, (K) and so became part of the common law of England. (L)

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veral of the earlier days of those festivals, and the conclusion of them would fall on the commencement of those periods which were specially devoted to the transaction of legal business."

(H.) *Reeves's Hist. E. L. ch.* 1. "We are told that in the fourth year of his reign, at Berkhamstead, in the presence of Laufranc, archbishop of Canterbury, William the Conqueror solemnly swore that he would observe the good and approved laws of the kingdom, particularly those of Edward the Confessor; and he ordered that twelve Saxons should make inquiry in each county, and return what those laws were."

Hale's Hist. E. L. ch. 9. "The King (William 1,) swore inviolably to observe the laws which the holy and pious Kings, his predecessors, and especially King Edward, had established; yet it appeared not what those laws were, and therefore a *commune concilium* was held, and the ancient laws were approved and confirmed. * * * They were re-affirmed and mingled with the coronation oath of William 1, and some of his successors."

Saxon laws, 124, 126. The laws of Edward, as now preserved, are preceded by the decrees of William, containing his express confirmation of them, with his additions. See also Dugdale's Orig. Jurid. ch. 4, p. 5, referring to Ingulph. Hist. p. 519, b. and Selden's San. Angl. lib. 2, p. 123.

(I.) *Hale's Hist. E. L. ch.* 7. "The great essay which Henry 1 made was the composing an abstract or manual of laws, wherein he confirmed the laws of Edward the Confessor; 'cum illis emendationibus quibus eam pater meus emendavit, baronum suorum concilio;' and then adds his own laws, some whereof seem to taste of the canon law. * * The whole collection is transcribed in the Red Book of the Exchequer, from whence it is now printed in the end of Lambard's Saxon laws."

Note C. by Sergeant Runnington. "There is a code which passes under the name of Henry 1; but the best antiquarians have agreed not to think it genuine. It is, however, a very ancient compilation, and may be useful to instruct us in the manners and customs of the times."

(K.) *Foss's Judges of England, Vol. 1, p,* 162. "According to the MS. laws of Henry 2, which remain in the Red Book of the Exchequer, the terms were at first settled in the manner in which they were left by Henry 1, (that is, by a charter of Henry 1, the Lent vacation which the law of Edward the Confessor had limited to "octabis Paschæ," was extended to "fifteen days after Easter.") But when Ranulph de Glanville was appointed chief justiciary, the King (Henry 2) by his advice, expressly ratified the laws of Edward the Confessor and William the Conqueror, and accordingly we find in Glanville's Treatise writs made returnable in Octabis or Clauso Paschæ, according to the old arrangement."—Spelman's Reliquæ, Origin of the Terms, 81; Glanville, lib. ii, chap. ii. See Dug. Orig. Jurid. 90.

(L.) Whether the constitution recited in the text was really in the compilation of Edward the Confessor or not, it had the same validity, if it was established as a law of the kingdom in the time of William the Conqueror or any of his successors. All the *dies non juridici* mentioned in this constitution, must have been observed before the Statute of Westminster the first was passed. John's reign afforded a fit opportunity for the establishment of any canon that tended to advance the clergy, by impeding the business of the temporal courts.

Afterwards, in succeeding times, there happened several alterations and relaxations. The Statute of Westminster the first, (M) and other statutes (N) were made to this purpose, and us-

(M) *Stat. West.* 1, *c.* 51. Et pur ceo que grand charitie serra de faire droit a touts en tout temps ou mestier serroit.

Purview est per assentment des Prelates, que assises de novel disseisin, mort d'auncestor, et de darrein presentment fuissent prises en l'Advent, en Septuagesime, et en quaresme auxibien come le home prent l'enquesto; *et ceo prise le Roy as Evegues.*

2 Inst. 264. This Act beginneth with a maxim of law: "*Summa charitas est facere justitian singulis in omni tempore quando opus fuerit.*"

The canon of holy church, upon pain of excommunication, had forbidden the holding of any secular plea or the swearing of any man on the Holy Evangelists in certain seasons, which Britton (who was Bishop of Hereford, * andwell versed in both civil and canon law) thus enumerates in addition to the Lord's days:— From the beginning of Advent to the eighth day after Epiphany, from Septuagesima to the eighth day after Easter, the Ember days, the days of the Great Litanies, Rogation or Cauge days, the week of Pentecost, the time of harvest and of vintage, which dureth from the feast of St. Michael the Archangel, and the solemn feasts of the Acts of the Saints. Special dispensations had been previously obtained for taking inquests and for occasional removal of the impediment which the Canon offered to the administration of justice. This Act was a general dispensation for taking three kinds of assizes in the seasons of Advent and Lent, obtained from the Bishops at the special instance of the King. See Reeves's Hist. E. L. c, 7, and c. 4. 3 Bla. Com. 275. Dugd. ch. 32.

The Act is a clear recognition of what was the previous law as to holy seasons. Its terms show to what an extent clerical usurpation had proceeded; and the fact that the dispensation thus obtained for certain assizes, has, ever since, without further legislation, served to legalize all judicial proceedings in the seasons mentioned in the Act, shows how intolerable the former restraint must have been.

(N.) Of these statutes the most material was 5 and 6 Ed. 6, c. 3. The preamble of that act, very verbose, declares "that times and days are appointed wherein Christians should cease from other labors, and apply themselves to holy works." * * "Therefore the days are called holy days, not for the matter or nature of the days, nor for any Saint's sake, (for so all days and times are God's creatures, and all of like holiness,) but for the nature of the holy works whereunto such days are hallowed." * * "Neither is it to be thought that there is any certain time or definite number of days prescribed in Holy Scriptures, but that the appointment, both of the time and also of the number of the days, is left by the

* *John le Breton*, Judge, and afterwards Bishop of Hereford, died in May, 1275, 3 Ed. 1. The work called "Britton," cites Statutes of 6 and 13 Ed. 1; both of which periods were subsequent to the Bishop's death. The better opinion, adopted by Mr. Selden and others, seems to be that the work is only an abridgment of Bracton, done into Norman-French, with the addition of subsequent alterations in the law, published in the name and by the authority of the King, about 13 Ed. 1. *Henry de Bracton* or *Bretton*, whose name is sometimes written, also, *Brycton*, *Britton*, *Briton* and *Breton*, Judge and Archdeacon of Barnstable, died about 51 Henry 3, 1267.

2 Foss's Judges, 252, 260, citing Selden's notes to Henglean Magna, 5, and Dugd. Chron. Series. 2 Reeves's Hist. 89, 90, 281. 3 Bla. Com. 408.

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age,(O) or perhaps positive laws, not now extant, dispensed with other days that were formerly unjuridical.

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authority of God's word to the liberty of Christ's church, to be determined and assigned orderly in every country, by the discretion of the rulers and ministers thereof, as they shall judge most expedient to the true setting forth of God's glory and the edification of their people" * * *

Sec. 1 enacted that the days following shall be kept and commanded to be kept holy days, and none others, to wit: all Sundays in the year, Christmas and the three following days: the days of the Circumcision, of Epiphany, of the Purification, of the Annunciation, and of the Ascension, Monday and Tuesday in Easter week, Monday and Tuesday in Whitsun week, and fourteen Saints' days, which were distributed through the year. "And none other day shall be kept and commanded to be kept holy day, or to abstain from lawful bodily labor."

[Of the days here enumerated, all the *dies non* which are mentioned by Lord Coke (2 Inst. 264) and also St. Philip and St. Jacob, and sometimes St. Peter, fell within the terms.]

Sec. 2. The even of the day next before each of certain feasts shall be fasted, and none other.

Sec. 3. Bishops may inquire and punish offenders by the censure of the church.

Sec. 4. Fasting in Lent, or on Fridays and Saturdays, is not forbidden, or on other days appointed by Stat. 3, Ed. 6, c. 19, saving only those evens whereof the holidays next following are abrogated by this Statute.

Sec. 5. If the feast be on Monday, the fast shall be on the even of Saturday preceding, and not on Sunday.

Sec. 6, Husbandmen, laborers, fishermen, and all persons of every degree, upon the holidays aforesaid, in harvest or any other time, when necessity shall require, may labor, ride, fish, or work any kind of work, at their free will and pleasure.

[This Statute was repealed 1 Mary, but the repealing act was repealed 1 James 1.]

Many Statutes before and after that of 5 and 6 Ed. 6, were passed concerning Sunday and other holidays, which are of great historical interest, but none of them directly affected the question of a Court's sitting on Sunday.

Statutes 50 Ed. 3, c. 5, and 1 Rich. 2, c. 15, prohibited arrests in time of divine service.

27 Hen. 6, c. 5. (1448) "In consideration of the injury to God and his Saints, because of fairs and markets upon the high and principal feasts, as Ascension, Corpus Christi, Whitsunday, Trinity Sunday and other Sundays, also the Assumption, All Saints and Good Friday," temporarily provided that fairs and markets (under pain of the forfeiture of the goods offered for sale) should cease on the days mentioned, except four Sundays in Harvest.

2 & 3 Ed. 6, c. 19, repealed all prior laws and usages concerning fasting and abstinence from meats, and forbade the eating of flesh upon any Friday or Saturday or the *Embring* days or Lent, or any other day commonly reputed a fish day.

5. Eliz. c. 5, forbade the eating of flesh on fish days. § 39. "Whosoever shall, by preaching, teaching, writing or open speech, notify that any eating of fish or forbearing flesh mentioned in this Statute, is of necessity for the saving of the soul, or that it is the service of God, otherwise than as other politick laws are, such persons shall be punished as spreaders of false news."

The Mirror of Justices (P) says, "abusion est que tient pleas per dimenches (*Sundays*,) ou per auters jours defendus, ou devant le

This Statute was continued by 3 Chs. 1, and 16 Chs. 1, c. 9—subject to a reduction of penalties for the eating of flesh on fish days, made by 35 Eliz. c. 7.

A Stat. of 3 James 1, required divine service on every 5th of November, the anniversary of the discovery of the Gunpowder plot.

12 Chs. 2, c. 14, required the annual celebration of 29th May, as the anniversary of the Restoration.

12 Chs. 2, c. 30, directed that every 30th of January, (the anniversary of the execution of Chs. 1,) unless it shall be the Lord's day, and then the next day, should be forever set apart as a day of fasting and humiliation.

A declaration published by James 1, and read in the churches, was intended to promote sports and lawful recreations on Sunday. Two Acts for the better observance of Sunday were passed, early in the reign of Chs. 1, which forbade persons assembling on Sunday, out of their own Parishes, for sport; and, also, their following bull baiting or other unlawful sports in their own parishes. Subsequent temporary regulations were made perpetual by Stat. 29 Chs. 2, c. 7, which prohibited worldly labor, in general, on Sunday, and especially made void the execution or service on that day of any writ, process, warrant, order, judgment or decree, except in cases of treason, felony and breach of the peace.

A Statute of William 3, added to the holidays the days set apart by his Majesty, on extraordinary occasions.

The uniformity of process Act, 2 W. 4, c. 39, places Sundays on the same footing as Christmas day, and other days appointed for a public fast or thanksgiving, as to proceedings after the expiration of eight days from the service of process. An Act of 3 Geo. 4, had done the same, as to the opening of the Judges' commissions on the Circuits.

The Law Amendment Act, 3 & 4 W. 4, c. 42, § 43, passed in 1833, enacted that no holidays should be observed in the Courts, or in the offices belonging thereto, except Sundays, Christmas day, and the three following days, and Easter Monday and Tuesday.

Sir Edward Coke, (2 Inst. 264) writing after the Stat. of Ed. 6, enumerates the *dies non juridicos*, thus:—1. All Sundays. 2. Ascension day in Easter Term. 3. St. John the Baptist's day, when it falls in Trinity Term. 4. The Purification in Hilary Term; and 5. All Saints' and All Souls' days in Michaelmas Term. The two last were cut off by subsequent Statutes, which altered Michaelmas Term so that it began on the morrow of All Souls. Then, until the Law Amendment Act, the *dies non* were Sundays, Ascension or holy Thursday, the Purification or Candlemas, and St. John the Baptist's or Midsummer day, if it happened in Trinity Term—unless it was a Friday next after Trinity Sunday, in which case it was *dies juridicus*, by Stat. 32 Hen. 8. 1 Tidd's pr. 57; 2 W. Bla. 1316.

The Stat. of Ed. 6 continued to regulate holidays, chiefly, until 1833. Under it, the offices of Court were shut, or extra fees for opening them demanded, on the holidays, which did not fall within the terms. (See Tidd's Pr. 55, 106. 3 Chit. Gen. Prac. 101.) But between the holidays under the Statute and *dies non* at common law, the Courts made a distinction.

The Statute was intended to lessen, not to increase, the number of holidays, and seemed to have been framed with such reference to the Terms as that, even before they were abridged, not more than two holidays, besides Sundays, fell into one Term; it did not make void proceedings on holidays; it indulged a lax

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soleil levie, ou noctanter, ou in dishonest lieu."(Q.) * * * * *

As to the observation, that the Courts of justice have never been restrained by Act of Parliament from sitting on Sundays, and that the 29th of C. 2, c. 7. does not extend to giving judgments,—

It was needless to restrain them from it by Act of Parliament. They could not do it by the canons anciently received and made a part of the law of the land, and therefore, the restraining them from it by Act of Parliament would have been merely nugatory. But fairs, markets, sports and pastimes were not unlawful to be holden

Cases decided. Plow. 265. Cro. Eliz. 29.

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observance, and it provided no penalties besides ecclesiastical censure. For these or other reasons, the Courts at Westminster (which seem always to have struggled against the delays occasioned by interruptions of those Terms that had been wrested from the Church for the administration of justice) whilst they considered the Statute as commanding that *dies non*, before observed, but not mentioned in the Statute, should no longer be kept, did not find in the Statute an imperative requirement that holidays in the Terms should be kept, that were mentioned in the Statute, but were not *dies non* at common law. They kept inviolable Ascension day and Purification day; (1 Chit. R. 400—9 B. & C. 243,) but they would not suspend business on St. Philip and St. Jacob's day, (2 Smith's Rep. 203,) nor on St. Peter's; (7 Taunt. 182) as in like disregard of Statutes that contained no absolute prohibition, they refused to suspend on the anniversary of the Restoration, (7 Term. 332;) and on the anniversary of the Martyrdom, despatched common business before adjourning. The offices were required to be kept open on the days the Courts sat, and thus the Statute of Ed. 6, so far as it enjoined the keeping of holidays, had no effect in Term-time.

No statute was at any other time passed, which forbade proceedings in Court on particular days. To the common law, and not to any statute, has always been ascribed the invalidity of legal proceedings on Sundays and other *dies non*; and before the Amendment of the Law Act, no Statute concerning Sunday or other holiday expressly required its observance by Courts.

(O.) The Acts of 25 Hen. 8, c. 21, concerning Peter Pence and dispensations; of the same year, c. 19, concerning the Canon law; of 22 Hen. 8, c. 14, concerning sanctuaries; of 27 Hen. 8, c. 28, and 31 Hen. 8, c. 13, abolishing monasteries, and various other acts of that and the two succeeding reigns, whereby the Reformation was carried into effect, the Reformation itself, and the civil wars and religious strifes of the seventeenth century, must have lessened the reverence for some of the unjuridical days; and these causes, with the Statute of 29 Chs. 2, and other Statutes which, although silent as to the sitting of the courts, made a wide difference in other respects between Sunday and other holidays, may well be supposed to have introduced and confirmed usages which, in the practice of the courts, deeply engraved the common law concerning Sunday, but obliterated it entirely as to some of the other *dies non*, and almost as to all others.

☞ *Not one of the Statutes mentioned in these notes, nor any other English Statute concerning Sunday, holidays, or the Terms of the Courts, was ever made of force in South Carolina.*

(P.) *Reeves's Hist. En. L. ch.* 9. "By some pronounced older than the Conquest, but it is probable that Andrew Horne, whose name it bears, took an old book of the same name, and in the reign of Edward II, worked it into the volume we now see." See Dugd. Orig. Jurid. c. 23.

and used on Sundays at common law; and therefore, it was requisite to enact particular statutes to prohibit the use and exercise of them upon Sundays, as there was nothing else that could hinder their being continued in use.

In Mackalley's case, 9 Co. 66 b. it was objected that "Sunday is not *dies juridicus*, and therefore, no arrest can be made in it; and every one ought to abstain from secular affairs upon that day." But it was answered and resolved that no *judicial* act ought to be done in that day; but *ministerial* acts may be lawfully enacted in the Sunday.

(Q.) Conformable hereto was Law 10, Table 1, in the fragments of the Twelve Tables. "Let no judgment be given after the going down of the sun."

And by the Public Law of France, in the reign of Louis XIV, (2 Domat. b. 14, Tit. 6, § 4) it was forbidden to proceed to the trial of a criminal in the afternoon, when the crime of which he was accused was of so high a nature as to deserve punishment of death, natural or civil, of the gallies, or of temporary banishment.

Lord Coke, in his commentary on the Stat. of Westminster the first, c. 51, (2 Inst. 264,) says that from Sir John Fortescue it will be seen that there are *horæ juridicæ*, from 8 o'clock, A. M. till meridian; the Courts not sitting in other hours, but the Judges giving themselves to refreshment and study. This, as all see and many feel, is not the usage of modern times; but this, like some of the propositions quoted from the Mirrour, serves to point to a distinction between the abuse of discretion and the violation of prohibition—between what may be disapproved and what is void.

O'NEALL, J. *dissenting*.—In this case, I trust that, as I stand *now* alone in opinion, I may be permitted to say, that the case has been argued in the Court of Errors without any agency on my part. No one regrets more than I do, the great consumption of time in this court. Still it is, perhaps, a *necessary evil in the administration of justice.*

The Lord's day, it seems to be well settled, is that portion of time between Saturday evening midnight, and midnight Sunday evening. The question is can a verdict in a case at law be rendered in that time? *I am clear it cannot be.*

The Lord's day is not, like the Jewish Sabbath, resting on a positive command for its observance. But it is the day of the Resurrection; it is the day set apart from *then, as that* on which the followers of Jesus Christ should assemble themselves together. By the common consent of the Christian world, and I may therefore venture to say by inspiration, it has been set apart as a day of rest, instead of the Jewish Sabbath. No doubt works of necessity and benevolence may be done on it. 9 Rep. 120 or 66b.

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"*Dies non juridici sunt dies dominici,*" (the non-judicial days are the Lord's days) "throughout the whole year." The only exception was, that necessary ministerial acts might be done. What are the ministerial acts here intended? They, as I think, were confined to service of process; and even that, by Stat. 29 Car. 2, c. 7, sec. 6, was limited to treason, felony, or breach of the peace. In *Johnson* v. *Satterwhite*, it was ruled that it is against law to serve writs (subpœna writs) on Sunday.

9 Rep. 120 or 66b. See the case, No. 617, Col. 1 McC.

I have no idea that the receipt and recording of a verdict is a ministerial act. It requires the court to be in session. Lord Mansfield, in *Swann* v. *Broome*, tells us "it is impossible for the court to sit on a Sunday." "Some of these return days," says Tidd. 106, speaking of the return days of the English Terms, "happen on a Sunday, and evidently, when writs were formal, courts did actually sit on that day; but that practice having been long disused, it is now holden, that an appearance cannot be entered, nor any judicial act *done, or supposed to be done*, in the court until Monday." Is not an appearance as much a ministerial act as receiving a verdict? *Perhaps more so.* For *it*, the constructive presence of the court is sufficient. For the reception of a verdict, the court must be actually present.

3 Bur. 1601.

When the jury present themselves in their box to deliver their verdict, the plaintiff has a right, before it is pronounced, to submit to a non-suit. This, technically, is the judgment of the court, and supposes the court to judicially pass on the matter. *A non-suit ordered on Sunday!* How can that be excused? Again, when the jury present themselves to render their verdict, they may, *in the discretion of the court, be polled.* This one would think was a judicial act. So, too, a verdict is not always right, as written by the jury. The Judge has the right, and it is his duty to order it corrected. Is not this a judicial act?

But the reception of a verdict on Sunday leads to this ugly state of things. The court must be adjourned on Saturday evening, if the jury are to be kept together, and their verdict to be received as soon as they may agree; when they do agree, if it be mid-day of Sunday, the Judge, the clerk, sheriff and attorneys are to be dragged from the Church to the Court House; and as the people retire from the house of prayer, they are to hear the sheriff proclaiming the adjournment, until Monday morning 10 o'clock. Such a spectacle has never been heretofore witnessed in South Carolina, and I hope never will. Since *Shaw* v. *M'Combs*, it has been considered settled and established as law in this State, that a verdict delivered in on Sunday morning, after the expiration of the 12th hour, *is void.* It is true, however, in that case, that the term of the court had expired, and hence the deci-

2 Bay, 232.

sion, as far as stated, is not necessarily binding on us; but still the Judges did not seem to regard that in the decision; and after an acquiescence of forty years, it is better to abide by even a *dictum* on a point of practice, and which has operated *well enough*, rather than to unsettle it by a new rule of uncertain operation.

But it is said, it is a necessary work, inasmuch as the jury would be kept together all sunday, when a few moments might relieve them. If this were true, I might, and would, go a great way to discharge the jury. But there is nothing whatever in it. The Act of the legislature of 1818, when read and understood, in the plain sense of the words used, removes the whole difficulty. The preamble sets out the mischief, which was, that as jurors in Charleston were empannelled for one week, when the term was of several weeks duration, and in consequence of it, many causes of litigated and important nature, commenced and not determined within the term, prove to be mistrials; to remedy it, it was therefore enacted in the first section, "that any jury in Charleston district which shall be hereafter impannelled, and charged with the trial of any issue, civil or criminal, whose term of one week shall terminate or expire before the final decision of such issue, such jury shall not be discharged, as heretofore, but it shall and may be lawful for the presiding Judge to adjourn the said jury to the ensuing week, in like manner as juries are adjourned from day to day; and such juries shall duly attend at the time to which they are so adjourned, and resume the consideration of such issue, until such jury shall have finally made up their verdict, and disposed of such issue, or shall otherwise be lawfully discharged from the consideration thereof, any law, custom or usage, to the contrary thereof in anywise notwithstanding." In the second section, it is provided, "that any juror composing such jury, as shall be so adjourned, as aforesaid, who shall refuse or neglect to attend at the time and place to which he shall be so adjourned, in conformity with this Act, shall be subject to the same pains, forfeitures and penalties, as by the laws of this State are usually imposed upon jurors who shall make default." The third section extends these provisions to all parts of the State where courts sit for more than one week.

Acts of 1818, p. 24.

The reading of this Act is so plain, that I confess, were it not that my brothers have come to a different conclusion, I would say, there could be no doubt, that when the jury could not agree before 12 o'clock of Saturday evening, they must be adjourned over until Monday morning, 10 A. M. and then resume the consideration of the case. The words certainly *mean that, and nothing else.* It has, however, been argued, that this construction would not do to be adopted after the jury have been charged with a case; then, it is said, they

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must be kept together until they agree. To this I answer, the legislature contemplated that very case. For they speak of a jury "charged with the trial of any issue, civil or criminal, whose term of one week shall terminate or expire before the final decision of such issue;" in such a case they have directed that they shall be "adjourned," "shall attend," "shall resume the consideration of such issue;" and after being adjourned, if they shall fail to attend at the time and place to which they shall be adjourned, they shall be liable to penalties, &c. It is plain, from such words, that the legislature knew what they were speaking about, and that they intended, in every case where the jury could not agree, within the week, that is before midnight of Saturday, they should be adjourned beyond Sunday. No doubt they weighed the evil of allowing a jury, after they were charged, to separate, with that of keeping 12 citizens, many of whom are husbands, shut up, separated from their wives and children, and kept from their religious duties on Sunday; and no doubt it was regarded as the less evil, to allow them to return to their homes, attend to their household duties, mingle in the worship of our common Father, on the Sunday, and then return on Monday, refreshed and calmed from the angry discussions of Saturday, in the jury room, to the consideration of the cause. In this view of the matter, I fully concur. For one, I can say, I have much less fear of a jury being tampered with, when allowed to separate, under proper instructions from the court, than when they are caged and shut up like wild beasts, to force an agreement. Tell jurymen in the presence of the crowd in the court room, that they are to suffer no one to speak to them on the case, while they are allowed to separate; and if any one does, to report him to the court, and I think no one ever will make an attempt to violate such instructions. An experience of more than thirty years does not enable me to point out a single instance of abuse under such circumstances. The fault of our judicial administration, is in treating jurors with too little consideration. Let them understand that they are regarded as gentlemen, and treat them accordingly, and I scarcely ever have a fault to find with them. Be these considerations, however, as they may, and even if I doubted the wisdom of the enactment, I would not dare to set up my notions against the Act. *Ita lex scripta* is enough for me. But it is said, it was discretionary with the Judge to adjourn the jury, or keep them together. The words are, "it shall and may be lawful." When they are used in an Act, they are equivalent to a command. In this case, however, they constitute the only authority of the Judge to keep the jury. *Before* he was bound to discharge them at 12 o'clock Saturday evening; *now*, he may adjourn them over to the next week.

With these views of the Act of 1818, it is to my mind, plain, that there was no necessity to receive the verdict on Sunday, and keeping the jury one moment after 12 o'clock Saturday night, was a violation of the Act.

It has been suggested, that if the jury deliberated after 12, and the verdict was the result of that, that then such deliberation and rendition would make it judicial and void. It is true, the verdict was delivered quarter past 12, and it may be there was not much deliberation in the 15 minutes, yet I apprehend we have no right to make such inquiry. The verdict, when rendered, is, in law, regarded as the conclusion of the jury, at that moment; and hence, according to the reasoning suggested by those in favor of this verdict, it could not be supported.

I regret, that while other States have passed laws to secure the observance of Sunday, we should in any way trench upon it. If I know myself, I have no Phrarasaical notions, which would reverse the object of the Sabbath, in making man for it, instead of holding it to be for man. Still its due observance as a day of worship and rest, is of so much importance to morals, and to the health and happiness of man, that I would do nothing calculated in the slightest degree, to diminish a due observance of it. I fear this decision will have that affect.

Petty v. Greely, Law Reporter, New Series, vol. 1. p. 253; Webster v. Abbott, [same,] 117; Robeson v. French, 418.

RULES

FOR THE

COURT OF ERRORS.

RULES settled in *Pell* v. *Ball*, 1st. Rich. Eq. 418.

1st. In no case whatever will an appeal lie directly from any Circuit Court of Law or Equity, to all the Judges assembled as a Court of Errors.

2nd. No cause shall be placed on the docket of the Court of Errors, unless by the order of the Appeal Court in which the cause was heard or opened.

3rd. No application will be entertained by either Court, by petition or otherwise, nor will argument be heard on any motion for sending a cause to the Court of Errors, after judgment rendered.

4th. In every case, the Court requiring the assembling of a Court of Errors, shall, so far as practicable, (unless all questions and matters involved in the cause be referred to the said Court,) specify the particular questions and points of law on which it may desire the judgment of that Court.

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3. Although if Congress pass a law authorizing the importation of any article of commerce on payment of a duty, or even without, no State can pass a law prohibiting the importation, yet as soon as the article ceases to be a part of the foreign commerce of the country, and passes into the hands of the retailer or consumer, it becomes a part of the property of the citizens of the State, and subject to the laws of the State; therefore an Ordinance of the City Council of Charleston, forbidding spirituous liquors, in the hands of the retailer or consumer, to be kept in certain places, is not an interference with the power of Congress to regulate trade ..... *Ib.*

4. The Ordinance of the City Council of Charleston, entitled "An Ordinance to prevent the establishment of any new burial grounds within the limits of the City," is both constitutional and within the powers granted to them by the City charter.—*City Council* v. *Baptist Church* 306

5. If the power exists in the City Council to pass an Ordinance, the court has no jurisdiction to control its discretion in the exercise of it, provided it be exercised consistently with the laws and the constitution of the State: nor is it necessary to the existence of the power, that there be a present occasion for its exercise. It is sufficient that a future occasion may demand it. The province of the court is merely to declare whether the power is granted ..... *Ib.*

6. If an Ordinance be exceptionable on these grounds, an appeal against its enforcement, lies only to the corporators ..... *Ib.*

7. The power which enacted an Ordinance may repeal it, unless the rights or privileges it conferred might be claimed in the nature of a contract ..... *Ib.*

8. In a summary process under the ordinance of the city of Charleston, against loitering, in describing the negroes it is not necessary to set forth either the sex of the negroes or their names, or the names of their owners.—*City Council* v. *Seeba* 319

CLERGY, BENEFIT OF.

1. The Court of Appeals may give judgment after dismissal of an appeal in case of felony; and this, although the appeal has been abandoned and benefit of clergy prayed.—*State* v. *Sutcliffe* 372

2. Where the indictment charges the burning of a *house*, benefit of clergy is not taken away by the statutes which take it from the burning of a *dwelling house*, or barn having corn or grain in it ..... *Ib.*

CLERK.

Vide *Costs*, 4, 5.

COLLATERAL UNDERTAKING.

Vide *Frauds, Statute of*, 1, 2, 3.

COMMISSIONERS OF ROADS.

Vide *Nonjoinder*, 1.

COMMON LAW.

Vide *Slaves*, 3.

CONFESSIONS.

Vide *Evidence*, 16.

CONGRESS.

Vide *City Council of Charleston*, 3.

CONSIDERATION.

Vide *Frauds, Statute of*, 3.

CONSPIRACY.

Vide *Evidence*, 12, 14.

CONSTITTTIONAL QUESTIONS.

Vide *Court of Appeals*, 1.

CONSTRUCTION.

1. The law will never, by any construction, advance a private to the destruction of a public interest; but, on the contrary, will advance the public interest, as far as it is possible, though it be to the prejudice of a private one.—*City Council* v. *Baptist Church*..... 306

Vide *Deed* 1, 2.

CONTEMPT.

1. The court refused to strike from the docket an appeal from the decision of the Circuit Judge, imposing a fine, after rule served to shew cause, upon an attorney of the court for contempt, although the fine had not yet been paid.—*State* v. *Hunt* 322
2. The Judge not only has power to fine for a contempt committed by an attorney in the use of improper expressions towards another attorney, in the argument of a cause in the presence of the court, but also he may, or not, in the exercise of his legal discretion, use that power, and the punishment following its use is altogether discretionary with him..... *Ib.*
3. Extraordinary cases may occur, in which the court might hold that the power to attach for a supposed contempt had been improperly used; but where the contempt is palpable, and where the defendant in contempt, without apology, puts himself in the attitude of justification throughout, these facts do not afford a case for the interference of the court..... *Ib.*
4. Every court has the power to fine for contempt, but notwithstanding this undeniable power, still whenever it is exercised, every citizen has the right to appeal.. *Ib.*
5. The provision of the Act of 1811, that no one shall be imprisoned without a hearing, renders the proceeding by rule proper in all cases of contempt of cout *Ib.*

CONTINUANCE.

Vide *Practice*, 1.

CONTRACT.

1. The rule with regard to a written contract is, that the obligatory part of it, what the party undertook to do or perform, shall not be varied by parol evidence. But the date is no part of the contract. A deed is no deed until it is delivered; and if

the time of delivery be important, the true time may be shown, although it may be different from that set out in the writing, without a violation of any legal principle.—*McCracken* v. *Ansley*..... 1

Vide *Action on the Case*, 1. *Nonjoinder*, 1. *Parters*, 2.

CONVEYANCE.

Vide *Former Recovery*, 2.

COSTS.

1. A public officer, against whom, for any official act, a prohibition may be sought is not liable for the costs of the motion, or of any proceeding which may ensue.—*State* v. *Jervey*..... 304
2. Upon suggestion filed, issue joined, trial and verdict, after recovery upon a sheriff's official bond, costs are to be taxed as of right, by the officers of Court.—*Rowell* v. *Mulligan*..... 349
3. A suggestion well supplies the place of a declaration in an ordinary case..... *Ib.*
4. When a suggestion against the sheriff and his sureties is tried, the clerk, in the taxation of costs, is not entitled to fifty cents for "notice;" nor is the attorney entitled to four dollars for "notice." For the "thirty day rule," required to be served upon the defendants, the attorney is entitled to two dollars..... *Ib.*
5. The court *doubted* whether the clerk was not premature in taxing costs for entering "satisfaction," before it was ascertained whether satisfaction had been rendered in the case..... *Ib.*

Vide *Principal and Bail*, 1.

COURT.

Vide *Judgment*, 1, 2. *Evidence*, 3. *Contempt*, 1, 2, 3, 4, 5.

COURT OF APPEALS.

1. It is for the Appeal Court, in which the cause is heard or opened, to determine whether there is a constitutional question involved in the case.—*City Council* v. *Ahrens*..... 241

Vide *Clergy, Benefit of*, 1.

CREDITORS.

Vide *Attachment*, 2.

DAMAGES.

1. In an action for a deceit in fraudulently transferring and representing as unpaid, a note which had been paid, the Court held, that the jury might well find the amount of the note, with interest, as the measure of damages.—*Spikes* v. *English*.. 34
2. Where the defendant gave the jury no means to determine as to his pecuniary condition, the Court will not disturb their verdict on the ground of excessive damages.—*Capehart* v. *Carradine*..... 42

DATE.

Vide *Contract*, 1.

DECEIT.

Vide *Fraud*, 1. *Damages*, 1. *Principal and Agent*, 2.

DECLARATION.

Vide *Costs*, 3.

DECLARATIONS.

Vide *Evidence*, 7, 12, 13, 14.

DECREE.

Vide *Judge*, 1.

DEED.

1. The deed of conveyance reserved "one square acre, containing my family burial ground," without defining the precise spot by lines and boundaries, but before its execution, the parties had agreed upon and marked out the space which was to be considered the graveyard: the Court *held* that the Circuit Judge had correctly charged the jury that they might consider the space thus marked out as the location agreed upon by the parties, although it was found to contain a little more than the square acre.—*Altman* v. *M'Bride*..... 208
2. When the intention of the parties is ascertained, the rule that the deed should be construed most strongly against the grantor, is subservient to that..... *Ib*

Vide *Contract*, 1. *Evidence*, 6. *Presumption*, 6, 7.

DELIVERY.

1. Where it was obvious that the parties to a sealed note or obligation, executed it and left it in the hands of the principal obligor, to be delivered to the obligee only on condition that he would discount it, and the obligee had refused to do so—the Court *held* that there had been no delivery to him, either actual or constructive; and that to an action brought on the note in his name, either for his own benefit, or for that of any other person, the plea of *non est factum* was a good defence.—*Brooks* v. *Bobo*..... 38

DEMAND.

Vide *Promise*, 3, 6.

DENIAL.

Vide *Evidence*, 15.

DISCOUNT.

1. Plaintiff, as assignee, sued defendant as maker of a promissory note, which was past due before it was transferred, and defendant claimed to be credited with the amount of a note which the assignor had given to a third person, (which was also past due when defendant's note was assigned to the plaintiff,) and which defendant had agreed to pay as part of the note sued on; the Court *held* that the jury were properly instructed to allow the discount, if defendant had assumed to pay this note, and had been exclusively looked to and bound to pay it.—*Quackenbush* v. *Miller*..... 235

DISTRIBUTEE.

Vide *Former Recovery*, 2.

DORMANT PARTNER.

Vide *Action on the Case*, 1.

DOWER.

Vide *Judgment*, 1.

ENDORSEE.

Vide *Indorsee.*

ENDORSEMENT.

Vide *Indorsement.*

ESCAPE.

1. The sheriff may suffer a prisoner arrested on mesne process to go at large, without being liable for an escape, but the bail bond is the only sufficient excuse which he can have for not bringing in the body at the return of the writ. *Cook* v. *Irving*. 204

ESTATE IN REMAINDER.

Vide *Presumption*, 6.

EVIDENCE.

1. Evidence as to the reputation of a woman, acquired after the commencement of an action brought by her on a promise to marry,—held to be inadmissible for the defence.—*Capehart* v. *Carradine* 42

2. In an action on a promise to marry, if the defendant, in mitigation of damages, attempt to show the general bad character of the plaintiff, he will be held to show, not the fact that there are reports injurious to her character, but a reasonable or a good foundation for such reports; and also that he was ignorant of her character when he made the promise ..... *Ib.*

3. The Court will not undertake to control a jury where there was evidence on the question submitted to them, although that evidence was not so satisfactory as it might have been.—*Richardson* v. *Provost* 57

4. All objections to the admissibility of evidence should be made, if known, at the time the evidence is offered ..... *Ib.*

5. The defendant would have given in evidence the record of a mortgage executed to him by his brother, although this was collateral to the issue, but it was *held* he must account for it, by showing the destruction or loss of the original, before the secondary proof could be let in.—*Mowry* v. *Schroder* 69

6. It is necessary to prove a deed, or any other attested instrument, by the subscribing witness. The acknowledgement of the grantor is incompetent evidence, though made under oath in an answer to a bill in Chancery. The rule is not confined to an issue between the immediate parties to the instrument; but is the same if the acknowledgement is offered as evidence against a third person, and whether it is the foundation of the action, or comes in collaterally, as part of the evidence in the cause. Vide 1 *Phil. Ev.* 465.—*Spencer* v. *Bedford* 96

7. The defendant may prove, by the subscribing witness, as part of the transaction, the conversation of the parties to the instrument, before or at the time of the execution, which may qualify it, or affect its validity. The rule extends to any declarations of the parties forming a part of the transaction, which materially affect the act done ..... *Ib.*

8. The issue was whether the consideration, the receipt of which was acknowledged in the deed, had in fact been paid when the deed was executed.—When, for the plaintiff, the witness answered that he saw no money paid, which *prima facie* falsified the receipt, it was competent for the defendant, in reply,

to show, by the admissions of the parties, that something besides money had been accepted in payment, or, in any other way, restore credit to the receipt.... *Ib.*

9. Parol evidence offered to prove the result of the trial had in the Court of Magistrates and Freeholders, *held* to be incompetent.—*State* v. *Green* (note)..... 128

10. On the trial of an indictment for the murder of a slave, evidence to show that the prisoner had but a short time before, through the instrumentality of the slave, procured the murder of his own wife, was *held* to be admissible, as supplying an inducement to the murder of the slave, and indicating the character of the motive with which it was perpetrated.—*State* v. *Posey*..... 142

11. Where the Court perceived sufficient evidence to sustain the conclusion of the jury, they refused to disturb the verdict on the ground that it was inconsistent in having affirmed the guilt of the principal, and acquitted those charged as accessaries on the same testimony; (that of accomplices.)..... *Ib.*

12. Upon the trial of an indictment for conspiracy, when evidence has been given which warrants the jury to consider whether the prisoner was engaged in the alleged conspiracy, and had combined with others for the same illegal purpose, any act done or declarations made by one of the party, in pursuance and promotion of the common object, are evidence against the rest; but what one of the party may have said, not in pursuance of the plot, cannot be received against the others.—*State* v. *Simons*..... 266

13. When one party produces partial evidence of a conversation with the other party to the suit, the latter has a right to disclose the whole conversation. But the conversation of a witness with a *third* person, is not, in itself, evidence against any party to the suit. It becomes evidence only as it may affect the character and credit of the witness; and the re-examination of the witness must be limited to such inquiries as may put the Court in possession of all which may affect his character and credit..... *Ib.*

14. Although there was evidence of the co-operation of the defendant with his co-defendant to elude the creditors of the latter in procuring a discharge under the insolvent debtor's act, sufficient to support a charge of conspiracy to detain and secrete funds and effects of the co-defendant from the claims of his creditors; yet where the only evidence that the defendant had any such funds, or that they had been deposited with him, consisted in the declarations of his co-defendant, whose unprincipled character was admitted by all parties, and who made the declarations under the strong influences of resentment, fear and interest, and in contradiction of circumstances; the fund deposited being the *corpus delicti*, the Court *held* the evidence in support of the charge againstthe defendant to be unsatisfactory, and ordered a new trial..... *Ib.*

15. A denial of guilt is not excluded by the terms of the rule which excludes confessions, nor is it excluded by the reason of the rule. The denial of the prisoner that he had been near the place of the theft, or had even seen the stolen goods, may be given in evidence and shown to be untrue, for the purpose of establishing his guilt.—*State* v. *Clark*..... 311

16. Though the prisoner cannot be convicted by his confession of a fact tending to criminate himself, yet his statement of the fact may be received in evidence, and his knowledge of the fact may be connected with proof of its existence, so that his guilt may be inferred..... *Ib.*

17. The rules of evidence are directed to the proof of the issue by competent testimony. They do not require that all the witnesses who may have been present when the offence was committed, or who may be supposed to possess information respecting it, should be produced. If the case be fully proved, the verdict will not be set aside on the suggestion that, if a certain witness had been cal-

led for the prosecution, he would or might have given evidence to show the prisoner's innocence in Court. If any doubt arises respecting the guilt of the prisoner, from the obscurity which rests on any material circumstances of the offence, that is considered by the jury..... *Ib.*

18. The obvious and necessary condition of the presumption of larceny, from the possession of the article unaccounted for, is that it should have been stolen; yet where the evidence against the prisoner was not limited to the presumption arising from possession, and where the whole evidence was brought to the view of the jury, which sufficiently established the fact that the article was stolen and that the prisoner was the thief, the Court will not disturb the verdict..... *Ib.*

Vide *Former Recovery*, 1. *Account, Books of*, 12. *Partners*, 2. *Possession*, 3. *Verdict*, 2. *Fraud*, 3.

EXECUTORS AND ADMINISTRATORS.

1. One of two Administrators may transfer by indorsement, a note due their intestate.—*Mosely* v. *Graydon*..... 7

Vide *Admissions*, 1, 2. *Marital Rights*, 1.

FELONY.

Vide *Slaves*, 1, 2, 3. *Clergy, Benefit of*, 12.

FIERI FACIAS.

Vide *Sheriff's Bond*, 3, 4.

FINE.

Vide *Contempt*, 1, 2, 3.

FORMER RECOVERY.

1. Action on the case for overflowing the plaintiffs's lands, by the obstruction of a mill dam. There had been a former suit between the same parties, and a verdict rendered for the plaintiffs. The defendant attempted to justify the continuance of the nuisance, by the allegation that the land was his own proper freehold, and by the production of a deed, the existence of which he had attempted to prove on the former trial. The former recovery was given in evidence, under the general issue. The Court *held* that it concluded the title to the land, so far as it was involved in that action, and that the defendant having failed then, to prove his deed, could not be permitted to do so now, to defeat the recovery of the plaintiff, for a continuance of the same nuisance.—*Jones* v. *Weathersbee*..... 50

2. In trespass to try title, a former recovery against one of the distributees of the land, and his acknowledgment in writing that the land in controversy was the plaintiff's, will not operate as a conveyance to the plaintiff of the share of the distributee. Even if it could otherwise so operate, it cannot when there is nothing in the record of the former recovery which shows that the trespass therein complained of was on the parcel of land in dispute. The utmost effect of it would be to bar the distributee himself, if so pleaded, should he afterwards claim alone. It will not be a bar to such distributee when suing jointly with his co-distributees, nor prevent their recovering the whole of the land.—*Murray* v. *Stephens*..... 350

FRANCHISE.

Vide *Acceptance*, 1, 2.

FRAUD.

1. An action on the case for knowingly and fraudulently selling and representing as unpaid, a single bill which had been paid, was held to have been properly brought by the party to whom the bill had been sold, although he had transferred it to another, by written assignment without recourse, for valuable consideration. The Court refusing to look beyond the plaintiff's present possession of the bill.—*Spikes* v. *English* 34

2. Sales at auction, or otherwise, of his goods, with the intent to defraud his creditors out of the proceeds, is such a fraud as the law contemplates, and will prevent the discharge under the Insolvent Debtor's Act, of the party making such sale.—*Hyams* v. *Valentine* 408

3. On the trial of a suggestion of fraud, where defendant's books have been introduced, it is not for the Circuit Judge to instruct the jury that they are evidence to discharge him. The jury are to pass upon their sufficiency for that purpose. *Ib.*

4. Any fraudulent device, executed, whereby a creditor is swindled out of assets to which he is entitled, is such a fraud as the law contemplates. And if a course of cunning trickery is employed to effect that object, the jury have a right to track the fraud through the circumstances which the perpetrator has sought to throw around it, and to employ for that end the test of common sense, in unravelling and weighing the circumstances, well proved, that may affect their judgment ..... *Ib.*

5. On the trial of a suggestion of fraud, a verdict of "guilty generally," where all the grounds charge fraud of the same character, is sufficient ..... *Ib.*

Vide *Pleading* 3, 4. *Principal and Agent*, 12.

FRAUDS, STATUTE OF.

1. Plaintiffs, auction and commission merchants, refused to deliver goods bought on a credit at their sale, by a Mrs. Owens, unless defendant would indorse her note for the payment. This, defendant verbally agreed to do, and the goods were delivered to, and entered in the name of Mrs. O. on their books. Defendant having failed to indorse as agreed upon, plaintiffs brought assumpsit against him. The court *held* the undertaking of defendant to be merely collateral, and as surety for Mrs. O. without consideration, and within the Statute of Frauds. *Taylor* v. *Drake* 431

2. If the person for whose use goods are furnished, be liable at all, any promise by a third person to pay that debt, must be in writing. *Leland* v. *Creyon*, 1 M'C. 100. ..... *Ib.*

3. The goods delivered to the original purchaser, are the consideration of his indebtedness, and cannot be extended also into a consideration to a party undertaking for him provisionally ..... *Ib.*

"FREE INDIANS."

1. The exceptions in the Act of 1740 in favor of "free Indians in amity with this Government," apply to "free Indians," and their descendants, domiciled in this State, although disconnected with any tribe of Indians; and not merely to Indians preserving a national character, and in amity with the State. *State* v. *Belmont* 445

FRIVOLOUS PLEAS.

Vide *Pleading*, 5, 6, 7, 8, 9.

FUND IN COURT.

Vide *Attachment*, 4.

GARNISHEE

Vide *Attachment*, 2.

GEORGETOWN.

Vide *Town Council of Georgetown*,

GRANT.

Vide *Acceptance*, 1, 2.

GRAVEYARD.

Vide *City Council of Charleston*, 4. *Deed*, 1.

HOLYDAY.

Vide *Sunday*, 1, 2.

HOUSE BURNING.

Vide *Clergy, Benefit of*, 2.

HUSBAND AND WIFE.

Vide *Marital Rights*, 1.

IMPLIED WARRANTY.

Vide *Presumption*, 5.

INDIANS.

Vide *Free Indians*, 1.

INDICTMENT.

1. In an indictment against a white man as accessary to a murder committed by a slave, in laying the crime of the slave as principal in the murder, it is not necessary to allege that his offence was "*contra formam statuti.*"—*State* v. *Posey*. 104

1. It is not necessary in an indictment against an accessary before the fact in a felony, to set out the conviction of the principal. Vide *State* v. *Sims* and *State* v. *Crank*, pages 29 and 66 of 2 Bailey's Reports..... *Ib.*

3. Although an act be done by one unknown, yet if another be actually or constructively present, aiding and abetting, it may be laid in the indictment as the act of the aider or abetter.—*State* v. *Green*, (note)..... 128

4. The distinction of principal in the first and second degree was a mere distinction in fact, and is no longer recognized..... *Ib.*

5. A count in the indictment charged the murder to have been committed by a person unknown, and that the prisoner was accessary thereto before the fact. The count was *held* to be sufficient..... *Ib.*

6. The grand and petit jurors were summoned to attend, and the indictment alleged that the bill was found at "*Horry Court House*," instead of "*Conwayborough*," (the place appointed by law for holding the Courts of Horry Dis-

CATALOGUE

OF THE

SOUTH CAROLINA COLLEGE,

1854.

NOTE.—Every person who may receive this Catalogue is requested to notice any error or omissions which, with positive certainty, he can say have been made, and to communicate corrections by letter, addressed to "The Librarian South Carolina College, Columbia, S. C." As to deaths and professions, particularly, it is supposed that information up to this time has been imperfect, and that changes will take place. It is contemplated to publish a corrected Catalogue in the summer of 1855 or 1856.

JAMES D. BLANDING.

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1854.

ABBREVIATIONS.

*	signifies	Dead.
A. B.	"	Bachelor of Arts.
A. M.	"	Master of Arts.
Atty. U. S.	"	District Attorney of United States.
Atty. Gen.	"	Attorney General of South Carolina.
Bish.	"	Bishop.
Ch. S. C.	"	Chancellor of South Carolina.
Civ. En.	"	Civil Engineer.
Clk. Sen.	"	Clerk of the Senate of South Carolina.
Com. Eq.	"	Commissioner in Equity of South Carolina.
Comp. Gen.	"	Comptroller General of South Carolina.
D. D.	"	Doctor of Divinity.
Judge S. C.	"	Judge of the State of South Carolina.
Gov. S. C.	"	Governor of the State of South Carolina.
Lt. Gov.	"	Lieutenant Governor of South Carolina.
L.	"	Lawyer.
LL.D.	"	Doctor of Learned Laws.
M. D.	"	Doctor of Medicine.
M. G.	"	Minister of the Gospel.
Pres. Bk.	"	President of a Bank.
Pres. Sen.	"	President of the Senate of South Carolina.
Pres. Col.	"	President of a College.
Prof.	"	Professor of a College.
Rep.	"	Representative in Legislature of South Carolina.
Sen.	"	Senator in Legislature of South Carolina.
Spk. H. R.	"	Speaker of the House Representatives of S. C.
Secty. S. C.	"	Secretary of the State of South Carolina.
Sol.	"	Solicitor of the State of South Carolina.
U. S. A.	"	Officer of the United States Army.
U. S. Con.	"	Consul of the United States.
U. S. J.	"	Judge of the United States.
U. S. Min.	"	Minister of the United States.
U. S. N.	"	Officer of the United States Navy.
U. S. R.	"	Representative in United States Congress.
U. S. S.	"	Senator in the United States Congress.

TRUSTEES.

By the act incorporating the College, passed in 1801, the Governor, the Lieutenant Governor, the President of the Senate, the Speaker of the House of Representatives, the Associate Judges, and the Judges of the Court of Equity of the State of South Carolina, were made, *ex-officio*, Trustees, and these, with thirteen persons appointed by the Legislature, to continue in office for four years, constituted the Board of Trustees. According to provisions enacted, an election by joint ballot of both branches of the Legislature, was made in 1805, and has been made every fourth year since, of Trustees *not ex-officio*—thirteen until 1825, and twenty afterwards—and vacancies occurring in the intervals have been filled by the Board.

In 1824, a separate Court of Appeals was established, the term *Associate Judges* was dropped, and that of *Circuit Judges* adopted for the Judges of the Courts of Law who were not members of the Court of Appeals; and the Judges of the Court of Equity were denominated *Chancellors*. In 1825, it was enacted that the Board shall "consist of the Governor and Lieutenant Governor of the State, the President of the Senate, the Speaker of the House of Representatives, the Judges of the Courts of Appeals, the Circuit Judges of the Court of Law, and the Chancellors, *ex-officio*; together with twenty other persons, to be elected by joint ballot of the Senate and House of Representatives, to continue in office four years, and until others shall be elected." In the changes of the Judiciary System, made by the acts of 1835 and 1836, the separate Court of Appeals was abolished, and all the Judges of the Superior Courts of Law and Equity in the State—two in number—were classed as *Law Judges*, or as Chancellors, were required to do circuit duty, and were made members of one or other of the two Courts of Appeals, which the two classes constitute for law and equity respectively, and also members of the Court of Errors, which is composed of the whole of the Judges assembled to hear appeals on certain questions.

By act of 1853, the Chairman of the Committee on the College, Education and Religion, of the Senate, and the Chairman of the Committee on Education, of the House of Representatives, were made, *ex-officio*, members of the Board.

So that the whole number of members which now belong to a full Board is thirty-six. Nine may constitute a quorum for the transaction of any business, except the appointment of an officer; which can be done only at an annual meeting and when a majority of the Board are present.

The Governor is, *ex-officio*, President of the Board; in his absence, the Lieutenant Governor, President of the Senate, or Speaker of the House of Representatives, in the order named, in absence of all these, a President *pro tem.*

1801.

* Gov. John Drayton,
* Lt. Gov. Richard Winn,
* Pres. of Sen. John Ward,
* Spk. H. R. Theodore Gaillard,
* Associate Judge John Faucheraud Grimkè,
* Associate Judge Elihu Hall Bay,
* Associate Judge Joseph Brevard,
* Associate Judge William Johnson,
* Associate Judge Lewis Trezevant,
* Equity Judge Hugh Rutledge,
* Equity Judge William Marshall,
* Equity Judge William Dobien James,
* Charles Cotesworth Pinckney,
* Henry William DeSaussure,
* Thomas Taylor, Sr.,
* D. E. Dunlap,
* John Brown, (of Lancaster,)
* Wade Hampton, Sr.,
* John Chesnut,
* James Burchell Richardson,
* Isaac Alexander,
* Henry Dana Ward,
* Samuel Yongue,
* William Falconer,
* Barthee Smith.

1802.

* Gov. James Burchell Richardson,
* Lt. Gov. Ezekiel Pickens,
* Pres. of Sen. John Ward,
* Spk. H. R. Robert Stark,
* John Taylor.

1803.

* Pres. of Sen. John Gaillard,
* Abram Nott.

1804.

* Gov. Paul Hamilton,
* Lt. Gov. Thomas Sumter, Jr.,
* Pres. of Sen. John Ward,
* Spk. H. R. William Cotesworth Pinckney,

Associate Judge Thomas Lee,
Associate Judge William Johnson,
* Jonathan Maxcy.

1805.

* Gov. Paul Hamilton,
* Lt. Gov. Thomas Sumter, Jr.,
* Pres. of Sen. Robert Barnwell,
* Spk. H. R. Joseph Alston,
* Associate Judge John Faucheraud Grimkè,
* Associate Judge Thomas Waties,
* Associate Judge Elihu Hall Bay,
* Associate Judge Lewis Trezevant,
* Associate Judge Joseph Brevard,
* Associate Judge Samuel Wilds,
* Associate Judge William Johnson,
* Equity Judge Hugh Rutledge,
* Equity Judge Waddy Thompson,
* Equity Judge William Dobien James.
* Thomas Taylor, Sr.,
* Abram Nott,
* Zachariah Cantey,
* William Smith,
* Robert Stark,
* John Ward,
* Jonathan Maxcy,
* Richard Gantt,
* Henry Deas,
* David R. Evans,
* Wade Hampton, Sr.,
* Joseph Blythe.

1806.

* Gov. Charles Pinckney,
* Lt Gov. John Hopkins,
* Pres. of Sen. William Smith,
* Spk. H. R. Joseph Alston,
* John Taylor.

1808.

* Gov. John Drayton,
* Lt. Gov. Frederick Nance,
* Pres. of Sen. William Smith,
* Pres of Sen. Samuel Warren,
* Spk. H. R. Joseph Alston,
* Associate Judge William Smith,
* Equity Judge H. Wm. DeSaussure,
* Equity Judge Theodore Gaillard.

1809.

* Gov. John Drayton,
* Lt. Gov. Frederick Nance,
* Pres. of Sen. Samuel Warren,
* Spk. H. R. Joseph Alston,
* Associate Judge John F. Grimkè,
* Associate Judge Elihu Hall Bay,
* Associate Judge Thomas Waties,
* Associate Judge Joseph Brevard,
* Associate Judge Samuel Wilds,
* Associate Judge William Smith,
* Equity Judge Hugh Rutledge,
* Equity Judge William Dobien James,
* Equity Judge Waddy Thompson,
* Equity Judge Henry William DeSaussure,

* Equity Judge Theodore Gaillard,
* David R. Evans,
* Joseph Gist,
* Robert Stark,
* John Caldwell Calhoun,
* Richard Gantt,
* John Taylor,
* John Smythe Richardson,
* Abram Nott,
* Benjamin Haile,
* John Murphy,
* James Ervin,
John J. Chappell,
* James B. Richardson.

1810.

* Gov. Henry Middleton,
* Lt. Gov. Samuel Farron,
* Pres. of Sen. Samuel Warren,
* Spk. H. R. John Geddes,
* Judge Abram Nott,
* James Hibben.

1811.

* Associate Judge Charles Jones Colcock.

1812.

* Gov. Joseph Alston,
* Lt. Gov. Eldred Smipkins,
* Pres. of Sen. Samuel Warren,
* Spk. H. R. John Geddes,
* Henry Dana Ward,
* John M. Felder.

1813.

* Gov. Joseph Alston,
* Lt. Gov. Eldred Simpkins,
* Pres. of Sen. James B. Richardson,
* Pres. of Sen. Savage Smith,
* Spk. H. R. John Geddes,
* Associate Judge John F. Grimkè,
* Associate Judge Elihu Hall Bay,
* Associate Judge Joseph Brevard,
* Associate Judge Abram Nott,
* Associate Judge Charles J. Colcock,
* Associate Judge William Smith,
* Equity Judge William D. James,
* Equity Judge Waddy Thompson,
* Equity Judge Henry William DeSaussure,
* Equity Judge Theodore Gaillard,
* Equity Judge Thomas Waties,
* Joseph Gist,
* Richard Gantt,
* Walter Crenshaw,
* Henry Dana Ward,
* Robert Stark,
* Jonathan Maxcy,
Daniel Elliot Huger,
* James Hibben,
* John Hooker,
* William Harper,
John Caldwell,
* John Murphy,
* James Ervin.

1814.

* Gov. David Roger Williams,
Lt. Gov.
* Pres. of Sen. James R. Pringle,
Spk. H. R. Thomas Bennett.

1815.

* Associate Judge Richard Gantt,
Associate Judge David Johnson,
* Abram Blanding.

1816.

* Gov. Andrew Pickens,
* Lt. Gov. —— Cuthbert,
Associate Judge Langdon Cheves,
* Pres. of Sen. James R. Pringle,
Spk. H. R. Thomas Bennett,
* Edward Fisher,
* William Edward Hayne.

1817.

* Gov. Andrew Pickens,
* Lt. Gov. —— Cuthbert,
* Pres of Sen. James R. Pringle,
Spk. H. R. Thomas Bennett,
* Associate Judge John F. Grimkè,
* Associate Judge Elihu Hall Bay,
* Associate Judge Charles Jones Colcock,
* Associate Judge Abram Nott,
* Associate Judge Richard Gantt,
Associate Judge David Johnson,
Associate Judge Langdon Cheves,
* Equity Judge Henry William De-Saussure,
* Equity Judge Theodore Gaillard,
* Equity Judge Thomas Waties,
* Equity Judge William D. James,
* Equity Judge Waddy Thompson,
* Jonathan Maxcy,
* William Harper,
* Abram Blanding,
* John Keitt,
Jacob Bond Ion,
Francis Kinloch Huger,
* John Taylor,
* Warren Ransom Davis,
John Belton O'Neall,
* Robert Stark,
* Joseph Gist,
* David Roger Williams,
* John G. Brown.

1818.

* Gov. John Geddes,
* Lt. Gov. William Youngblood,
* Pres. Sen. James R. Pringle,
* Spk. H. R. Robert Yongue Hayne,
* Spk. H. R. Patrick Noble,
* Associate Judge John S. Richardson,
Josiah J. Evans,
* William Edward Hayne,
* George McDuffie,
Daniel Elliot Huger.

1819.

* Pres. Sen. Benjamin Huger.

1820.

Gov. Thomas Bennett,
* Lt. Gov. William Cotesworth Pinckney,
* Pres. Sen. Benjamin Huger,
* Spk. H. R. Patrick Noble,
* Stephen Elliot.

1821.

Gov. Thomas Bennett,
* Lt. Gov. William Cotesworth Pinckney,
* Pres. Sen. Benjamin Huger,
* Spk. H. R. Patrick Noble,
* Associate Judge Elihu Hall Bay,
* Associate Judge Abram Nott,
* Associate Judge Charles J. Colcock,
* Associate Judge Richard Gantt,
Associate Judge David Johnson,
* Associate Judge John S. Richardson,
* Associate Judge Daniel E. Huger,
* Equity Judge Henry William DeSaussure,
* Equity Judge Theodore Gaillard,
* Equity Judge Thomas Waties,
* Equity Judge William D. James,
* Equity Judge Waddy Thompson,
Josiah J. Evans,
Jacob Bond Ion,
James S. Deas,
* John Lide Wilson,
* Stephen Elliott,
* Warren Ransom Davis,
* William Edward Hayne,
* John Taylor,
* William A. Bull,
* Benjamin T. Elmore,
* James Gregg,
* William Crafts,
* John Ramsay.

1822.

* Gov. John Lide Wilson,
* Lt. Gov. Henry Bradley,
* Pres. Sen. John Lide Wilson,
Pres. Sen. Jacob Bond Ion,
* Spk. H. R. Patrick Noble,
John Belton O'Neall,
William C. Preston,
William J. Grayson.

1824.

* Gov. Richard Irvine Manning,
* Lt. Gov. William A. Bull,
Pres. Sen. Jacob Bond Ion,
Spk. H. R. John Belton O'Neall.

1825.

* Gov. Richard Irvine Manning,
* Lt. Gov. William A. Bull,
Pres. Sen. Jacob Bond Ion,
Spk. H. R. John Belton O'Neall,
* Judge Ct. Ap. Abram Nott,
* Judge Ct. Ap. Charles J. Colcock.
Judge Ct. Ap. David Johnson,
* Ch. Henry W. DeSaussure,
* Ch. Waddy Thompson,
* Circuit Law Judge Elihu Hall Bay,
* Circuit Law Judge Theodore Gaillard,
* Circuit Law Judge Richard Gantt,
* Circuit Law Judge Daniel Elliott Huger,
* Circuit Law Judge Wm. D. James,
* Circuit Law Judge John S. Richardson,
* Circuit Law Judge Thos. Waties,
Josiah J. Evans,
* David R. Williams,
* Stephen Elliott,
William J. Grayson,
* Stephen D. Miller,
* Baylis John Earle,
Alfred Huger,
* Franklin H. Elmore,
* William A. Bull,
James S. Deas.

1826.

* Gov. John Taylor,
* Lt. Gov. James Harvey Witherspoon,
Pres. Sen. Jacob Bond Ion,
Spk. H. R. John Belton O'Neall,
* Richard J. Manning,
Wade Hampton, Jr.

1828.

* Gov. Stephen D. Miller,
Lt. Gov. Thomas Williams,
* Pres. Sen. Henry Deas,
* Spk. H. R. William Harper.
Spk. H. R. Benj. Fanuiel Dunkin,
* Ch. William Harper,
Circuit Law Judge John B. O'Neall,
Jacob Bond Ion,
David Lewis Wardlaw.

1829.

* Gov. Stephen D. Miller,
Lt. Gov. Thomas Williams,
* Pres. Sen. Henry Deas,
Spk. H. R. Benj. Fanuiel Dunkin,
* Judge Ct. Ap. Abram Nott,
* Judge Ct. Ap. Charles J. Colcock,
Judge Ct. Ap. David Johnson,
* Ch. Henry W. DeSaussure,
* Ch. William Harper,
* Circuit Law Judge Elihu H. Bay,

* Circuit Law Judge Richard Gantt,
* Circuit Law Judge Daniel Elliott Huger,
* Circuit Law Judge John S. Richardson,
Circuit Law Judge John Belton O'Neall,
Circuit Law Judge Josiah J. Evans,
Jacob Bond Ion,
* Richard J. Manning,
* David R. Williams,
* Stephen Elliott,
William J. Grayson,
* Baylis John Earle,
Alfred Huger,
* Franklin H. Elmore,
Whitemarsh B. Seabrook,
James S. Deas,
William Campbell Preston,
* Hugh Swinton Legare,
Wade Hampton, Jr.,
* James Gregg,
Thompson T. Player,
David Lewis Wardlaw,
Job Johnston,
David J. McCord,
Andrew Pickens Butler,
Henry Laurens Pinckney.

1830.

Gov. James Hamilton,
* Lt. Gov. Patrick Noble,
* Pres. Sen. Henry Deas,
Spk. H. R. Henry L. Pinckney,
Ch. Job Johnston,
* Circuit Law Judge William D. Martin,
* Circuit Law Judge Baylis J. Earle,
Waddy Thompson,
Philip Edward Pearson,
Thomas Smith,
Daniel E. Huger,
Robert B. Campbell.

1832.

* Gov. Robert Yongue Hayne,
* Lt. Gov. Charles C. Pinckney,
* Pres. Sen. Henry Deas,
* Spk. H. R. Patrick Noble,
James Hamilton, Jr.

1833.

* Gov Robert Yongue Hayne,
Lt. Gov. Thomas Wright,
* Pres. Sen. Henry Deas,
* Spk. H. R. Patrick Noble,
Judge Ct. Ap. David Johnson,
Judge Ct. Ap. John B. O'Neall,
* Judge Ct. Ap. William Harper,
* Ch. Henry William DeSaussure,
Ch. Job Johnston,
* Circuit Law Judge Elihu Hall Bay,
* Circuit Law Judge Richard Gantt,
* Circuit Law Judge John S. Richardson,
Circuit Law Judge Josiah J. Evans,
* Circuit Law Judge Baylis J. Earle,
Circuit Law Judge Andrew P. Butler,
* Franklin H. Elmore,
* James Gregg,
Wade Hampton, Jr.,

Alfred Huger,
* Daniel E. Huger,
* William Frederick Davie,
* Richard J. Manning,
David J. McCord,
Thompson T. Player,
Philip E. Pearson,
Whitemarsh B. Seabrook,
Waddy Thompson Jr.,
James Rose,
David Lewis Wardlaw,
* Pierce M. Butler,
Thomas W. Glover,
Thomas Jefferson Withers,
* Edward Fisher, Sr.,
William Ford DeSaussure,
Christian P. Bookter.

1834.

* Gov. George McDuffie,
Lt. Gov. W. B. Seabrook,
* Pres. Sen. Henry Deas,
* Spk. H. R. Patrick Noble,
James Hamilton, Jr.,
* Robert Y. Hayne.

1835.

James Louis Petigru,
Robert W. Barnwell.

1836.

* Gov. Pierce M. Butler,
Lt. Gov. William Dubose,
* Pres. Sen. Patrick Noble,
Spk. H. R. David Lewis Wardlaw,
Thomas Smith,
Joseph Newton Whitner,
* David H. Means,
* George McDuffie.

1837.

* Gov. Pierce M. Butler,
Lt. Gov. William Dubose,
* Pres. Sen. Patrick Noble,
Spk. H. R. David L. Wardlaw,
* Law Judge Richard Gantt,
* Law Judge John S. Richardson,
Law Judge John Belton O'Neall,
Law Judge Josiah J. Evans,
* Law Judge Baylis J. Earle,
Law Judge Andrew P. Butler,
Ch. David Johnson,
* Ch. William Harper,
Ch. Job Johnston,
Ch. Benjamin F. Dunkin,
Joseph E. Jenkins,
* James Gregg,
Wade Hampton, Jr.,
Christopher Gustavus Memminger,
William F. Colcock,
* Abram Blanding,
David J. McCord,
Thompson T. Player,
James Hamilton, Jr.,
* Robert Yongue Hayne,
James Louis Petigru,
* George McDuffie,
Thomas J. Withers,
* Edward H. Anderson,
Joseph N. Whitner,
Maximilian Laborde,
William Ford DeSaussure,
Robert W. Barnwell,
Thomas Smith,
* David H. Means.

1838.

* Gov. Patrick Noble,
Lt. Gov. B. K. Hennagan,
* Pres. Sen. Patrick Noble,
* Pres. Sen. Angus Patterson,
Spk. H. R. David L. Wardlaw.

1839.

James Gillespie,
Thomas N. Dawkins.

1840.

Gov. John Peter Richardson,
Lt. Gov. W. K. Clowney,
James H. Hammond,
Robert Francis Withers Allston.

1841.

Gov. John Peter Richardson,
Lt. Gov. William K. Clowney,
* Pres. Sen. Angus Patterson,
Spk. H. R. David L. Wardlaw,
Spk. H. R. William F. Colcock,
* Judge J. S. Richardson,
Judge John B. O'Neall,
Judge Josiah J. Evans,
* Judge Baylis J. Earle,
Judge A. Pickens Butler,
Judge David Lewis Wardlaw,
Ch. David Johnson,
* Ch. William Harper,
Ch. Job Johnston,
Ch. Benjamin F. Dunkin,
* James Gregg,
Wade Hampton, Jr.,
* George McDuffie,
Christopher G. Memminger,
Thomas J. Withers,
Joseph Newton Whitner,
Maximilian Laborde,
William Ford DeSaussure,
Robert W. Barnwell,
Thomas N. Dawkins,
Thomas Smith,
James Gillespie,
Robert F. W. Allston,
James H. Hammond,
Whitemarsh B. Seabrook,
Edmund Bellinger, Jr.,
* Daniel E. Huger,
William McWillie,
John Lawrence Manning,
James H. Adams.

1842.

Gov. James H. Hammond,
Lt. Gov. Isaac Donnom Witherspoon,
* Pres. Sen. Angus Patterson,
Spk. H. R. William F. Colcock.

1843.

Judge Edward Frost,
William Campbell Preston,
Robert Henry.

1844.

Gov. William Aiken,
Lt. Gov. John F. Ervin,
* Pres. Sen. Angus Patterson,
Spk. H. R. William F. Colcock.

1845.

Gov. William Aiken,
Lt. Gov. John F. Ervin,
* Pres. Sen. Angus Patterson,
Spk. H. R. William F. Colcock,
* Judge John S. Richardson,
Judge John B. O'Neall,
Judge Josiah J. Evans,
Judge A. Pickens Butler,
Judge David Lewis Wardlaw,
Judge Edward Frost,
Ch. David Johnson,
* Ch. William Harper,
Ch. Job Johnston,
Ch. Benjamin F. Dunkin,
* James Gregg,
William Ford DeSaussure,
Robert W. Barnwell,
Thomas Smith,
James Gillespie,
Edmund Bellinger, Jr.,
W. B. Seabrook,
James H. Adams,
Benjamin F. Perry,
* William F. Davie,
Wade Hampton,
Christopher G. Memminger,
Thomas J. Withers,
Joseph N. Whitner,
Thomas N. Dawkins,
John L. Manning,
Robert F. W. Allston,
John Buchanan,
Henry C. Young,
Isaac Donnom Witherspoon.

1846.

Gov. David Johnson,
Lt. Gov. William Cain,
* Ch. James J. Caldwell,
Judge Thomas J. Withers.

1847.

Francis Hugh Wardlaw,
Ch. George Washington Dargan,
Robert Wilson Gibbes.

1848.

Gov. Whitemarsh B. Seabrook,
Lt. Gov. William H. Gist,
* Pres. Sen. Angus Patterson,
Spk. H. R. John Izard Middleton.

1849.

Gov. Whitemarsh B. Seabrook,
Lt. Gov William H. Gist,
* Pres. Sen. Angus Patterson,
Spk. H. R. John Izard Middleton,
* Judge John S. Richardson,
Judge John Belton O'Neall,
Judge Josiah J. Evans,
Judge David Lewis Wardlaw,
Judge Edward Frost,
Judge Thomas J. Withers,
Ch. Job Johnston,
Ch. Benjamin F. Dunkin,
* Ch. James J. Caldwell,
Ch. George W. Dargan,
Thomas N. Dawkins,
Robert W. Barnwell,
Robert F. W. Allston,
John Buchanan,
Joseph N. Whitner,
Francis Hugh Wardlaw,
Benjamin F. Perry,
William F. DeSaussure,
Christopher G. Memminger,
John L. Manning,
Isaac D. Witherspoon,
Wade Hampton,
Henry C. Young,
James H. Adams,
Edmund Bellinger, Jr.,
Thomas Smith,
James Gillespie,
James Louis Petigru,
John S. Preston,
David Johnson.

1850.

Gov. John Hugh Means,
Lt. Gov Joshua John Ward,
Pres. Sen. Robert Francis Withers Allston,
Spk. H. R. James Simons,
Ch. Francis Hugh Wardlaw,
Judge Joseph Newton Whitner,
Robert Wilson Gibbes,
John Izard Middleton,
Franklin J. Moses.

1851.

William Campbell Preston.

1852.

Gov. John Lawrence Manning,
Lt. Gov. J. H. Irby,
Pres. Sen. Robert F. W. Allston,
Spk. H. R. James Simons.

1853.

Gov. John L. Manning,
Lt. Gov. J. H. Irby,
Pres. Sen. Robert F. W. Allston,
Spk. H. R. James Simons,
Ch. Com. Ed. Sen. J. F. Townsend,
Ch. Com. Ed. H. R. C. P. Sullivan,
Judge John Belton O'Neall,
Judge D. Lewis Wardlaw,
Judge Thomas J. Withers,
Judge Joseph N. Whitner,

Judge Thomas W. Glover,
Judge R. Munro,
Ch. Job Johnston,
Ch. Benjamin F. Dunkin,
Ch. George W. Dargan,
Ch. Francis H. Wardlaw,
Thomas N. Dawkins,
Benjamin F. Perry,
John Izard Middleton,
John Hugh Means,
James Chesnut, Jr.,
William F. DeSaussure,
Robert W. Barnwell,
John S. Preston,
William C. Preston,
J. Donnom Witherspoon,
C. G. Memminger,
Thomas Smith,
James H. Adams,
James Gillespie,
David Johnson,
John Buchanan,
Franklin J. Moses,
Wade Hampton, Sr.,
James L. Petigru,
Robert W. Gibbes.

SECRETARIES OF THE BOARD OF TRUSTEES S. C. C.

1804, Benjamin Haile.
1805, Clement Early.
1806, James Guignard, (Declined to accept.)
1806, Anderson Crenshaw.
1808, Walter Crenshaw.
1813, J. J. Goodwyn.
1813, William F. DeSaussure.
1826, Ezek H. Maxcy.
1834, Edward W. Johnston.
1836, Alester Garden.
1843, James D. Blanding.

PRESIDENTS.

NAMES.	ELECTED.	EXIT.	REMARKS.
Jonathan Maxcy, ...	1804	1820	
Stephen Elliott, ...	1820		Declined to accept.
Thomas Cooper, ...	1820		Pro tem.
Thomas Cooper, ...	1821	1834	
Robert Henry, ...	1834		Pro tem.
Robert W. Barnwell, ...	1835	1843	
Robert Henry, ...	1843	1845	
William Campbell Preston, . .	1845	1851	
James H. Thornwell, ...	1851		

PROFESSORS.

NAMES.	DEPARTMENTS.	ELEC.	EXIT.	REMARKS.
John McLean,	Math. and Nat. Phi.,	1804		Declined to accept.
Robert Wilson,	Languages–1st Prof.,	1804		
Enoch Hanford,	" 2d "	1804		
Clement Early,	"	1805		
Elisha Hammond,	Math. and Nat. Phi.,	1805	1806	
Joseph Caldwell,	" "	1806		
Thomas Park,	Languages,	1806		
Paul H. Perrault,	French Language,	1806		
Paul H. Perrault,	Math. and Nat. Phi.,	1807		
John Brown,	Logic and Moral Phi.,	1809		
Charles Dewar Simons,	Chemistry,	1811	1812	
Benj. R. Montgomery,	Logic and Moral Phi.,	1811		
George Blackburn,	Math. & Astronomy,	1811	1815	
Edward Darrill Smith,	Chem. and Nat. Phi.,	1812	1819	
Christian Hanckel,	Mathematics,	1815	1820	
Robert Henry,	Moral Phi. & Logic,	1818		
Thomas Cooper,	Chemistry,	1819	1834	
James Wallace,	Mathematics,	1820	1821	Pro tem.
James Wallace,	"	1821		
Lardner Vanuxem,	Geology & Miner'gy.,	1821	1827	
Henry Junius Nott,	Logic,	1824		
Robert W. Gibbes,	Chemistry,	1827		Adjunct Prof.
Thomas Cooper,	Chem. & Minerology,	1834		
Robert W. Gibbes,	" "	1834		Pro tem.
Lewis R. Gibbes,	Mathematics,	1834		" "
Henry J. Nott,	Logic & Belles Let.,	1834		
Thomas R. Dew,	History & Pol. Econ.,	1834		Declined to accept.
Joseph G. Crogswell,	Languages,	1834		" "
Charles Davies,	Mathematics,	1834		" "
William H. Ellet,	Chemistry,	1835	1848	
Francis Lieber,	History,	1835		
J. William Stuart,	Greek & Roman Lit.,	1835	1839	
William Capers,	Sacred Literature,	1835		Declined to accept.
Thomas Park,	Greek & Roman Lit.,	1835		Adjunct Professor.
Basil Manly,	Sacred Literature,	1835		Declined to accept.
Stephen Elliott,	" "	1835		
James H. Thornwell,	Logic & Belles Let.,	1837	1842	
Thomas S. Twiss,	Mathematics,	1838	1846	
William Hooper,	Greek & Roman Lit.,	1839	1846	
Maximilian Laborde,	Logic & Belles Let.,	1842		
Robert Henry,	Greek Literature,	1845		
James H. Thornwell,	Sac. Lit. & Ev. Chris.	1845		Elected Pres. 1851.
Matthew J. Williams,	Math. & Mechan. Phi.	1846	1853	
Charles P. Pelham,	Roman Literature,	1846		
Richard T. Brumby,	Chem., Miner., Geol.,	1848		
J. L. Reynolds,	Belles Let. & Elocu.,	1851		
Lewis R. Gibbes,	Math. & Mech. Phi.,	1853		Declined to accept.
Charles F. McCay,	" "	1853		

TUTORS.

NAMES.	DEPARTMENTS.	ELEC.	EXIT.
Alpheus Baker,	Classics,	1822	1827
John Reid,	Mathematics,		
William K. Clowney,	"		
James Divver,	"	1824	1827
John R. Davis,	Classics,	1827	1830
Isaac W. Hayne,	Mathematics,	1827	1831
Lewis R. Gibbes,	"	1831	1834
James W. Wilkinson,	Classics,	1835	1836
William Blanding,	Mathematics,	1835	1837
Charles K. Johnston,	Classics,	1836	1839
George E. Hawes,	Mathematics,	1838	
Charles P. Pelham,	Classics,	1840	1843
R. W. Denton,	"	1844	

NOTE.—Tutors were elected by the Board previous to 1834, and subsequent to that date by the Faculty.

TREASURERS AND LIBRARIANS.

1805, Enoch Handford, ... Treasurer.
1805, Elisha Hammond, ... Librarian.
1806, Thomas Park, ... Treasurer.
1806, Joseph Lowry, ... Librarian.
1808, Thomas Park, ... Librarian.
1823, James Divver, ... Treasurer and Librarian.
1824, Joseph A. Black, ... Treasurer and Librarian.
1829, M. Michaelowitz, ... Librarian.
1829, Ezek H. Maxcy, ... Treasurer.
1834, Thomas Park, ... Librarian.
1836, Elias Hall, ... Librarian.
1839, Thomas Park, ... Treasurer and Librarian.
1844, Henry C. Davis, ... Librarian.
1844, Thomas E. Peck, ... Treasurer.
1845, G. W. Landrum, ... Treasurer.
1847, A. D. Goodwyn, ... Treasurer.
1848, John S. Green, ... Treasurer.
1848, F. W. McMaster, ... Librarian.
1850, F. W. McMaster, ... Treasurer and Librarian.

BACHELORS OF ARTS.

[The abbreviations added to a name show any higher degree which the person is known to have attained, and the learned profession to which he was admitted, or office of distinction which he held.]

1806.

*Crenshaw, Anderson,	L., Rep., Judge, Ch. Ala.

1807.

Caldwell, John,	L., Rep.
*Crenshaw, Walter,	L.
Glen, George W.,	A. M., M. D.
*Harper, John Wesley.	

1808.

*Brantly, William,	A. M., D. D., M. G., Pres. Col.
*Davis, John N.,	Sen.
*Dewit, Charles M.	
Dubose, William J.,	Sen., Lt. Gov.
Evans, Josiah J.,	L., Sol., Judge, U. S. S.
*Finch, Ivy,	M. D.
Gaillard, James,	Rep.
*Gill, John.	
*Goodwyn, James T.,	L.
*Gregg, James R.,	L., Rep., Sen
*Hampton, Anthony W.	
*Harper, William,	L., Rep., Spk. H. R., Ch. Mo., U. S. S., Ch. S. C., U. S. S.
*Jones, William,	L.
Lowry, James,	A. M., M. G.
Lowry, Joseph,	A. M., M. G.
*Mayrant, John,	L., Sol.

*McIver, John K.,	M. D., Rep.
*McIver, John Evander,	L.
McKenzie, William H.	
*Miller, Stephen D.,	L., Sen., Gov. S. C., U. S. R., U. S. S.
*Mills, Thomas,	M. D., D. D., Rep.
*Murphy, John,	Clk. Sen., Gov. Ala., U. S. R.
Palmer, Thomas,	Rep.
*Robertson, Thomas W.	
Smith, Isaac,	L., Sen.
*Stephens, Charles,	L., Rep.
*Strong, Charles,	M. G.
*Taylor, Henry P.,	U. S. A.
*Ware, Nathaniel A.,	Judge Miss.
*Waring, William R.	
*Waring, Benjamin R.	

1809.

Bowie, Alexander,	L., Rep., Ch. Ala.
*Butler, George,	L., Rep., U. S. A.
Campbell, Robert Blair,	U. S. R., U. S. Con.
*Davis, George.	
Dent, James Truman,	U. S. A.
Dubose, Elias.	
Dupont, Thomas.	
Gaillard, Thomas,	L., Rep.
*Gill, Robert,	A. M.
Grayson, William John,	Com. Eq., Rep., U. S. R.
Hutson, Richard,	Rep.
*Lide, John Wilson.	
*Patrick, Curtis Clifton.	
Petigru, James Louis,	LL.D., Hon., L., Rep., Atty. Gen., Atty. U. S.
*Sanders, Billington M.,	M. G., Pres. Col.
Shaw, John.	
*Taylor, William,	U. S. A.
Whitner, Benjamin Franklin,	A. M., L., Rep.

1810.

Bradley, James,	M. D.
*Bull, William A.,	L., Rep., Lt. Gov.
*Butler, William,	M. D., U. S. R., U. S. A., U. S. N.

*Davis, Warren R.,	L., Sol., U. S. R.
*Dillet, James,	L., U. S. R. Judge Ala.
*Earle, Samuel G.,	U. S. A.
*Elmore, Benjamin T.,	Rep., Comp. Gen.
Frierson, James.	
*Gill, William.	
*Golding, John R.,	Prof.
Gregg, Elias.	
*Gregg, Robert A.	
Johnston, Job,	L., Clk. Sen., Ch. S. C.
*Lowry, William,	M. D.
Muldrow, John B.	
*Pegues, Christopher B.,	Rep.
*Pyatt, Joseph.	
*Pyatt, John.	
*Saxon, Charles A.,	L.
Shanklin, Joseph V.,	L., Com. Eq.
Starke, Wyatt,	L., Rep., Pres. Bk.
*Tillinghast, Daniel.	
Wade, William C.	
*Waties, John,	L.
Witherspoon, George.	

1811.

*Arthur, William.	
*Bell, John.	
*Brevard, John F.,	L.
*Brown, John G.,	L., Secty. S. C., Rep., Pres. Br. Bk.
Buchanan, John,	L., Rep., Sen.
*Carter, John,	L., U. S. R.
*Cuttino, David.	
*Davis, Henry,	M. D.
Dyson, Jeptha,	L.
*Earle, Baylis J.,	L., Rep., Sol., Judge S. C.
*Futhey, John.	
*Gray, Simon Peter,	L.
Johnston, Burr,	M. D.
*Lewers, Samuel B.,	L., M. G.
*Manning, Richard Irvine,	Rep., Sen., U. S. R., Gov. S. C.
*Mayrant, Charles,	L.
*Mayrant, William,	L.
*Marshall, William.	

McCall, John B.,	L., Rep.
* McMillan, John R.	
Scott, John,	L., Sol. N. C.
Smith, Thomas,	M. D.
* Taylor, Robert A.,	L., Rep.
Verdier, James,	M. D.
* Zimmerman, James D.	

1812.

* Adams, Robert.	
Benson, Nimrod E.,	L., Rep.
* Brevard, Alfred,	M. D.
* Brooks, Whitfield,	L., Rep., Com. Eq.
Cain, William,	Rep., Sen., Lt. Gov.
* Campbell, James,	M. G.
* Cahusac, Thomas.	
* Connor, Charles D.,	L.
Connor, Henry,	U. S. R.
Crenshaw, Willis.	
Fleming, William H.	
Footman, Richard.	
Goodwyn, Jesse H.	
Goodwyn, Robert H.,	M. D., Sen., Pres. Bk., U. S. A.
Herbert, Hardy.	
Johnson, William,	M. D.
* McCall, John Ward,	M. D.
McCord, Russel P.,	Rep.
McGinney, Albert J.	
* McMillan, Samuel.	
* Massey, James,	L., Rep.
* Mason, Charles C.,	L., Rep.
* O'Hara, Arthur Harper,	L.
O'Neall, John Belton,	A. M., LL.D., L., Spk. H. R., Pres. Law Ct. Ap. and Ct. Errors S. C.
Pepon, Benjamin Franklin,	L.
Pinckney, Henry Laurens,	L., Spk. H. R., U. S. R.
Preston, William Campbell,	L., Rep., U. S. S., Pres. S. C. Col.
* Reid, John,	Tu. S. C. Col.
Thayer, Ebenezer,	Teacher.
* Thompson, John L.	
* Trescot, George.	

Waring, John.	
* Waties, Thomas.	
Watts, Beaufort T.,	L., Secty. S. C., U. S. Chargè.

1813.

Anderson, Robert,	M. G.
Barkley, Samuel G.,	Rep.
Bookter, Christian P.,	Rep.
* Bradley, Robert.	
* Creagh, John G.,	Judge Ala.
* Fickling, Joseph,	Rep.
Fleming, Matthew.	
Gillespie, James,	L., Rep.
* Govan, Andrew R.,	U. S. R.
Gray, James W.,	L., Mas. Eq.
Higgins, Francis B.,	L., Com. Eq., Sen.
* James, Robert W.,	M. G.
Kilgore, Josiah,	Rep., Sur. Gen.
Lang, Thomas,	Rep.
* Lee, John Miles.	
* McDuffie, George,	L., Rep., U. S. R., U. S. S., Gov. S. C.
* Means, David R.,	M. D., Rep.
* Means, Robert,	M. G.
* Nance, Robert R.	
* Peyre, Francis.	
* Pope, Jesse,	M. G.
Pope, Joseph J.,	Rep.
Rodgers, James,	L., U. S. R.
* Taylor, James H.,	M. D.
Trezevant, Daniel H.,	M. D.
* Vernon, William.	
Whitaker, William B.	
* Willison, Thomas,	L., Com. Eq.
* Wilson, James E.	
* Wilson, Roger M.	
* Wilson, John.	
* Wilson, Robert M.	
* Withers, Francis.	

1814.

* Allison, Hugh L.,	M. D.
* Bedon, Stobo.	
* Belser, Frederick S.,	A. M., L.
* Bonneau, Symmes.	
Boykin, John,	L.
* Boykin Samuel.	
* Breed, Edward.	
Brickell, William A.,	L.
* Carnack, James,	Prof.
Campbell, Alexander.	
* Chisolm, George.	
Chisolm, Robert T.	
Dupre, Daniel,	M. G., Rep.
Edwards, John D.,	L., Rep., Sol. S. C.
* Fraser, Frederick G.	
* Gaillard, John.	
* Gibson, Samuel R.,	L., Rep.
Gilchrist, Robert B.,	L., Atty. U. S., Judge U. S.
* Haig, James,	L.
Hunter, John Lingard,	L., Rep., Sen., Judge Ala.
* Huggins, Charles,	Rep.
* Kirkland, William L.,	M. D.
* Legare, Hugh Swinton,	L., Rep., U. S. R., Atty. Gen. U. S., Secty. U. S., U. S. Min.
Legare, Thomas,	M. D.
* McComb, John,	L., Rep.,
McIver, David R. Williams,	M. G.
* Marshall, William A.	
Maxwell, Robert Anderson,	L.
Mayson, Ramsay,	L.
Murray, Samuel J.	
* Nott, Henry Junius,	L., Prof. S. C. Col.
* O'Brien, Michael.	
* Partridge, John M.	
* Porcher, Philip S.	
Ravenel, Henry,	Pres. Bk.
Thomson, Charles R.,	Sen.
Thompson, Waddy,	L., Rep., Sol., U. S. R., U. S. Min.
Trescot, Henry,	L.
Wallace, John L.	

* Waring, Daniel James,	L.
* Ward, Joshua.	
* Weston, William.	
Whitaker, John W.	
White, John.	
* White Richard.	

1815.

* Armstrong, Robert L.	
* Baker, William F.,	L.
* Bay, William R.	
Bell, Paulus J.	
Boylston, Henry,	M. D.
* Brannon, Wesley,	M. D.
Eaves, Nathaniel R.,	L., Rep., Sen.
Evans, Enoch J.	
Everitt, A. J. B. S.	
Farley, John,	Teacher.
* Farrow, Pattillo,	L.
* Gaillard, Edwin,	M. D.
Gaillard, Thomas S.,	M. D.
Gayle, John,	Gov. Ala., U. S. R., U. S. Judge.
* Gilbert, Elijah,	L.
Inglesby, William H.,	L.
* James, William H.	
Johnson, James S.,	L.
Lance, Maurice Harvey,	M. G.
* Lee, William F.	
* Livingston, Thomas,	L. Com. Eq.
McGill, John D.	
* Maxcy, Esek H.,	L.
McCalla, William H.	
* McCullough, John L.	
McDonald, William N.	
Muller, Albert A.,	M. G.
* Park, Edmund B. C.,	M. D.
* Pegues, John M.	
Pickens, Ezekiel,	L., Judge Ala.
* Rees, Orlando S.	
Scréven, Thomas E.,	M. D.
Scott, John A. P.,	M. D., Rep.

Simons, Thomas Young,	M. D., Prof.
* Smith, William Skirving.	
* Taylor, James Simon.	
* Winston, Fountain S.,	Gov. Miss.

1816.

* Anderson, Wade L.,	M. D.
Barker, Samuel Gaillard,	L.
* Bevan, Joseph Vallance,	Hist. of Geo.
Bird, John W.,	L.
* Blake, John F.	
* Brevard, Edward C.	
* Buist, Arthur,	M. G.
* Campbell, David J.,	M. G.
* Campbell, William S.,	L.
* Cook, Mitchell R.	
* Deas, Henry.	
Elliott, Thomas Odingsell,	L., Rep.
Faris, James,	M. G.
Folker, Patrick H.,	M. G.
* Ford, George E.	
* Foster, Simpson,	Com. Eq.
* Gibbes, Henry A.,	M. G.
* Gourdin, Samuel.	
Gourdin, Theodore,	M. D.
Hibben, James,	Rep.
* Holloway, Lewis B.	
Irby, James Henderson,	L., Rep., Lt. Gov.
* Jenkins, Edward, D. C.	
McDonald, Charles J.,	L., Gov. Ga., U. S. R.
* Manger, John J.,	L.
Simpson, Richard F.,	L., Sen., U. S. R.
Thomas, John Peyre,	M. D.
Thomas, Thomas Walter,	Rep.
Wardlaw, David Lewis,	L., Spk. H. R. S. C., Judge S. C.
Williams, John Nicholas.	
* Wilson, William S.,	M. G.

1817.

Baynard, Archibald C.	
* Blassingham, William C.,	Rep.
Butler, Andrew Pickens,	L., Rep., Sen., Judge S. C., U. S. S.

* Carter, John C.,	L.
* Caldwell, James J.,	L., Rep., Sol., Ch. S. C.
* Chiles, Henry.	
* Dinkins, James W.	
* Dunlap, Robert,	L., Rep.
Dwight, Isaac M.,	Rep.
* Farnandis, John H.,	L., Rep.
* Fishburne, Charles.	
Gantt, Richard A.,	L.
* Geddes James,	L.
Glover, Thomas Worth,	L., Rep., Clk· H. R., Judge S. C.
* Green, Robert L.	
Holmes, James Gadsden,	L.
* Laurens, John B.	
* McKerrall, William J.	
* Mayrant, John.	
* McDonald, Duncan.	
* McIver, Alexander R. Markland,	L., Rep., Sol.
McMillan, Gavin,	M. G
McWillie, William,	L., Rep., Sen., Pres. Bk. U. S. R.
Miller, John.	
Scréven, James P.,	M. D.
* Taylor, Thomas W.	
Troutman, Hyram B.	
* Waties, William T.	

1818.

Ashley, Cornelius Rain.	
* Bailey, Samuel A.,	L., U. S. R.
* Bailey, Thomas.	
* Blair, George D.	
* Creagh, Richard P.	
* Conners, William J.	
Cuthbert, Lucius.	
* Davie, Frederick William,	Rep.
* Doby, James C.	
* Doby, John.	
Dunlap, George Washington,	M. D.
* Dunlap, Samuel F.	
Elfe, Robert,	L., Sen.
* Grimkè, Henry W.,	L.
* James, John Stobo,	L., Com. Eq.

* Kilpatrick, Josiah J.,	M. G.
* Laborde, John,	M. D.
Lee, William,	M. D.
Lide, Eli H.	
Lide, Robert P.	
* Lowry Alexander,	M. D.
* Lowry, Thomas.	
* Mays, James Butler,	L.
McMorris, Spencer J.	
* Mills, John T.,	L.
Phillips, Edward,	M. G.
* Shackleford, Anthony Bonneau.	
Smith, William Stevens,	L.
Snipes, William H.	
Stafford, Samuel M.,	L., Prof.
* Taylor, Sumter.	
Wardlaw, Francis Hugh,	L., Rep., Ch. S. C.
Whitner, Joseph Newton,	L., Rep., Sen., Sol., Judge S. C.
Williamson, Samuel,	M. G., Pres. Col.
* Worthington, Reuben C.,	M. D.

1819.

* Campbell, Henry.	
* Campbell, John,	U. S. R.
Clark, Ulric B.	
* Clowney, William K.,	L., Com. Eq., U. S. R.
* Colcock, Charles Jones.	
Cooper, Mark Anthony,	U. S. R.
Deas, John M.,	M. G.
* Elmore, Franklin H.,	L., Sol., U. S. R., U. S. S., Pres. Bk. S. C.
Fleming, James A.	
Green, Benjamin,	L.
Green, Samuel M.,	M. D.
Gregg, Ezra M.	
Groves, James A.	
Groves, John S.,	L.
Harris, John M.	
Hoey, Samuel J.	
Linton, Benjamin F.,	L.
* Means, Thomas Jefferson.	
Memminger, Gustavus Christopher,	L., Rep.

* Nixon, Henry G.,	L., Rep.
* Norman, John A. L.,	L., Rep., Pres. Col.
Palmer, Edward G.,	L., Rep.
* Pope, James S.	
* Porcher, William,	M. D.
Ross, John M.	
* Scriven, Napoleon Bonaparte.,	M. G.
Simpson, Samuel P.	
Sims, Joseph Stark,	L., Rep.
Smith, James E.	
Taylor, Thomas House,	M. G.
Taylor, William H.	
Thomas, Edward,	M. G.

1820.

Bobo, Spencer M.	
Brevard, Robert A.	
Caldwell, Patrick Calhoun,	L., Rep. Sen., U. S. R.,
Cohen, Solomon, Jr.,	L., Rep., Com. Eq., U. S. Atty.
Edwards, Charles A.	
Formis, James A.	
Goodwyn, Thomas Jefferson,	M. D., Rep., Sen.
* Hadden, Isaac,	M. G.
* James, Francis Marion.	
Keith, Paul Trapier,	M. G.
* Lewis, Dixon H.,	L., U. S. R., U. S. S.
* Matthews, Wiley J.	
* Marsh, James Robert,	L.
McElveen, William M.	
* Maxcy, Jonathan,	L.
Nuckolls, William T.,	L., U. S. R.
* Pinckney, Cotesworth,	M. D.
* Sterrett, William P.	
* Taylor, John C.	
Terry, James,	L., Com. Eq.
Watson, Samuel R.,	M. G.
Wilkins, Samuel B.,	L., Rep.
* Williams, Samuel D.	
Williams, Alexander,	M. D.
Williams, Matthew,	L.

* Wilson, John R.	
Witherspoon, John Benoni,	M. D., Rep.
Yeadon, Richard,	L., Rep.

1821.

* Alexander, Amzie.	
Allison, Robert T.	
Beckett, James M.,	M. D.
* Brownfield, Robert J.,	L.
Clinton, Lawson.	
Dargan, George Washington,	L., Com. Eq., Sen., Ch. S. C.
Deas, Elias Horry,	M. D., Prof., Rep.
Fleming, B. H.,	M. G.
Frost, John D.	
Hutson, Thomas W.,	M. D.
Irvine, Edmund.	
Jeffries, James B.	
Laborde, Maxamilian,	M. D., Prof. S. C. Col.
McGeehee, John C.,	L.
McWhorter, Mijamin S.	
Manly, Basil,	M. G., Pres. Col.
Nance, John D.,	L., Com. Eq.
Paul, John W.,	L.
Pou, Joseph,	L.
Presley, John.	
Reid, D. Evander.	
Richardson, William E.,	L.
Rodgers, John M.,	L.
* Sims, James M.,	M. D.
* Simkins, Eldred, Jr.,	L.
* Williams, Paul A.,	M. D.
Zimmerman, John Perkins,	Rep., Sen.

1822.

Allston, William J.,	Rep.
Bacon, Edmund B.	
Beatty, William C.,	Sen.
Boyd, Charles L.,	M. G.
* Bynum, Alfred,	L.
Christman, Michael W.,	M. G.
Clifton, William C.,	L.

Cole, James J.,	L.
Edwards, Edward D.	
Felder, Francis J.	
* Fraser, Peter W.,	Rep.
Grant, William J.,	L., Com. Eq.
Lee, T. Joseph,	M. D.
Lide, Evan J.	
Logan, George William,	L.
Palmer, John S.,	M. D., Rep., Sen.
Park, Amasa F.	
Player, George C.	
Player, Thompson T.,	L., Rep., Sol.
Prior, William R. T.,	M. D.
* Simmons, Francis Yonge,	M. D., Sen.
Wilson, William J.,	M. G.
Young, Archibald.	

1823.

Buist, George,	L.
Colcock, William F.,	L., Spk. H. R., U. S. R.
Cooper, Ebenezer.	
* Davis, John R.	
* Glover, Charles,	M. D.
Hudson, James W.	
Moses, Franklin J.,	L., Sen.
Spencer, Robert H.	

1824.

Bellinger, Carnot,	M. D.
Brevard, Theodore W.,	L.
Brumby, Richard T.,	L., Prof. S. C. Col.
Calhoun, James M.,	Pres. Ala. Sen.
Carroll, Charles R.,	L., Rep., Sen.
Deas, Lynch H.,	M. D.
* Divver, James.	
Foster, Willis.	
* Geiger, John W.,	L.
Jones, James,	L., Rep., Adj. Gen. S. C.
Lee, Thomas B.	
Means, Edward.	
Miller, Thomas P.	

Nott, Josiah C.,	M. D.
Patrick, Jesse C.	
Potts, James J.,	L., Rep.
Reese, James E.	
Smith, Isaac H.	
Starr, Arthur S.	

1825.

Aiken, William,	Rep., Sen., Gov. S. C., U. S. R.
* Charles, William W. H.	
Coalter, John D.,	L., Atty. Gen. Mo.
Dawkins, Thomas N.,	L., Rep., Sol.
DeSaussure, John M.,	L.
DeSaussure, Louis M.,	M. D.
Dubose, David St. Pierre,	Sen.
Edwards, Thomas H.	
Elliott, Stephen,	L., M. G., Prof. S. C. Col., Bish. Ga.
* Faust, Daniel F.,	M. D.
Files, David, Jr.,	L.
* Freer, Charles.	
* Gist John.	
Hammond, James H.,	L., U. S. R., Gov. S. C.
* Hawes, Horace C.,	M. D.
Huger, Daniel E., Jr.,	L. Rep.
Hunt, Randell,	L.
James, Robert.	
* Johnson, Francis B.,	M. G.
Kenerly, Sherod W.,	M. G.
Kennedy, John L.,	Prof.
Kinsler, John.	
* Leckie, James F.	
Lesly, Samuel W.	L.
* Mortimer, Edward C.	
Munford, Robert,	L.
Myers, S. Etting.	
Pope, James.	
* Ramsay, T. Loughton S.,	M. D.
Starke, Theodore,	L.
* Wallace, Beaufort A.,	L., M. G.
Withers, Thomas Jefferson,	L., Sol., Judge S. C.
Wragg, John A.,	M. D.

1826.

Bellinger, Edmund,	L., Rep.
* Charles, John.	
Clarkson, William.	
Darby, Artemas T.,	M. D.
* Dargan, Timothy J. Keith,	M. D.
* Earle, Elias D.	
* Edwards, Alexander L.,	L.
Ellison, William H.,	M. G.
Goodwyn, Albert G.	
Hiller, Silas H.,	L.
Henderson, Daniel S.,	L., Rep.
Hilliard, Henry W.	L., U. S. R., U. S. Min.
Lowndes, William.	
Marshall, John G.	
Mays, Samuel Warren,	
Mays, Thomas Sumter,	L.
Mazyck, Alexander H.,	L., Sen.
* Palmer, Samuel J.,	Rep., Sen.
Perrin, Thomas Chiles,	L., Rep., Sen.
* Pinckney, William,	M. D.
* Pouncey, John A.,	L.
* Quarles, R. G.	L.
Richardson, William H. B.	
* Schwartz, J. G.,	M. G.
Taylor, William J.,	Sen.
* Tompkins, Thomas B.,	L., Com. Eq.
Webb, B. C.,	M. G.
Woodward, Thomas B.,	L.

1827.

* Baron, Alexander L.,	M. D.
Burgess, William Sidney,	M. D.
Canon, W. R.	
Capers, W. W.	
Fishburne, Francis B.,	M. D.
Gregg, Daniel R.	
* Mobley, J. A.,	M. D.
Perrin, George G.,	M. D.
Schnierlie, John,	L.
Ware, James R.	

* White, Allston F.,	M. D.
Wragg, W. T.,	M. D.
Young, James A.	

1828.

Black, Joseph Addison,	L., Rep., Sen.
Black, William.	
Brown, Edward B.	
Chapman, Joseph N.	
Faber, John C.	
Foster, Henry.	
* Gough, John,	L.
Hemingway, William.	
Johnston, Pearsall.	
Law, John A.	
Manigault, Gabriel.	
McCreary, John.	
McKnight, Hiram.	
McMillan, Hugh.	
Richardson, Willard.	
* Speers, Robert H.,	L.
* Summer, Nicholas,	L.
Taylor, Thomas F.	
Williams, George W.	
Woodward, John J.	

1829.

Alston, John A.	
Boone, John G.	
Boone, William J.	
Crawford, William B.	
Croft, Randall,	M. D.
Davis, George L. A.	
Elmore, John A.	
Floyd, John B.,	Gov. Va.
Gibbes, Lewis R.,	Prof.
Glover, Joseph E.,	M. D.
Haig, George.	
Hard, William J.,	M. G.
Ioor, Peter H.	
King, McMillan C.	
Norris, William J.	

Nott, James E.	
Patton, William R.	
Pierce, James W.	
Pope, Solomon S.	
Poelnitz, Charles A.,	L.
* Ramsay, William G.,	M. D.
Rice, Benjamin H.	
Rodgers, Robert.	
Roper, Micah Jenkins,	M. D.
Rowe, John C.	
Rumph, David J.	
Sams, Lewis R.	
Stokes, Charles.	

1830.

Bedon, Richard Stobo,	Rep., Sen.
Bellinger, Eustace St. Pierre.	
Black, James,	M. D.
Boozer, Lemuel,	L., Rep., Sen.
Burnett, Andrew W.,	L., Rep.
Bythewood, James G.	
Center, Thomas,	M. D.
Clerry, Robert M.	
Douglass, John,	M. G.
* Dubose, Julius J.,	M. G.
Dudley, Martin R.	
* Garden, Alister,	L.
Gibbes, Henry,	M. D.
Harrison, Benjamin.	
* Jarmon, John P.	
Johnston, Benjamin F.	
McDowal, Samuel.	
* McMichael, Jacob B.	
Mays, Dennis H.	
* Mills, John A.	
Park, William N.	
Patterson, Lewis T.,	Rep.
Poelnitz, Julius C.	
Presstman, Benjamin C.,	L.
Preston, John,	L., Rep.
* Richardson, Maynard D.,	L.
Rowe, Donald.	

Rowe, William S.,	M. D.
Sams, Miles B.	
Smith, Whiteford,	M. G.
Spann, Michael G.	
Stark, Thomas,	M. D.
Strother, John D.	
Taylor, Alexander R.,	Rep.
Taylor, James,	L.
Tradewell, James D.,	L., Rep.
Walker, James M.,	L., Rep.

1831.

Anderson, Robert.	
Black, Samuel,	L.
Blakeney, James W.,	L., Rep.
Boykin, William.	
Cannon, Thomas C.	
Carn, Merrick E.,	L., Rep., Sen.
* Ellerbe, Alexander R.	
Emanuel, Samuel.	
* Fair, Thomas J.	
Gage, Robert J.,	Rep.
* Gibbes, Samuel W.,	L.
Gladney, Richard S.,	M. G.
Gourdin, Robert M.,	L.
* Hagood, William R.	
Harrison, James Taylor,	L.
Hutson, William M.,	L.
Johnston, J. Madison.,	M. D.
Kirk, John M.,	M. D.
* Kilpatrick, John C.	
Latta, William,	L.
Leitner, Elias C.,	L., Rep.
Lyles, Thomas M.	
* McBride, George G.,	M. D.
McQueen, Donald,	M. G.
McGrath, Andrew G.,	L., Rep.
Manigault, Henry W.	
Miller, Charles W.,	L.
Northrop, Claudean Bird,	L., Rep.
* Porcher, Isaac,	L.
Sloan, J. T.,	Rep.

Strobhart, James A.,	L.
Summer, Henry,	L., Rep.
Thornwell, James H.,	D. D., M. G., Prof. S. C. Col., Pres. S. C. Col.
Toney, N. J.	
* Vinson, Andrew P.	
Wescoat, Jabez R.,	Rep.
Witherspoon, James H.,	Com. Eq.

1832.

Aiken, James R.,	Rep.
Armstrong, W. M.	
Baker, C. Richard Furman,	M. D.
* Canant, H. C.	
Cole, J. P.	
Cooper, Thomas Priestly,	Civ. En.
* Cosnahan, E. P.	
* Conturier, Perer James.	
Currell, William.	
Donelly, Samuel,	M. G.
* Dupont, Thomas C.,	M. G.
* Ellerbe, Erasmus Powe.	
Ervin, S. J.	
Fernandis, Walter,	Rep.
Gage, James M.,	M. D.
Gervais, J. L.,	M. D.
* Harrison, W. Henry,	L.
Kirk, Philip C.	
Lesesne, Joseph W.,	L., Ch. Ala.
Lesly, J. L.	
* Lyons, Joseph,	M. D.
McCullock, E.,	L.
McFaddin, Thomas Reese.	
Means, John H.,	Rep., Gov. S. C.
Mitchell, Nelson,	L., Rep.
Percival, William F.,	M. D.
* Porcher, Peter C.,	M. D.
Ravenel, H. W.	
Sims, James Marion,	M. D.
Strobhart, Jacob W.,	M. D.

Toney, Washington.	
Trotti, Samuel W.,	L., Rep., U. S. R.
Witherspoon, George McC.,	L., Rep.

1833.

Barnett, S. L.	
* Burns, Robert L.,	M. G.
* Chappell, John Threewits,	L.
Cheves, Langdon,	L.
DeLeon, David Camden,	A. M., M. D., U. S. A.
English, John,	M. D., Rep.
Gourdin, Peter.	
* Hall, James G.	
Hallonquist, Laurent D.	L.
* Hamilton, James.	
* Hamblin, Elisha.	
Hay, Charles C.,	L., Rep.
Jones, Benjamin Rush,	M. D.
Jones, Christopher.	
Jones, J. W.	
Kilpatrick, Robert.	
* Massey, Benjamin Franklin,	M. D.
* Massey, George Leonidas.	
Miller, H. R.	
* Morton, John B.	
* Owens, Henry Alston.	
Patterson, Josiah.	
Pearson, Adolphus Edward.	
Raoul, Alfred,	M. D., Rep.
Rice, John W.,	Rep.
Rich, Napoleon Gustavus,	A. M., L.
Robinson, John C.	
Simons, James,	L., Spk. H. R.
Taylor, Thomas B.,	M. D.
Trapier, Benjamin F.	
Trapier, James H.	
Wardlaw, Joseph James,	M. D.
* Watson, John,	L.
Westcot, George Washington,	M. D.
Williamson, Benjamin F.	
Williamson, George L.	
Witherspoon, Boykin.	

1834.

Alston, James S.	
Baskins, James Noble.	
Bonham, Milledge Luke,	L., Rep., Sol., U. S. A.
Daniel, William F.	
Deas, John Chesnut.	
Earle, Samuel M.,	Rep.
Fair, Elisha Young,	L.
Gaillard, Peter C.,	M. D.
Glover, Sanders Lestergette.	
Heriot, Robert Laroche.	
Jenkins, Benjamin R.	
Marion, John S.	
Martin, William E.,	A. M., L., Clk. Sen.
Patterson, James,	L., Rep.
Reid, Benjamin Franklin.	
Reid, James S.	
Seibles, Thomas Jefferson.	
Sullivan, Charles Pinckney,	L., Rep.
* Summer, John.	
Taylor, J. Theus.	
Wallace, John.	M. D., Rep.
* Wilkinson, Benjamin.	

1835.

Blanding, William,	A. M., L.
Boatwright, John Henry,	M. D.
* Cain, Gustavus Adolphus.	
Cain, Daniel J. C.,	M. D., Prof.
* Clarke, Mathias,	A. M., L.
Haynesworth, Thomas Baker,	L.
Jenkins, W. S.	
Johnson, David,	A. M., L.
Kershaw, Charles.	
Manigault, Edward,	Civ. En.

1836.

Baskins, James T.,	M. D.
* Bowers, Levi S.	
Campbell, Benjamin Rush,	L.

Foreman, Isaac,	A. M.
Gunnels, George M.	M. D.
* Hall, Elias.	
Hampton, Wade, Jr.,	Rep.
Hussey, Shields L.	
Pearson, Jacob.	
Seibles, John Jacob,	A. M., L., U. S. Chargè.
Simpkins, Arthur,	L., Rep., Com. Eq.

1837.

Addison, George A.,	Rep.
Bates, George M.	
Baxtrom, James L.,	L.
Boyd, James J.	
Bryce, Campbell Robert,	L.
Buckner, Benjamin Franklin.	
Chapman, Simeon J.,	A. M., L.
* Coleman, Iley,	L.
Cleckley, Abram D.	
Davis, Jonathan R.	
DeLeon, Edwin H.,	A. M., L., U. S. Con.
* Elliott, Benjamin.	
Frierson, John N.,	A. M., Rep.
Fripp, James E. L.	
Green, Allen Jones,	M. D.
Harrison, James Washington,	L. Rep.
Hawes, George E.	
Hart, Robert L.	
Henry, Edward G. Rattebone,	L.
Hill, Albert P.,	L.
* Hunt, Washington G.,	M. D.
Jenkins, W. E.	
* Johnson, Christopher Columbus.,	M. D.
Leland, John A.,	A. M., Prof.
Marshall, John Foster,	L., Sen.
Mayer, Orlando B.,	M. D.
McCants, J. J.,	M. D.
Manning, John Lawrence,	Rep., Sen., Gov. S. C.
McIver, William M.	
McIver, William C.,	L.
Middleton, H. Choate.	
Moragne, W. C.,	L., Rep.

Muller, Henry.	
Noble, Ezekiel Pickens.	
Pyatt, John F.	
Raoul, Frederick,	
Ray, Duncan W.,	M. D.
Shaffer, Robert H.,	M. D.
Wallace, James Munroe,	L.
Wigfall, Louis Trezevant,	L.
Williams, David J.,	A. M.
* Wilson, John D.,	A. M., M. G.

1838.

Anderson, Thomas Salmond,	L.
Barnes, Dixon,	Rep., Sen.
Bellinger, Edmund E.	
Boykin, Edward Mortimer,	M. D.
* Brown, George S.	
Cantey, James,	L., Rep., Com. Eq.
DeSaussure, William Davie,	L., Rep.
Davis, Nathan H.,	L.
Elliott, James H.,	M. G.
Gregg, Alexander,	M. G.
Gregg, George Cooper,	M. G.
* Goss, William R.	
Hay, Samuel H.,	M. G.
Hart, Oliver J.,	M. D.
Haynesworth, Joseph Cox,	M. D.
Jones, Henry Alexander,	L.
* Lesesne, Isaac.	
Marshall, Samuel J.,	M. D.
McCandless, Leslie.	
McIver, Allen T.,	M. D.
Morrall, Edward F.	
Muldrow, Robert B.	
Pelham, Charles P.,	Prof. S. C. Col.
Prince, Lawrence Benton.	
Rivers, John E.,	L.
Robert, James W.,	M. D.
Salmond, Edward Anderson,	M. D.
Singletary, S. John,	M. D.
Sinkler, William H.	
Singleton, Matthew Richard.	

Smith, John C.,	A. M., L.
* Sparks, David G.	
Stringfellow, William H.,	M. D.
Teanent, Edward,	M. D.
Wilson, James H.	
Walker, C. Bruce,	M. G.
Witherspoon, John.	

1839.

Evans, William H.,	L., Rep.
Flood, Daniel.	
Frierson, David E.,	M. G.
Gilchrist, James G.	
Gordon, James Burgess.	
Hutson, Isaac M.,	L.
King, Henry Campbell,	L., Rep.
Leland, Horace W.,	M. D.
Lenoir, Isaac N.	
* McCord, Lorraine,	L.
Muldrow, Warren A.	
Palmer, Joseph.	
Porcher, Henry F.	
Pringle, Julius St. Julien.	
Randell, Samuel A.	
Randell, Vans,	L.
Renwick, William W.	
Sams, Charles Augustus Stanhope.	
Springs, Andrew Baxter,	L., Rep.
White, John S.	
Wilson, Benjamin H.,	L.
Wilson, John J.	

1840.

Ball, William Isaac.	
Bostwick, William M.	
* Bradley, Samuel.	
* Brown, John Taylor.	
Bythewood, Joseph F.	
Chappell, Paul Green.	
Dawkins, James B.,	L.
DeSaussure, Wilmot Gibbes,	L., Rep.
Edwards, Peter C.,	M. G.

Evans, Chester D.,	L., Com. Eq.
Goodwyn, John Taylor,	L.
Gregg, Evander A.	
* Grimkè, James M.	
* Harper, Wesley.	
Habersham, Stephen Elliott,	M. D.
Haile, Columbus,	L.
Hanckle, Thomas,	L.
Heriott, John Oldfield.	
Johnson, Joseph A.	
Legare, John Berwick,	L.
Lucas, William A.	
Manigault, Heyward.	
McCullough, John D.,	M. G.
* Oswald, John Crosskey,	L., Rep.
Peck, Thomas E.,	M. G.
Rhett, Haskell,	L.
Scott, Josiah.	
* Shoolbred, John Gibbes.	
Smith, Edward Darrell,	M. D
Spratt, Leonidas W.,	L.
Tompkins, Samuel.	
Walker, William Alexander,	L.
Wilkinson, Daniel J. J.,	Rep.
Whaley, William F.	
Wilds, Samuel H.	
* Wright, Richard S.	

1841.

Aiken, Joseph D.,	L., Rep.
Anderson, J. M.,	M. G.
Bacot, Samuel H.	
Blanding, James Douglas,	L., U. S. A.
Boylston, Robert Bentham,	L., Rep.
Bratton, Samuel E.,	M. D.
Burckmyer, Cornelius D.	L.
* Davis, James,	M. D., U. S. A.
Dunkin, Alfred H.,	L., Rep.
* Ervin, James F.,	M. D.
Fell, John P.,	M. G.
Flagg, Ebenezer,	M. D.
Fraser, Frederick William,	L.

Godfrey, William,	L.
Graham, William,	L.
Gregg, Edward,	M. D.
Guerard, Julius St. Julien.	
Hampton, Christopher Fitzsimons.	
* Hart, Derril A.,	M. G.
Hayne, William Alston,	L., Rep.
Hayne, Arthur P.,	A. M., M. D.
Jenkins, Richard E.	
Lester, William F.	
Mars, James A.	
McCants, James R.,	L., Com. Eq.
McIntyre, John C.,	L.
McGowan, Samuel,	L., Rep., U. S. A.
McQueen, Alexander.	
Means, Edward B.	
Nesbit, Edward W. Duval.	
Player, William Adger,	M. D.
Pringle, William Alston,	L., Rep.
Rice, William H.,	L.
Rivers, William J.,	A. M.
Royal, William,	M. G.
Rugely, Edward S.	
Sams, Marion Washington.	
Sams, Donald Decatur,	M. D.
Screven, John H.,	L.
* Scurry, Ralph.	
Seabrook, Ephram M.,	A. M., L., Rep.
Seabrook, John G.	
Shannon, William M.,	L., Com. Eq.
Smith, Benjamin R.	
Spain, Albertus C.,	L.
Stanley, Benjamin F.	
Taylor, Edward Fisher.	
Talbird, Thomas.	
Thornwell, Charles A.,	L., Rep.,
Trapp, Chappell O.	

1842.

Adams, William W.,	L.
Anderson, W. Louis,	M. D.
* Armstrong, William,	M. G.

Baskins, J. Gamble,	L.
Bowie, A. W.,	L.
Bradley, B. Warburton,	M. D., Rep.
Bratton, J. Rufus,	M. D.
Bratton, John S.	
Brooks, James C.	
Broughton, John L.	
Buchanan, John Milleken,	L.
Calhoun, A. K.	
Crane, Charles Louis,	M. D.
Fitch, W. Mosely,	M. D.
Fripp, W. W.	
Galphin, J. M.,	M. D.
Goodwyn, Robert H.	
Green, Halcot Pride.	
Grimball, Isaac Paul.	
Hicklin, James C.,	M. D.
Hooper, Joseph C.,	M. D.
* Jones, Samuel.	
Johnson, Benjamin,	M. G.
Kincaid, James.	
Kinsler, Edward.	
Landrum, J. M.,	L.
Laroche, John F.	
Lauhon, J. W.	
Lesley, John W.,	L.
* Owens, Jesse T.,	Rep.
Palmer, Edward G.,	L.
* Paul, William A.	
Pegues, Christopher,	L.
Percival, Edward S.	
Pyatt, Joseph B.	
Red, J. W.,	M. D.
Shaffer, F. J.,	L.
Starke, William Pinckney,	L.
Tilman, Hiram,	L.
Trezevant, James Davis.	
Wadlington, Thomas B.	
Wilson, John S.,	L.

1843.

* Adams, Joseph Belton.	
Anderson, David L.,	M. D.
Anderson, E. McKenzie,	L.
Barnett, Samuel J.	
Culp, Benjemin W. Dudley,	L.
* Cantey, James Willis.	
Douglas, J. Lunsford,	M. D.
Gaston, J. McFaddin,	M. D.
Gibbes, Julien E.	
George, J. P.	
Gill, George W,,	L.
Glover, Charles B.,	L.
Harrington, John W.,	Rep.
Hill, George W.	
Keitt, Lawrence M.,	L., Rep., U. S. R.
Marshall, J. W. W.,	L.
Melton, Cyrus D.,	L., Rep.
Perrin, James M.,	L.
Robertson, Thomas J.	
Sams, Franklin Fripp.	
Simpson, William D.,	L.
Simpson, John W.,	L.
Wetherall, John T.	
Williams, David R.	
Workman, Thomas J.,	A. M., M. D.

1844.

Ball, John.	
Bratton, William M.,	L.
Carlisle, James H.,	A. M., Prof.
Caughman, Simeon E.,	Prof.
Cheves, Charles,	M. D.
Creswell, David.	
Crosson, James M.,	L. Rep.
Davis, Henry C.,	A. M., L.
Denton, Richard Watson,	L.
Debardelaben, A. Warren,	M. D.
* DeSaussure, Henry Bolivar,	M. D.
Dyson, Richard Manning,	L.
Eigleberger, Jacob C.	

Evans, Edward,	L.
Fuller, Andrew.	
Gadsden, Christopher P.,	M. G.
Goodwyn, William.	
Haynesworth, William F. Baker,	L., Com. Eq.
Kilgore, William C.,	M. D.
Leland, Samuel W.,	M. D.
Logan, John H.,	A. M., M. D.
Martin, Alfred M.,	L., Rep.
* McLauglin, Andrew J.	
Mobley, Samuel,	M. D.
Nelson, Patrick Henry.	
Noble, Edward,	L, Rep.
Parker, William McKenzie,	Rep.
* Porcher, Augustus H.,	L., Com. Eq.
Porcher, Francis P.,	M. D.
Porcher, William E.	
Reynolds, Samuel,	M. D.
Rice, David.	
Seibles, Emmet J.,	L.
Sullivan, D.	
Wallace, William,	L.
Williams, Leonard.	
Witherspoon, Andrew Jackson.,	M. G.

1845.

Alston, Charles,	L.
Arthur, Benjamin Franklin,	L.
Boone, James S.,	L.
Boyce, Robert,	A. M., L.
Broyles, Augustus,	L.
Carpenter, J. Thornton,	A. M.
Chappell, Henry,	M. D.
Crawford, Martin P.,	L.
Crosland, James E.	
Deas, Robert H.,	Civ. Eng.
Dill, Thomas,	A. M.
* Dubard, Jesse E.	
Fraser, Thomas Boone,	A. M., L.
Gaillard, Edwin.	
Garlington, Robert,	L.

*Goin, Wyatt J.,	A. M., L.
Gourdin, Theodore S.	A. M., L.
Henry, Charles,	M. D.
Heyward, Edward Barnwell.	
* Hume Christopher Gadsden,	A. M., M. D.
Kinsler, Henry.	
Landrum, John W.,	A. M., L.
Manning, Brown.	
Martin, Edward Howard,	M. D., Prof.
Neil, Thomas B.,	M. G.
Pope, Joseph James,	L.
Taylor, Thomas.	
Thompson, Charles R.,	M. D.
Waller, Peleus A.	
Whaley, Edward C.,	L.
Wilson, Laurens E.,	L.
Winn, John S.,	L.
Wideman, James H.	

1846.

Aiken, William E.,	M. D.
* Anderson, Julius,	A. M., L.
Anderson, William Wallace,	M. D., U. S. N.
* Buchanan, Samuel W.,	L.
Crane, James Boatwright,	M. D.
Deveaux, Stephen L.	
Elliott, David A.,	L.
Flagg, Charles E. B.,	L.
Fraser, Ladson Lawrence,	L.
Harrington, Henry William.	
Huger, William H.,	M. D.
Jackson, John K.,	A. M., L.
Jeter, Thomas B.	L.
Jordan, Samuel W.,	M. D.
* Lang, John C.	
Lipscomb, Thomas J.	
McIver, Henry,	A. M., L., Sol.
Means, Isaac H.	
Miller, Jerome Charles.	
Moore, Richard Manning,	M. D.
Moore, Henry Thomas,	A. M., L.

Morse, Aaron A.	M. G.
Parker, William H.,	A. M., L.
Patton, Edward L.,	L.
Perry, Archibald Simpson Johnston.	
* Ratchford, John,	M. D.
Reid, Robert H.,	A. M., M. G.
Rice, Joseph,	M. D.
Spann, James G.	
Wilson, William Blackburn,	A. M., L.
Witherspoon, Hamilton G.	

1847.

Allen, Orsimus W.,	M. D.
Allston, P. Bacot.	
Blanding, Henry William,	M. D.
Bostwick, Edward J.,	L.
Buist, Henry,	L.
Dupre, John T.,	M. D.
Farrow, James,	L.
Frost, Thomas,	L.
Gary, Summerfield Massilon Glenn,	A. M., L.
Gibbes, James G.,	A. M., Civ. Eng.
Gist, William C.	
Goodwyn, Artimus D.	
Green, John S.	
Griffin, Evander M.	
Haile, Edward,	M. D.
Hay, Oscar P.	
Hazel, William G. P.	
Izard, Walter,	Civ. Eng.
Levy, S. Yates,	L.
Lipscomb, James N.	
Logue, William,	L.
Manigault, Joseph.	
McLeod, Dugald McDermot.	
McMaster, Fitz William,	Lib. S. C. Col.
* Moultrie, James.	
Noble, Alexander.	
Porcher, Phillip E.	
Quash, Francis D.,	M. D.
Rembert, Robert Henry.	

Sams, Julius J.,	M. G.
Seabrook, Paul H.,	A. M.
Telfourd, William B.,	A. M., M. G.
Villipigue, Frederick L.,	L.
Weston, Isaac T.	
Wilson, Furman E.,	M. D.

1848.

Adams, James Picket.	L.
* Anderson, William,	
Alston, William.	M. D.
Avery, John William.	
Belser, Jacob F.	
Bethea, Jesse T.,	L.
Blanding, Louis Septimus,	L.
Brumfield, John.	
Cheves, Robert Hayne.	
Dogan, William S.,	L.
Ewart, James B.,	L.
Frazer, Henry D.,	M. D.
Gamewell, Francis,	M. G.
Henry, Robert,	A. M., M. D.
Laborde, John B.	L.
Matheson, Benjamin H.,	M. D.
McRea, Dandridge.	
Porcher, Julius T.,	M. D.
Porcher, Thomas F.	
Rembert, Edward J.,	M. D.
* Rodgers, George W.	
Scibles, Edwin W.,	L.
Smith, Augustus M.	
* Sparks, Samuel,	L.
Suber, Christopher H.,	L.
Taber, William R.,	L.
Talley, William Henry,	A. M., L.
Talley, Alexander N.,	M. D.
Thompson, A. Wallace.	
West, Charles S.,	L.
Whaley, William S.	
Withers, W. Randolph.	

1849.

Aiken, D. Wyatt.
Ashby, Thomas.
Bailey, Samuel H.
Barker, Theodore G.
Haynard, E. M.
Bickley, J. C.
Bookhardt, Samuel W., M. D.
Boyd, John D.
Calhoun, James Edward, Jr., L.
Carlisle, John W.
Clinch, Henry A.
Clinch, N. B.
Connor, James, L.
Cureton, James E.
Cuthbert, George B., L.
Debardelaben, John F., M. D.
Gaillard, Francis.
Gaillard, Rush F.
Gibbes, Robert W., Jr., M. D.
Giardeaux, Thomas, M. G.
Glenn, John E., M. D.
Glover, Thomas Jefferson, L.
Gourdin, Thomas T.
Henry, E. Jones.
Holleyman, Thomas H.
Holt, William J.
Howell, Jesse Malachi.
Jordan, R. H. H., M. D.
Lang, J. B.,
*Leitner, George E.
Leitner, William Z., L.
Ligon, W. J.
McCants, Thomas M.
*McIver, J. Y.
McKinnon, Robert H.
Mellechamp, James H.
Moffett, George H.
Moore, Isham.
Moore, John B.
Neeley, Thomas W., L.

Nott, T. E.	
Œland, John C.,	L.
Œland, P. J.	
Poe, William C.	
Porcher, Octavius T.	
Porcher, Percival.	
Porter, Rufus K.,	A. M., M. G.
Pou, Wm. L.,	M. D.
Richardson, Charles.	
Richardson, John Peter.	
Robertson, John E.	
Ross, R. F.	
Seabrook, Edward J.	
Shanklin, J. L.	
Simpkins, E. C.	
Simonton, Charles H.,	L.
Stevens, William.	
Tomkins, Francis A.	
Tucker, Daniel.	
Tucker, J. H.	
Wallace, Wm. H.	
Wannamaker, Thomas E.	
Weston, W.	
White, J. Evans,	M. G.

1850.

Adams, Samuel.	
Alston, W. S.	
Amaker, Adam V.,	L.
Ayer, Wm. Franklin.	
Bacon, John E.,	L.
Barnwell, Robert W.	
Beck, Robert C.	
Bratton, John M.	
Braerly, Robert M.,	M. G.
Buford, J. M.	
Carson, James M.	
Cauthen, J. T.	
Charles, Hugh L.	
Coit, David.	
Dubose, M.	

Durant, Robert McFaddin.	
Edwards, B. W.	
Eichelberger, George M.	
Eichelberger, Wm.	
Ellerbe, Wm. C. S.	
Elliott, Stephen.	
Felder, Alpherd F.	
Fraser, Wm. Burt.	
Gist, States Rights,	L.
Glover, John V.	
Glover, Joseph.	
Goodwyn, Thomas Jefferson.	
Govan, Wm. H. J.	
Haskell, L. C.	
Hays, E. S. J.	
Hill, Joseph R.	
Jamison, Samuel G.	
Jenkins, E. E.	
Larey, Peter H.,	L.
Lebby, Robert.	M. D.
McFaddin, Robert Charles.	
McFie, James P.	
McMaster, George H.	
McPheters, George.	
*Maybin, R. C.	
Meets, M. B.	
Miller, J. H.	
Mitchell, Wm. C.	
Mobley, John G.	
Muller, Wm. G.,	M. D.
Murray, J. J.	
Player, John A.	
Pooser, Edwin H.	
Richardson, John Smythe,	L.
Ryon, James H.,	A. M., L.
Sams, Horace H.,	A. M., L.
Scriven, Thomas E.	
Shuler, J. R.	
Sloan, James B.	
Thomson, James.	
Thomson, Paul.	

Venning, E.	
Walker, James F.,	L.
Weaver, William.	
Williams, Henry S.,	A. M.
Williamson, George M.,	L.
Wharton, John A.,	L.
Yongue, Robert Aiken,	

1851.

Aiken, Isaac M.
Allston, J. B.
Ball, B. W.
Bauskett, T. C.
Beaty, J. M.
Bold, J. W.
Brice, J. M.
Brumby, A. Brevard.
Caldwell, H. H.
Calhoun, Wm. L.
Chalmers, J. R.
Clarkson, R. H.
Elliott, J. H.
Ferguson, J. A.
Fripp, A.
Fripp, C.
Gaillard, Samuel.
Gillespie, Franklin S.
Gillespie, Samuel J.
Goodman, W. A.
Gordon, A. B.
Harrison, Douglas.
Heriott, R. S.
Herndon, E.
Hill, Joseph.
Howard, Robert G.
Izard, Henry.
Jones, W. R.
Kinard, James P.
King, J. G.
Litton, Robert D.
Lucas, S.

McCaa, Eugene.
McDaniel, J. J.
McLure, J. S.
Metts, Wm. B.
Norris, W. S.
Pou, J. R.
Rice, Wm. G.
Robertson, Daniel G.
Seabrook, C. A.
Seabrook, J. M.
Seabrook, J. W.
Taylor, Wm. R., L.
Townsend, Samuel J., L.
Tucker, H.
Wier, R. L.

1852.

Adams, H. Walker.
Allen, Thomas W.
Buchanan, William Creighton.
Bush, A H.
Calhoun, James C.
Davidson, J. Wood.
Edmunds, Nicholas W.
Edwards, A. F.
Frean, William H.
Gaston, J. Brown.
Gaston, J. Lucius.
Griffin, Peter E.
Hammond, Harry.
Holman, John W.
Hopkins, J. Ward.
Hudson, Joshua Hezekiah.
Irby, William W.
Jackson, A. H.
Jones, Dennis F.
Keitt, Ellison S.
King, Nathaniel R.
Leitner, James Gregg.
Leverett, Charles H.
Livingston, J. William.

Marshall, John H.
McDowall, James.
McLure, Thomas.
McNeill, Thomas E.
McPheeters, William A.
Means, Waddy Thompson.
Melton, Samuel Warren.
Mills, Sumter Robert.
Neely, John D.
Noble, Samuel Bonneau.
Porter, David H.
Pringle, William Bull.
Rhett, Andrew Burnet.
Ruff, John A.
Scott, William C.
Stroman, Charles J.
Thomas, William.
Troutman, Hiram Alex.
Wardlaw, Andrew Bowie.
Weston, Joel Adams Tucker.
Whitner, Joseph Newton, Jr.
Williams, Jeremiah N.
Youmans, Leroy F.

1853.

Anderson, J. Benjamin.
Anderson, Mason G.
Cuthbert, Lucius,
DeTreville, Robert.
Evins, John H.
Goodwyn, John Jesse.
Leverett, Charles Edward.
Middleton, John Izard.
Pape, Fritz W.
Perrin, James Wardlaw.
Whetstone, N. C.

PERSONS UPON WHOM HONORARY DEGREES HAVE BEEN CONFERRED, BESIDES THOSE THAT ARE INCLUDED AMONGST THE BACHELORS OF ARTS.

YEAR.	NAME.	DEGREE.
1807	John Drayton,	LL.D.
"	William Percy,	D. D.
"	Richard Furman,	D. D.
"	Joseph Alexander,	D. D.
"	Moses Waddle,	D. D.
1808	Edward Hooker,	A. M.
"	Thomas Park,	A. M.
"	Daniel McCalla,	D. D.
"	Benjamin Allen,	LL.D.
1809	——— Montgomery,	D. D.
"	Henry Holcombe,	D. D.
1812	——— Flinn,	D. D.
"	Solomon Halling,	D. D.
1813	Nathaniel Brown,	D. D.
1814	Joseph Sumner,	D. D.
"	Aaron W. Leland,	D. D.
"	James Ramsay,	A. B.
"	Samuel Caldwell,	D. D.
1815	Benjamin M. Palmer,	D. D.
"	James White Stephenson,	D. D.
"	Christopher Gadsden,	D. D.
"	John M. Roberts,	D. D.
1816	Renè Godard,	A. M.
1817	——— Waldo,	A. M.
1818	William Capers,	A. M.
1819	Jeremiah Chaplin,	D. D.
1833	Thomas Cooper,	LL.D.
1834	Robert Henry,	D. D.
1837	Reuben Post,	D. D.
"	P. C. Gaillard,	A. M.
1838	Joseph Henry,	LL.D.
1839	Samuel A. Marshall,	A. M.
1840	James W. McCants,	A. M.
"	James Smith,	A. B.
1841	William H. Prescott,	LL.D.
1842	Robert W. Barnwell,	LL.D.
1846	W. J. Hand,	A. M.
1850	John Bachman,	LL.D.
1852	James Terry,	A. M.
"	John Douglas,	A. M.
1853	J. B. Adger,	D. D.
"	Henri Herrisse,	A. M.

APPENDIX:

CONTAINING THE NAMES OF ALL STUDENTS ADMITTED INTO THE COLLEGE, WHO IN ANY WAY WHATSOEVER LEFT IT WITHOUT A DIPLOMA.

1805–6.

FRESHMAN.

Chesley, John E.,
Nesbit, Wilson,

Rivers, J. Turner.

SOPHOMORE.

Capers, William,
Course, Charles,

Postell, James,
Reid, Robert Raymond.

1806–7.

FRESHMAN.

Ellis, Charles.

SOPHOMORE.

Branford, Barnaby,
* Chappel, James,

Watson, Edward.

JUNIOR.

* Ford, Stephen,
* Goodwyn, William,

Muldrow, John.

1807–8.

SOPHOMORE.

Boykin, John,
* Cantey, Samuel B.,
Fisher, Daniel,
Lang, William,

* McKa, John,
Postell, John,
* Williamson, Timothy.

JUNIOR.

* Dent, John,
* Dinkins, James,
* Hart, Daniel,

Mayrant, Rufus,
Murphy, John D.,
Stark, John,

Taylor, Jesse,
* Taylor, Benjamin,
Trezevant, John F.

SENIOR.

* Davis, George,
Davis, William,
Goodwyn, John J.,
Heriot, Benjamin,
* McRaa, Powel.

1808–9.

SOPHOMORE.

* Hampton, Frank,
Martin, James,
Nephew, Peter J.

JUNIOR.

Adams, Henry, Jr.,
Bowman, James,
Dick, Elias,
Gignilliatt, Charles,
Hampton, Wade,
Johnson, Isaac,
Sims, Charles S.

1809–10.

SOPHOMORE.

Burgess, John,
Holmes, James,
Pope, John,
Pegues, George,
Seibles, Henry,
Wade, Nathan.

JUNIOR.

Bostick, B.,
Creswell, John T.,
Cuthbert, Robert B.,
Neman, John,
Perry, Peter.

1810–11.

FRESHMAN.

Flud, William,
Hailes, Robert.

SOPHOMORE.

Gaston, John B.,
Hay, William H.

JUNIOR.

Guerard, Jacob,
Herons, Philip,
Mayrant, James W.

SENIOR.

McCord, John,
Lowry, Robert,
Thomas, B. Thomas,
Woodward, William.

1811–12.

SOPHOMORE.

Bell, John,
Bennet, Elias S.,
Graves, Anthony T.,
Haile, Felix,
Haile, Richard,
Stuart, Thomas M.,
Taylor, Thomas,
Thomas, Tristram N.,
White, James B.,
Young, William C.

JUNIOR.

Burgess, John,
Boykin, William K.,
Cook, Burrel B.,
Giles, Robert,
Herndon, Zachariah,
Hartley, Thomas,
McGregor, James S.,
Parkins, Alex. R.,
Righton, John,
Starke, Robert.

1812–13.

SOPHOMORE.

Alston, Joseph M.,
Crapp, Benjamin C.,
Frierson, John J.,
Jenkins, Daniel A.,
Miller, George D.,
Rolando, Francis G.,
Sealey, James.

JUNIOR.

Bochet, Alexander M.,
Douglas, James,
Fuller, Nathan,
Ramsay, James.

SENIOR.

Barkley, Robert,
Dalton, Fred. W.,
Gayle, John,
Hopkins, James,
McLeod, John,
Rolando, Charles N.,
Wilson, Robert.

1813–14.

SOPHOMORE.

Gaillard, Augustus T.,
McIver, Thomas,
Partridge, William S.,
Waters, Philemon.

JUNIOR.

Bossard, Joseph S.,
Broughton, Thomas,
Cuthbert, Thomas,
Ficklin, Jeremiah,
* Finley, John L.,
Goddard, Thomas,
Hailes, Robert,
Porcher, Philip S.,

Porcher, Thomas W.,
Rutledge, B. H.,
Tucker, Joel A.

SENIOR.

Brickell, William A.,
Hunter, Charles A.,
Keith, John Alexander,
McCord, David J.,
Nott, William B.

1814–15.

FRESHMAN.

Rudolph, Z.

SOPHOMORE.

Smith, George S.

JUNIOR.

Johnson, James,
Simpson, John W.

SENIOR.

Colcock, Thomas Hutson,
Graham, William A.,
Lide, John,
Mellett, Melton,
Porter, John.

1815–16.

FRESHMAN.

* Hagood, Robert.

SOPHOMORE.

Cuthbert, E.,
* Hogg, James E.,
Middleton, John Izard,
Middleton, Oliver H.

JUNIOR.

* Cuthbert, George W.,
Eddings, William J.,
* Fludd, John M.,
* Geddes, John,
Jenkins, Joseph,
Jones, John,
Legare, Solomon,
* Legare, John,
* McPherson, Isaac,
Seabrook, William,
Seabrook, Ephraim,
Smith, Richard D.,
Townsend, John,
Vaughan, Henry.

SENIOR.

* Campbell, James,
* Earle, Andrew Pickens,
Irby, William,
Mays, William A.,
* Moore, John P.,
Overstreet, William.

1816–17.

FRESHMAN.

Chisolm, Samuel.

SOPHOMORE.

Adamson, John,
Bonneau, Wm. H.,
Caldwell, James,
Campbell, Alex.,
Falconer, W.,
Laurens, Fred. Rutledge,
Price, Wm. Smith,
Rowand, Charles E.,
Sams, William,
Simms, Richard L.

JUNIOR.

Baynard, William,
Edings, James,
* Elliott, Charles Pinckney,
McMillan, Hugh.

SENIOR.

Lilly, John A.

1816–17.

FRESHMAN.

Evans, Abel E.

SOPHOMORE.

* Maxcy, Stephen H.,
Price, William S.,
Rutledge, Frederick.

JUNIOR.

Boykin, Thomas,
Chapman, John,
Herbert, John,
Holsey, Hopkins,
Maybank, Joseph D.,
Roach, Thomas J.,
Singleton, Thomas,
Stuart, John A.

SENIOR.

Hunter, John,
Marsh, Samuel B.,
Raysor, James,
Roberts, Henry D.

1817–18.

FRESHMAN.

Carson, William.

SOPHOMORE.

Edwards, John A.,
Falconer, Thomas P.,
Frost, John D.,
Gaillard, Samuel P.

JUNIOR.

Boykin, Lemuel W.,
Gaillard, David,
James, John,
Lide, Charles A.,
Love, E. A.,
Means, John D.,
McKee, David G.,
Murrel, John J.,
Taylor, John C.,
Webb, William.

SENIOR.

Baynard, William E.,
Fraser, Joseph,
Hodges, Nicholas,
Williamson, Thomas F.

1818–19.

FRESHMAN.

Ayer, Cornelius R.,
Harris, Ludovicus.

SOPHOMORE.

Irby, John E.,
Kenner, —,
Nesbit, Eugenius A.,
Parrott, Abner B.,
Partridge, William S.

JUNIOR.

Bird, Fitzgerald,
Bobo, John S.,
Bobo, William J.,
Hill, Rhydon G.,
McKee, Herndon,
Youngblood, Richard S.

SENIOR.

Richardson, John P.,
Singleton, Thomas D.

1819–20.

SOPHOMORE.

Cook, Joseph W. H.,
DeSaussure, Charles A.,
Dupont, Henry,
Myers, William M.,
Waring, M. H.

JUNIOR.

Aiken, John C.,
Bellinger, Edmund,
Boykin, William A.,
Chambers, John J.,
Cook, Nathan P.,
Guignard, James P.,
Hailes, Thomas J.,
Lewis, William L.,
McMichael, Jacob H.,
O'Bannon, Abrose W.,
Smith, Cotesworth Pinckney.

SENIOR.

Brevard, Alexander J. M.,
Connors, Charles P.,
Murrell, John J.,
Webb, William G.,
Witherspoon, James M.

1820–21.

SOPHOMORE.

Strohecker, Charles C.,
Vereen, J. W.,
Wheeler, Oliver.

JUNIOR.

Butler, Leontine,
Hay, William H. H.,
Sims, Henry L.,
Yates, Jeremiah D.

SENIOR.

Bacon, John W.,
Campbell, John Kilpatrick,
Gibson, John R.,
Godboldt, Charles T.,
Goodwyn, William A.,
Harris, Lodovicus,
Myers, John J.,
Phillips, John,
Waties, —.

1821—22.

FRESHMAN.

Mixon, John.

SOPHOMORE.

Brantwaite, William,
Coalter, John,
Magill, James,
Wigfall, Hampden.

JUNIOR.

Abbott, Henry J.,
Baker, John W.,
Cantzer, John D.,
Cohen, Myer M.,
Contourio, Washington,
Fullenwider, Henry,
Foster, Calvin,
Gist, William T.,
Henderson, Charles C.,
Hopkins, William,
Hopkins, Thomas,
Marshall, Henry,
Myers, M. Cohen,
Porcher, Charles,
Potts, John J.,
Richardson, John Smythe,
Saxon, Lydall,
Witherspoon, I. Donnom.

SENIOR.

Brown, Jeremiah,
Eppes, Francis,
Gault, William J.,
Horlbeck, Elias.

1822–23.

FRESHMAN.

Carew, John E.

SOPHOMORE.

Holmes, Robert,
Pope, G. J.

JUNIOR.

Cogdell, J. G.,
Dubose, David,
Evans, Harris S.,
Gist, John,
Haskell, —,
James, Robert,
McWillie, James D.

SENIOR.

Lee, William M.

1823–24.

FRESHMAN.

Black, John.

SOPHOMORE.

Cantey, Henry,
Edwards, James L.,
Edwards, John A.,
Gibbes, Wilmot R.,
Laborde, Peter F.,
Martin, John C.,

JUNIOR.

Brickell, Henry B.,
Butler, Charles F.,
Charles, John R.,
Holmes, Arthur F.,
Keckeley, Edward C.,
Myers, William,
Rice, Hezekiah W. W.,

SENIOR.

Blocker, John M.,
Daniels, James M.

1824–25.

SOPHOMORE.

Elliott, George P.,
Hawkins, ——,
Holmes, Robert,
Levy, —,
McCants, J.,
Saxon, Robert.

JUNIOR.

Bradley, A.,
Butler, Charles F.,
Bynum, Turner,
Gregorie, Charles C.,
McAliley, Samuel,
Tucker, James R.,
William, George W.

SENIOR.

Saxon, Lydall.

1825–26.

FRESHMAN.

Davis, John M.,
DeWitt, Wm. T.,
Holmes, Wm. T.

SOPHOMORE.

Chapman, H.

JUNIOR.

Alston, Joseph,
Boyd, James C.,
Boyd, William E.,
Phillips, Martin,

Pringle, John J. J.,
Starke, James T.,
Wardlaw, Robert Henry.

SENIOR.

Bonham, James C.,
Bradley, Robert,
Clifton, Algemon S.,
Creyon, John P.,
English, Thomas,

English, William,
Fishburne, Benjamin,
Huger, John M.,
Maxcey, Hart S. H.,
Zimmerman, Daniel A.,

1826–27.

FRESHMAN.

Arthur, —,
Coachman, —,

Ellerbe, William.

SOPHOMORE.

Jenkins, —,
Levin, —,
McMahan, —,

Mazyck, —,
Noel, Augustus,
Woodward, Osman.

JUNIOR.

Boone, William,
Buist, Edward,
Cook, Henry S.,
Degraffenreid, J. H.,
Gist, William H.,
Goodwyn, Edward L.,

Haigler, Henry,
Keith, J. Cordes,
Lockhart, Thomas W.,
Richardson, Thos. R. C.,
Ruff, Reuben,
Rumph, David.

SENIOR.

Adams, Joel R.,
Adams, William G.,
Bonham, James C.,
Carroll, James Parsons,
Charles, Robert T.,
Davis, James,
Davis, William,
Ervin, John F.,
Fishburn, Robert,

Foster, Henry,
Fuller, Henry L.,
Gibbes, Robert Wm.,
Hayne, Isaac W.,
Herndon, John N.,
Jamison, David T.,
Landrum, John J.,
Lofton, John,
McClanahan, Samuel,

McMichael, Richard B.,
Means, Robert,
Means, William B.,
Miles, Robert,
O'Bannon, John F.,
Oswald, William,
Pickens, Francis Wilkinson,
Price, Reese,
Richardson, James B.,
Smith, William W.,
Spratt, Thomas B.,
Thomson, James W.,
Thompson, Henry H.,
Webb, Edward J.,
Woodward, Joseph A.

1827–28.

FRESHMAN.

McQueen, Thomas.

SOPHOMORE.

Boyce, —,
Haig, A.,
Ioor, George.

JUNIOR.

Clarkson, Thomas,
Lowndes, Edward,
Millikin, William,
Waties, Jonathan T.

SENIOR.

Furman, Thomas,
Miller, Washington.

1828–29.

SOPHOMORE.

Scott, John A.

JUNIOR.

Roberts, William.

1829–30.

SOPHOMORE.

Bacot, Peter S.,
Boatwright, Sampson G.,
Carr, Thomas G.,
Cheney, John M. D.,
Gibson, Samuel F.,
Johnson, Benjamin H.,
McGowen, Henry W.,
Peay, Nicholas A.,
Shields, Benjamin G.,
Trotti, Samuel M.

JUNIOR.

Center, Timothy,
Ellerbe, William T.,
Fickling, Francis W.,
Nelson, James M.

SENIOR.

Taylor, George.

1830–31.

SOPHOMORE.

Bayle, John,
Cannon, William H.,
Gaillard, John,
Perry, Madison T.,
Thompson, Charles.

JUNIOR.

Alston, William L.,
Evans, Thomas E.,
Lawton, George W.,
McKay, William A.,
McCreary, William,
Montgomery, Alexander,
Stith, Samuel S.,
Taylor, Washington,
Waul, Thomas N.

SENIOR.

Cheves, Andrew H.,
Gaillard, Peter C.,
Porcher, William M.,
Scott, Benjamin F.

1831–32.

SOPHOMORE.

Miller, E. D.,
Tureaud, Demophon,
Wheeler, James.

JUNIOR.

Bailey, Edward D.,
Johnson, H. P.,
Lowry, John M.,
Raoul, Lewis A.,
Sandefur, Calvin P.,
Simkins, John C.,
Starke, Thomas J.,
Thompson, Henry T.

SENIOR.

Calhoun, Andrew P.,
Clark, Henry H.,
Lyles, William S.,
Nott, Rufus A.,
Porcher, Edward.

1832–33.

JUNIOR.

Adams, H. W.,
Adams, J. G.,
Adams, J. H.,
Adams, Joel,
Boykin, A. H.,
Boykin, John A.,
Brooks, W. H. W.,
Campbell, John B.,
Campbell, Robert L.,
Conturier, Elias F.,
Cunningham, J. Paris,
Clarke, Ephraim M.,
Hailes, George,
Huger, Pinckney S.,
Johnson, David,
Muldrow, G. C.,
Nott, Adolphus G.,
Powe, Arasmus H.,

Roach, Govan,
Roper, William,
Rowe, Henry J.

SENIOR.

Gibson, J. S.,
Gray, Henry,
McCartley, Owen F.,
McWillie, Abram A.,
Massey, J. B.,
Mixon, Benjamin B.,
Pearce, John M.,
Rice, Samuel F.

1833–34.

SENIOR.

Adams, John H.,
Johnson, Daniel.

1835–36.

FRESHMAN.

Pratt, William F.,
Scott, James R.,
Stoney, John J.

SOPHOMORE.

Barnwell, Robert Gibbes,
Cohen, David L.,
Moorer, —,
Strobhart, George F.

JUNIOR.

Anderson, Edward H.,
Butler, Thomas P.,
Doby, Joseph W.,
Fair, Milton H.,
Hunter, James L.,
Kirk, Rollin H.,
McGeehee, W. S.,
Sparks, Charles A.

SENIOR.

Harrison, Richard.

1836–37.

FRESHMAN.

Dawson, Theodore,
Pegues, —,

SOPHOMORE.

Chambers, Edward M.,
Hames, Benjamin,
Johnson, Cheves,
Perry, James,
Moorer, A. E.,
Trezevant, George W.

JUNIOR.

Allen, George,
Coleman, William S.,
Cuttino, D. W.,
Edmonston, P. M.,
Pearson, John H.,
Percival, Theodore W.,
Polk, George W.

SENIOR.

Dorrill, Augustus,
English, Franklin,
Gant, James L.,
Hunt, Washington,
Johnson, Paul,
Johnson, John W.,
Miles, James W.,
Perry, Josiah B.,
Red, David J.,
Rosborough, Robert H.,
Woodbridge, Samuel M.

1837–38.

FRESHMAN.

Adams, Joel,
Cosnahan, Jos. B.,
Gist, Nathaniel,
Hart, James A.,
Roberts, Law H.,
Simons, Maurice.

SOPHOMORE.

Darby, Charles T.,
Fishburne, L. H.,
Gist, Joseph,
Heriot, Edwin,
Hope, Robert S.,
Key, John C. R.,
Mayes, Junius A.,
Perry, Ralph,
Rugely, H. R.

JUNIOR.

Capers, Francis,
Noble, John A.,
Randall, Carver,
Richardson, Owen.

SENIOR.

Hutchinson, W. B.,
McMahan, John J.,
Simons, Lewis E.,

1838–39.

FRESHMAN.

Ayer, L. M.,
Bentham, Charles,
Ferguson, Henry F.,
Fickling, W. B.,
Murphy, James M.

SOPHOMORE.

Belton, William Henry,
Gibbes, Edward A.,
Graham, Wesley,
Jenkins, R. E.,
Larroche, R. J.,
Lining, Charles,
Means, Thomas C.,
Myers, Robert C.,
Smith, William,
Thompson, W. R,
Whaley, Thomas B.

JUNIOR.

Fitch, Joseph W.,
Henry, Elias.

SENIOR.

Bird, Thomas B.,
Brooks, Preston S.,
Coleman, John,
Magrath, Edward.

1839–40.

FRESHMAN.

Black, William.

SOPHOMORE.

Campbell, Robert,
Bailey, Ralph,
Hayne, Henry S.,
Jermain, Edward,
Portious, John F.,
Rodgers, Henry S.,
Stoney, James.

JUNIOR.

Gregg, Oliver S.,
Kennedy, James C.,
Roberts, William H.,
Whaley, Benjamin S.,
Wilson, Radcliff.

SENIOR.

Crane, Joseph S.,
Cripps, John S.

1840–41.

FRESHMAN.

Fuller, Robert,
Henry, S. G.,
Lawton, T. G.,
Laroche, Richard,
Merant, ——.

SOPHOMORE.

Boone, ——,
Boykin, James,
Cuthbert, J. H.,
Felder, Adam,
* Harrison, Samuel Earle,
Johnson, F. C.,
Prioleau, Samuel.

JUNIOR.

Blocher, B. W.,
Laroche, Edward D.

SENIOR.

Pride, Halcot Jones,
Salley, Alexander S.,
Swinton, James C.

1841–42.

FRESHMAN.

Brown, Robert,
Black, Thomas,
Cannon, William D.,
Martin, A. P.,
Maybin, Benjamin R.,
White, C. J.

SOPHOMORE.

Blackburn, P. W.,
Debardelaben, F. W.,
Ford, W.,
Logan, John H.,
McConnel, T. R.,
Peeples, G. D.,
Prioleau, T. G.,
Ramsay, John,
Workman, William,

JUNIOR.

Bythewood, D. H.,
Clarke, R. B.,
Earle, Edward H.,
Earle, F. H.,
Ervin, J. W.,
Haile, T. E.,
Kilgore, J. L.,
Stokes, H. T.,
Weston, M.,
Workman, T. J.,
Young, George.

SENIOR.

Dunovant, R. J. M.,
Hay, William A.,
Lang, Duncan,
McCaa, B. B.,
McWillie, Adam,
Starke, James P.,
Tobin, J. E.,
Warley, J. C.

1842–43.

SOPHOMORE.

Barnett, Augustus,
Cash, Boggan,
Cantey, John,
Means, David C.,
Tilman, John B.,
Waller, Elisha J.

JUNIOR.

Aiken, H. R.,
Crawford, James,
Dyson, John S.,
Frierson, R. M.,
Jones, Thomas,
Vance, J. K.

SENIOR.

Bishop, R. H.,
Goodwyn, T. L.,
Hunter, W. L.,
Lang, Thomas,
Wilson, J. L.

1843–44.

FRESHMAN.

Bryce, John T.,
Gregorie, William D.,
Roberts, Milton G.,
Tucker, John H.,
Willingham, Thomas H.

SOPHOMORE.

Caldwell, Luther M.,
Herbemont, Alexander,
Sill, Edward,
Steele, Edward C.

JUNIOR.

Adams, David,
Adison, J. H.,
Belser, L. H.,
Dubose, E.,
Eichelberger, John B.,
Johnson, Robert,
Keith, E. M.,
Maxwell, Robert,
Shannon, Charles J.,
Stark, John W.,
Williamson, W. L.

SENIOR.

Green, Frederick L.,
Ravenel, Thomas,
Sullivan, D.,
Simmons, Robert H.

1844–45.

SOPHOMORE.

Gillam, Louis M.,
Shoobbred, Augustus,
Walker, H.

JUNIOR.

Bailey, Goddard,
Broyles, C. E.,
Ravenel, Rènè,
Scott, B. R.,
Thomas, Silas P.

SENIOR.

*Brooks, Whitefield B.,
Griffin, Stanmore.

1845–46.

FRESHMAN.

Posey, Benjamin L.

SOPHOMORE.

Foreman, William C.,
Michel, John A.,
Parker, Theodore,
Seabrook, Edward M.,
Scott, John R.,
Trezevant, D. H.,
Turnbull, Robert J.

JUNIOR.

Bethea, Jesse T.,
Green, John T.,
Hooper, Thomas C.,
O'Bannon, James T.,
Porcher, Richard S.,
Smith, Thomas C.,
Sistrunk, John,
Smith, P.

SENIOR.

Campbell, W. H.,
Laurens, Richard C.,
Sparks, Alexander D.

1846–47.

FRESHMAN.

Ewart, David E.,
Feaster, John P.,
Geiger, William,
Lipscomb, James W.,
Seabrook, W. E.,
Seabrook, W.,
Williamson, Lucius.

SOPHOMORE.

Eichleberger, A. L.,
Haile, Calhoun,
Lang, Edward B.,
Legare, Thomas M.

JUNIOR.

Avery, John W.,
Butler Perry,
Cuthbert, Edward B.,
Daniel, T. L.,
Elmore, Edward E.,
Hopkins, John D.,
Kennedy, William G.,
Kirk, M. J.,
Leland, Charlton H.,
Logan, William W.,
Means, Robert.

SENIOR.

Anderson, C. L.,
Middleton, Henry.

1847–48.

FRESHMAN.

Brown, T. B.,
Donnelson, E. B.
Dunlap, F. C.,
Goin, H. W.,
Otterson, William M.,
Starr, R. C.,
Wade, T. H.

SOPHOMORE.

Bailey, Benjamin,
Belser, E. J.,
Heward, Joseph,
Hopkins, J.,
Johnston, R. E.,
Patterson, Giles J.,
Sanford, M. J.,
Waddell, George H.

JUNIOR.

Barnwell, John S.,
Cheves, Charles, P.,
Green, Benjamin H.
Haig, Henry M.,
Jones, Thomas,
Lowndes, William,
Mickle, Belton,
Nott, J. B.,
Screven, B. S.,
Waties, Henry W.

SENIOR.

Johnson, T. H.

1848–49.

FRESHMAN.

Seabrook, W. H.

SOPHOMORE.

Blackburn, J. B.,
Woodward, Thomas,
Zimmerman, W. E.

JUNIOR.

Brown, Sims E.,
Bruce, Thomas,
Connor, L. D.,
Gourdin, P. G.,
Haile, William,
Johnston, R. C.,
Logan, J. G.,
Miot, A.,
Seabrook, J. C.

SENIOR.

Fuller, William,
Mickell, J. J.,
Porcher, Julian.

1849–50.

SOPHOMORE.

Allen, J. D.,
Black, Austin,
Fitzsimmons, Gaillard,
Hobdy, J. M.,
Jones, Joseph,
King, S. J.,
McCall, W. E.,
Parker, H. M.

JUNIOR.

Allston, E. F.,
Beme, Jesse,
Butler, E. G. W.,
Brevard, Edward,
Campbell, J. O. G.,
Bruce, Richard,
Davis, E. M.,
Easterling, H. R.,
Freeman, W. C.,
Hardy, J. G.,
Heyward, W.,
James, G. S.,
Johnston, W. C.,
Jones, C. C.,
Logan, Samuel,
Nelson, Warren,
Nesbitt, L. C.,
Rodgers, J. J.,
Steele, O. D.,
Witherspoon, W. L.

SENIOR.

Starke, Reuben O.

1850–51.

FRESHMAN.

Frierson, J. J.,
Riley, J. G.

SOPHOMORE.

Bradford, W. M.,
Laurens, Henry,
Mayrant, C. W.,
McLemore, M. C.

JUNIOR.

Ferguson, R. C.,
Parker, H. M.

SENIOR.

Anderson, J. H.,
Baker, J. A.,
Barnwell, J. G.,
Freeman, W. C.,
James, G. S.,
Johnstone, W. C.,
Moore, J. S.,
Sanders, A.,
Stuart M.

1851–52.

FRESHMAN.

Alston, J. R. S.,
Goodman, W. J.,
Rives, R. H.,
Seibels, H. J.,
Smith, H. J.,
Stuart, J. R.

SOPHOMORE.

Anderson, Joel W.,
Bailey, E. L.,
Barnwell, R. H.,
Boykin, Lemuel,
Broome, J. Dozier,
Burgess, S. N.,
Cain, W. H.,
Caldwell, A. L.,
Chapman, J. L.,
Clarke, P. S.,
Cole, D. D. R.,
Dozier, J. A.,
Farrow, T. Stobo,
Fort, G. H.,
Fort, J. C.,
Fripp, W. E.,
Graham, J. W.,
Inglis, W. C.,
Kinard, J. M.,
Levy, J. C.,
Lipscomb, T. J.,
McConnell, W. R.,
McKelvy, J. R.,
Philpott, Peyton A.,
Stoney, T. P.,
Turnbull, A. G.,
Walsh, J. T.,
Yongue, A. L.,
Youngblood, E. H.

JUNIOR.

Adams, Robert,
Alston, T. P.,
Atkinson, E. M.,
Barnwell, Edward,
Bookter, T. C.,
Boyd, R. W.,
Calhoun, J. F.,
Clarkson, T. B.,
Clifton, W. C.,
Coit, J. C.,

DeSaussure, D. B.,
Dozier, A. J.,
Dunlop, J. E.,
Eichelberger, P. A.,
Fitzsimmons, Paul,
Gaillard, J. G.,
Gary, M. W.,
Gœttu, T. H.,
Hance, J., W.,
Herbert, T. G.,
Holstein, M. N.,
Kinder, E.,
Lang, Theodore,
Loche, P. P.,
Lowndes, James,
McLemore, M. C.,
McLure, E. C.,
Means, R. W.,
Mordecai, D. H.,
Napier, J. A.,
Nowell, E. W.,
Oliver, T. P.,
Palmer, J. R. D.,
Porcher, J. D.,
Ramsay, W. A.,
Rhett, Edmund,
Riley, J. G.,
Steedman, J. B.,
Stephens, H. R.,
Strong, J. S.,
Timmons, J. M.,
Willingham, R. J.,
Woodward, T. W.,
Young, B. F.

SENIOR.

Marshall, O. Hawes,
Zimmerman, W. E.

1852–53.

FRESHMAN.

Barton, D. W.,
Herbert, P. W.,
Powe, J. H.,
Prentiss, C.

SOPHOMORE.

Cromwell, B. M.,
Culclasure, N. W.,
Cuthbert, T. L.,
Hallum, B. A.,
Hawkins, W. H.,
Scaife, R. H.,
Wannaker, Anderson.

JUNIOR.

Freeman, William,
O'Neall, C.