

*SHORTER COURSE
IN CIVIL GOVERNMENT*

TOWNSEND

WISCONSIN EDITION

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A

SHORTER COURSE

IN

CIVIL GOVERNMENT

ARRANGED IN TOPICS, WITH NUMEROUS QUESTIONS
FOR CONVENIENCE IN TEACHING

✓ BY

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WITH SUPPLEMENT FOR WISCONSIN

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BY

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POLITICAL ECONOMY, AND STATE INSTITUTE CONDUCTOR
OSHKOSH NORMAL SCHOOL

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P R E F A C E .

THE first attempt ever made to present the subject of Civil Government in a really didactic form was made by the author a few years ago, through his "Analysis of Civil Government." Although the method was entirely new and therefore open to fair criticism, that work has been received with favor, and is used as the text-book on the subject by many of our most prominent institutions of learning. From its first appearance, the call for it has increased to an extent both flattering to the author and gratifying to the publishers.

But it would be difficult, if not impossible, to prepare a text-book on any subject equally adapted to all grades of scholarship. A book may meet the wants of a college or university, which may not be convenient for use in preparatory schools. Hence, while the "Analysis of Civil Government" has proved its entire fitness for the higher institutions, the calls have been numerous from teachers of common, select, and grammar schools, for a shorter text-book, but on the general plan of the "Analysis."

Thousands of our live, earnest, devoted educators believe with a working faith that the day is not distant when civil government will be in the list of compulsory studies in the common school. From many of this class of faithful laborers the author has received letters urging and encouraging him to the preparation of this little volume. One correspondent says, "The common schools do not call for a better book than your 'Analysis of Civil Government,' but for one that is shorter, simpler, and more easily taught to the boys and girls of ages from twelve to sixteen years. Your 'Analysis' is all that could be asked in high schools, normal schools, and even colleges and universities."

This little volume is not intended to take the place of the author's larger work, herein referred to. Every teacher who uses this will find that book a great convenience, if not a necessity, on his table. It dwells more at large and in detail on many matters that are but very briefly noticed in these pages.

The peculiarities of this class-book are in some degree the result of friendly suggestions from sources already credited, and are as follows : —

1. The matter is presented by topics and in analytical form.
2. The chapters are divided into lessons, each of convenient length for class drill.
3. For convenience in teaching, each lesson is immediately followed by questions relating to the subject-matter thereof.

It has not been thought necessary to take up the governments of the States and their subdivisions, and treat them, one by one, as independent and separate systems. Such a course would require not only several ponderous volumes, but each must be, so far as the science of government is concerned, a substantial repetition of the other.

Whoever understands the history, purposes, philosophy, and grand plan of the General Government, comprehends any State government by a mere glance at its Constitution. There is such a marked similarity of the State governments to each other, and of all to the government of the United States, that, when the last named is understood by the student, he fully comprehends the others.

The author submits the result of his effort to the candid and enlightened judgment of the great army of educators in the United States. He has labored under a most painful burden in this last attempt at authorship,—one which he fervently prays that neither teacher nor pupil may ever personally realize. He alone can fully appreciate the embarrassment under which this work has been written who has himself attempted a similar task with sightless eyes.

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CHAPTER I.

LESSON I. — CIVIL GOVERNMENT.

THE word "government," in its general and comprehensive sense, signifies that influence and power which one person or thing exercises over others. The mainspring of a watch, for instance, governs the movement of that machine. Gravitation governs the motions of the heavenly bodies, and, to some extent, of all others.

A father governs his family. The mayor and aldermen of a city govern the affairs of that corporation. The president and professors of a college or university are called the faculty, who govern the institution, as the schoolmaster governs his school. The sovereign of a nation governs the people of whom it is constituted. No nation could exist, as such, for a single month without organized government in some form or other. No citizen could enforce his rights to security of property and personal safety against the attacks of the vicious and depraved. He would not be safe under his own roof, but would be in constant danger while sleeping in his own bed and reposing on his own pillow.

This would be a condition of fearful anarchy. Under such a state of things, no person could feel the least interest in the accumulation of property, for it would be sure to be wrested from him by the hands of thieves and robbers. He could feel no incentive to the cultivation of

fields and gardens, for they would be despoiled by ruthless vandals and reckless marauders.

Without the power of government in some organized form, the sufferers from such outrages could obtain no redress, except through those retaliatory measures that must lead to anarchy and bloodshed among the parties concerned. There would be no tribunal by which to try, condemn, and by whose authority to punish, such offenders. The weak must surrender to the strong, and right must give way to might. Mere physical force and brutality would triumph over justice and reason. The strong man, like the strong beast of the forest, would be king among his kindred. But, under the authority of good government, the bad man, however gigantic in form and strength, may be restrained in his vices, and punished for his crimes.

As here used, the word "government" signifies the organized means and power that a state or nation employs for the purpose of securing the rights of the people, and of perpetuating its own existence.

Government is of various forms, depending on the choice of those who have the power to establish it. The *Forms of Govern-* most ignorant nations are governed by *ment vary.* tyrants and despots, who rule without any regard to the welfare of their subjects. The caprice of the sovereign is the law; and it must be obeyed, though the heads fall from the shoulders of a thousand subjects at a blow. Nothing but the profoundest ignorance of the people could give security and stability to the throne of the despot. "Despotism is the only form of government which may, with safety to itself, neglect the education of its infant poor." The despot rules without regard to a constitution or laws.

Hence history shows that the more despotic the govern-

ment, the more ignorant the common people. Let the people be educated the world over, and despotic governments would be known only as institutions of the past. They would be lost in bygone history.

The statesman knows that a form of government well adapted to the condition of a refined and intelligent people is not the form adapted to a people sunk in ignorance and superstition. The common schoolhouse is an enemy to despotism, and the friend to free government. Intelligence qualifies the citizen for self-government. It enables him to judge for himself on all questions affecting the public interest. He is not satisfied when denied a voice in their decisions.

While a free government, like that of the United States, is the best possible form for an intelligent and virtuous people, on the other hand, it is the very worst for the ignorant and depraved. Under the sway of the latter class, the power of administration would be likely soon to fall into the hands of political intriguers and ambitious demagogues.

The safety of our government depends entirely on the virtue and intelligence of the common people. An ignorant voter, with the ballot in his hand, may do as much damage to the commonwealth as the mercenary legislator or a corrupt executive.

The following are the principal forms of government known in history: I. *Patriarchal*; II. *Theocratic*; III. *Monarchial*; IV. *Aristocratic*; V. *Dem-Principal Forms*
ocratic; VI. *Republican*. In some coun- of Government.
 tries there may be a combination of two or more of them, while in others there may be a modification of any one of them.

I. The *patriarchal* was the first and is the oldest human government. It is family government, or that form exer-

cised by the father over his family. From the necessary relations of a father to his household, this kind of *I. Patriarchal Government.* government is founded in nature. It existed from the earliest ages, long before states and nations were known, and while there were but few inhabitants on the earth. It was the only form until several centuries after the Flood. It still exists in some parts of Asia, Africa, and among the North American Indian tribes. Indeed, in a limited sense, it prevails wherever there is a household to govern, though perhaps not in the ancient mode. Strictly speaking, it lies at the foundation of all good government. When every father becomes a true patriarch at home, the national security will rest on the moral sense and intelligence of the people.

II. The *theocratic* form of government belongs, in history, to the Old Testament ages. A theocracy is a form of *II. Theocratic Government.* government under the immediate direction and administration of God. The ancient Israelites were governed in this manner for nearly fifteen hundred years. They received their law on Mount Sinai by direct revelation from God. This form of government became extinct at the dawn of the Christian era.

III. A *monarchial* form of government is one that is administered by a monarch. The country, kingdom, or empire over which he exercises jurisdiction is *III. Monarchial Government.* called a monarchy. It is that form of government in which the supreme authority is vested in a single person, who is called the monarch. He may be otherwise called king, emperor, czar, shah, sultan, or by any other term significant of his position.

With reference to the power vested in the sovereign, monarchies may be divided into two classes: 1. *Absolute*; 2. *Limited*.

1. An *absolute* monarchy is one over which the sovereign

rules with absolute power, holding himself responsible to no earthly tribunal for what he sees fit to do. He not only *makes* the law by which to govern his subjects, but interprets and executes it according to the caprices of his own will: in other words, his arbitrary will is the law of the realm. He does not, indeed, in all cases attend personally to the details of his government; but he appoints subordinate officers for this purpose. Their tenure of office, their salaries, and even their lives, are at his disposal. If, in his tyranny, he order that a hundred or a thousand of his hapless subjects shall be decapitated, their heads are severed from their bodies.

**1. Absolute
Monarchy.**

Such a ruler is a despot, and his government a terrible despotism. Russia, China, Persia, Morocco, and some other Oriental countries, are absolute monarchies.

2. A *limited* monarchy is a government in which the sovereign is restrained by a constitution and established laws. These laws have their force by the decisions of the courts, by long-established usage, and by the enactments of the legislative authority.

**2. Limited
Monarchy.**

The monarch is simply the executive branch of the government. He can execute the laws, but he cannot make them. The court, not the king, interprets them. The Parliament makes the statutes, though the assent of the sovereign is essential to their validity; but that assent is rarely withheld. The sovereign of a limited monarchy has no right whatever to disregard the laws of his kingdom or empire: like his humblest subjects, he must obey them. Such a government may be called a constitutional monarchy.

With reference to the sovereign's title to his throne, monarchies are of two classes: (a) *Hereditary*; (b) *Elective*.

(a) Under an *hereditary* monarchy the sovereign obtains his title to the throne by birth. The oldest son of the de-

ceased monarch takes the crown of his father by inheritance. If there is no son, the oldest daughter succeeds to the throne of the father. Edward VI. of England, though but a lad in years, succeeded to the throne of his father, Henry VIII., in preference to his sisters, Mary and Elizabeth, both of whom were much older than the boy-king. At his death, having reigned but six years, Mary, his elder sister, was crowned. At her death, five years thereafter, the younger sister, Elizabeth, was crowned Queen of England.

Had Edward married, and become the father of children, they would have been heirs to the throne, to the exclusion of Mary and Elizabeth.

William I., a foreigner, obtained the throne of England in a single battle, fought in 1066 on the north shore of the British Channel. He is known in history as William the Conqueror. That single conflict of arms at Hastings decided who should occupy the throne of that country for more than eight hundred years, and probably for more than a thousand. The crown of royalty has rested on the brow of his descendants ever since the twenty-fifth day of December, the year of that eventful struggle. Yet not one of this long line of kings and queens has ever ascended the throne by the formal, expressed choice of English subjects. In many instances it has been occupied by foreigners, and in every case it has been claimed by right of birth.

(b) An *elective* monarchy is one whose sovereign is elected to the throne by his subjects, or by those holding official positions giving them a voice in the proceeding. He is elected for life. There have been but few such monarchies.

IV. An *aristocratic* government is one in which the power to rule the affairs of state is vested in the hands of a few persons, — a select body

of men. Aristocracy signifies a government of the best or by the best. They may hold their positions by right of birth or by appointment.

A government is said to be aristocratic the constitution of which establishes privileged classes, as the nobility and clergy, and intrusts the government entirely to them, or allows them a very disproportionate share in it. Such was formerly the government of Venice; and some of the Swiss cantons are governed in the same manner. More or less of this element pervades the most powerful governments of Europe. It is wholly absent in the government and Constitution of the United States. We have no orders of nobility, and no privileged classes.

V. A *democratic* form of government is one in which the ruling power, or the principle of sovereignty, is exercised by the people. Strictly speaking, it is one under which the people assemble together at stated times, and all have a voice in making the laws by which they promise to be governed.

V. Democratic Government.

By the word "people," as here used, the qualified voters only are included. The qualifications to vote are generally defined by a constitution, called the fundamental law of the nation. Proper age, male sex, citizenship, and residence are the usual conditions for a voice in public affairs.

Some of the cities of ancient Greece acted under this form of government, and some of the smaller Swiss cantons govern themselves by the same mode; but it is a very unwieldy, clumsy method, and utterly impracticable in a state of considerable population, or breadth of territory.

VI. A *republican* form of government is a representative government. The state or nation is governed by laws made by representatives chosen by the voters at elections held at stated

VI. Republican Government.

times, and most of the officers of government are elected in substantially the same way. The officer or representative is chosen by the people, and is their agent or servant.

A full definition of the word "republican," as generally understood, necessarily includes the element of democracy. The people's voice is heard in the election, and this is democratic. But the law-making and law-executing are done by those who are elected for these purposes. The latter is the *republican* element, or representative feature.

Hence the government of the United States is democratic-republican. The term "republican," however, is the one by which it is usually known. Defined by the extent and peculiarities of jurisdiction, the country known as the United States has two distinct classes of government. These are: 1. *State*; 2. *Federal*.

1. Each *State*, known and defined by geographical boundaries, has a dependent republican government of its own. Before it entered the Federal Union *1. State Governments.* it possessed all the attributes of national sovereignty. It could make treaties and form alliances; it could declare war, grant letters of marque and reprisal, and conclude peace; it could raise and support armies and navies; it could coin money, and emit bills of credit, and, in short, exercise all the prerogatives of an independent nation.

But these powers, and several others, were surrendered to the General Government when the State became a member of the Federal Union. On assuming this relation, the States ratified the Constitution of the United States. By this act all the States not only created a new government over themselves, but entered into entirely new relations to each other. They accepted a Constitution as the bond of their union.

This bond clearly defines what they severally resign for the common good, and what they reserve.

2. The *Federal* Government is the outgrowth of this union of the several States. The form of this government is, like that of each of the several States, *2. Federal Government.* republican. It has, like the States, three distinctive branches or departments : the legislative, executive, and judicial.

The Nation has its president, and the State has its governor ; the Nation has its vice-president, and the State its lieutenant-governor. The Nation has its Congress, and the State its Legislature. The Nation has its federal judiciary, and the State has its system of courts. In many other respects the pupil will find a close analogy between the State and Federal government. If he will make himself well acquainted with the Constitution of the United States, he can easily acquire a general knowledge of any State government by attentively reading its constitution. He will find that in many particulars the State constitutions are not only similar to each other, but in numerous instances bear a striking resemblance to the Constitution of the Federal Government.

Although six specific forms of government have been defined, they are either monarchical or democratic in character, or a mixture of these. Patriarchal *Governments Compared.* and theocratic are definite forms of the monarchical. The rule of an empire by one man is of the same class. God governed the Israelites by direct authority ; the father governs his family by direct command ; and the will of the absolute sovereign is the law for his millions of subjects. These several types of the monarchical form are called by different names, because thereby the exact relations of sovereign to subjects are more clearly expressed.

The democratic form is a government “*of* the people, *by* the people, and *for* the people.” A republican government might be defined by the same words. The sovereignty is in the people, but is exercised indirectly. They choose their own officers, law-makers, and law-interpreters. In a few instances the officers are chosen by intermediate authority ; but this method is sanctioned by the people.

A government purely aristocratic, as generally defined, can hardly be found in history, certainly not of long continuance. This element may be combined with the monarchical or democratic, and it usually is ; but as an independent government it must be a usurpation. It excludes all idea of authority except what is assumed : for, if the aristocratic rulers derive their power from the sovereign of a kingdom or an empire, the monarchical form appears ; if, on the other hand, they are elected or appointed by the people, directly or indirectly, the democratic form appears. In either case there is not an *independent* aristocracy, but one that is dependent on the form to which it is attached or allied.

In all monarchies of modern times, whether absolute or limited, this element is present. In Great Britain, for instance, there is a titled nobility, distinct from the royal family. It consists of several orders : dukes, marquises, earls, viscounts, and barons. Orders of nobility sit in the shadow of every earthly throne. Without them, royalty itself must languish and die.

POLITICAL MAXIMS.

1. The good of the governed is the only true object of every government.
2. That government under which the rights of all persons are not equally protected is organized injustice.

3. Under a genuine republican government there are no political distinctions of birth.
4. An intelligent people cannot live under a government in which they have no voice.
5. For a moral and intelligent people a republican government is the best in the world ; for an *immoral* and *ignorant* people it is the worst.
6. The Constitution of the United States should be carefully studied by every American citizen.
7. Every citizen should be familiar with the constitution of his own State.
8. Every enfranchised citizen should exercise his right of suffrage.
9. No citizen should approach the ballot-box ignorant of the question to be decided by his vote.
10. The Constitution of the United States lies at the foundation of all political knowledge relating to this country.
11. Schoolhouses and schoolmasters are forts and garrisons to a republic.
12. In the United States the ballots of ignorant voters are more to be dreaded than the muskets of foreign soldiers.

QUESTIONS.

1. What does government mean ?
2. What examples are given ?
3. What could we do without government ?
4. Why would we be unsafe without it ?
5. What are the advantages of government ?
6. What does the word " government " here signify ?
7. What about the forms of government ?
8. Who govern the most ignorant nations ?
9. How do despots rule ?
10. What does history show as to ignorance ?
11. What does the statesman know ?
12. What is said of the schoolhouse ?
13. What is said of the government of the United States ?
14. On what does its safety depend ?
15. What is said of the ignorant voter ?
16. What forms of government are known in history ?
17. In what is the first founded ?
18. What is said of it ?

19. Where does it now exist?
20. What is said of a theocratic form?
21. When and over whom did it prevail?
22. Where did the Israelites receive the law?
23. What is said of a monarchy?
24. By what terms may monarchs be known?
25. How are monarchies divided?
26. What is an absolute monarchy?
27. What countries are despotisms?
28. What is a limited monarchy?
29. What is the limit of the sovereign's power over it?
30. What may such a government be called?
31. What is said of a sovereign's title to his throne?
32. What example is given?
33. What is said of William the Conqueror?
34. What did the battle of Hastings decide?
35. What is an elective monarchy?
36. What is an aristocratic government?
37. Where have such existed?
38. What is said of it in Europe and in the United States?
39. What is the democratic form?
40. How are the qualifications to vote defined?
41. Where has the democratic form prevailed?
42. What is a republican government?
43. What is that of the United States?
44. What is said of State governments?
45. What changes in the States on entering the Union?
46. What is the Federal Government?
47. How are the State and general government compared?
48. What are the two *principal* forms of government?
49. What are the others?
50. What is said of the democratic-republican form?
51. What of the aristocratic?
52. What is said of this element in Great Britain?
53. What are orders of nobility there?

CHAPTER II.

LESSON II. — SETTLEMENT OF AMERICA.

A COLONY consists of a company of people who associate together for mutual advantage in the settlement of a remote country. Having a common object, they generally are induced to thus unite on account of similarity of views on religion, politics, or social interest. They may migrate from a single country or nation, or from different countries. A settlement thus formed is called a colony, and this mode of settlement is called colonization. *Colony defined.*

A colony usually adopts local laws for its own convenience, adapted to its circumstances, but subject to the general laws and government of the country from which the people of the colony emigrated. If they came from England, they would be called an English colony ; if from Spain, they would be called a Spanish colony ; thus taking the name from the country in which the inhabitants had formerly resided.

Different parts of the great North American continent were colonized in the manner just named. Four hundred years ago nothing was known of America to the Europeans. It had not then been discovered. When Columbus first landed on these shores, the country was one vast wilderness, inhabited by rude and ignorant savages, having no knowledge of law, government, religion, science, literature,

or art. They had no churches, no schools, no gardens, no farms. They lived by hunting and gathering fruits and roots of spontaneous growth. They clothed themselves with the skins of beasts. As to their food, *The American Colonies.* they knew not how to preserve it; made no provision for the future, but were dependent on each day's efforts for each day's supply. Hence starvation might overtake them any day. They lived in rude huts and wigwams, and slept on the bare ground through all seasons of the year.

On account of religious and political intolerance and persecution in the countries of Europe, and other home grievances, thousands of people left their native country in the Old World and migrated to the New. Here they planted colonies all along the coast of the Atlantic in North America. These settlements were for the most part made by English subjects, and in the course of time the Colonies were all brought under the authority of the British Crown.

When territory is found uninhabited at the origin of new settlements therein, it is usual to adopt the laws of the nation from which the settlers have migrated, so far as they may be found applicable to the new condition of things.

Although this country was occupied by a wild, uncultivated, and savage population, without law or government in any civilized sense, the Colonists chose to consider themselves as settling an uninhabited territory. As a large proportion of the new settlers of these Colonies were from England, they would naturally lean to the jurisprudence of that country.

It must be remembered, also, that the Colonies were nearly all settled under the patronage and favor of Great Britain. Those that were not soon came under the jurisdiction of the British Crown.

The growth of the Colonies was slow and gradual, extending through a period of from one hundred to one hundred and fifty years. The following are the names and dates respectively of their first permanent settlements: —

Virginia.....	1607	Rhode Island.....	1636
New York.....	1614	Delaware.....	1638
Massachusetts.....	1620	Pennsylvania.....	1643
New Jersey.....	1620	North Carolina.....	1663
New Hampshire.....	1623	South Carolina.....	1670
Maryland.....	1634	Georgia.....	1733
Connecticut.....	1635		

Over these Colonies the British Government maintained supremacy for more than a hundred years. But the latter part of the eighteenth century the Colonies became so disaffected towards the government of England, on account of what they regarded as oppressive measures of the British Parliament, that they were induced to declare themselves independent of the authority of that country. This formal act of separation is called the Declaration of Independence. It was made in a congress composed of delegates from all the Colonies, on the fourth day of July, in the year one thousand seven hundred and seventy-six.

In this declaration the Colonies, by their representatives, proclaimed themselves free and independent States. They abjured all allegiance to the British Crown, and assumed, that, as free and independent States, they possessed all the attributes and prerogatives of a sovereign and independent nation.

The Colonies had been at war with Great Britain for more than a year before this declaration. The war continued seven years longer, and resulted in the complete triumph of the American cause. Great Britain acknowledged the independence of

The Revolutionary War.

the United States, and peace between the two countries was proclaimed in one thousand seven hundred and eighty-three.

QUESTIONS.

1. What is a colony ?
2. What does a colony usually do ?
3. From what does a colony take its name ?
4. What was the condition of the country when Columbus first landed in America ?
5. What is said of the savages ?
6. Why did people leave the Old Country for the New ?
7. What did they do here ?
8. By whom were most of the settlements made ?
9. Under whose authority were they ?
10. What is the practice on finding new territory ?
11. What did the Colonists consider the territory which they settled ?
12. Under whose patronage were the Colonies established ?
13. What is said of the growth of the Colonies ?
14. What was the date of the settlement of each ?
15. How long did the British Government maintain supremacy over these Colonies ?
16. What occurred the latter part of the eighteenth century ?
17. What is this formal act called in history ?
18. By whom and when was it made ?
19. What did the Colonies proclaim in this declaration ?
20. How long did the war continue ?
21. When was peace proclaimed between the two countries ?

CHAPTER III.

LESSON III. — ARTICLES OF CONFEDERATION.

AFTER the Declaration of Independence was passed, a plan was adopted by which to unite the States as one nation. In the month of September, 1776, *The Articles of Confederation*. Congress proposed Articles of Confederation, and caused them to be sent to the several States, asking for their ratification of the same. These articles were not to be binding between the States ratifying them until they should receive the approval of all.

In July, 1778, the ratification of all the States had been obtained, except Delaware, New Jersey, and Maryland. The assent of New Jersey was given Nov. 25 of the same year; of Delaware, Feb. 22, 1779; and of Maryland, March 1, 1781. On the second day of March, 1781, Congress assembled under the Confederation.

But the Revolutionary War, which began in 1775, had continued all this time; during which the States had been united by the ties of a common interest, by the sense of a common danger, and by the necessities of a common cause, having no written bond of union. In short, they were held together by their fears.

The following are some of the peculiarities that distinguish the Articles of Confederation from the present Constitution.

1. The Confederation was declared to be a firm league of friendship between the several States.
2. Delegates to Congress were to be appointed annually, in such manner as the Legislature of each State might direct.
3. The power was reserved to the States to recall their delegates, or any of them, within the year, and to send others in their places for the remainder of the year.
4. No State was allowed representation in Congress by less than two nor more than seven members.
5. No person was eligible to a seat in Congress for more than three, in any term of six years.
6. Each State had to maintain its own delegates in a meeting of the States, and while as members of the committee of the States.
7. In determining questions in the Congress, each State had but one vote.
8. All charges of war and other expenses, incurred for the common defense and general welfare, were to be defrayed out of a common treasury.
9. The treasury was to be supplied by the several States, in proportion to the value of all lands, and the improvements and buildings thereon, within each State, granted to or surveyed for any person, to be estimated according to the direction of Congress.
10. Congress was to send and receive ambassadors.
11. Congress was the tribunal of last resort, on appeal, in all disputes and differences between two or more States concerning boundary, jurisdiction, or any other cause whatever.
12. Congress was the tribunal to decide all controversies concerning the private right of soil claimed under different grants of two or more States, under certain limitations.
13. Congress was to commission all the officers of the United States.
14. Congress had authority to appoint a committee, to sit during the recess of that body, to be denominated "a Committee of the States," and to consist of one delegate from each State.
15. Canada, acceding to the Confederation, and joining in the measures of the United States, was to be admitted into the Union.
16. The Union was to be perpetual.
17. No provision was made for any such officer as president.
18. There was no national judiciary.
19. Congress consisted of but one House.

By reference to the foregoing synopsis of peculiarities in the Articles of Confederation, it is not remarkable, that, as a constitution for the country, they soon proved a failure. They were hastily prepared, and, public attention being almost wholly absorbed on the great events of the day, they did not receive that critical investigation which their importance demanded. As a plan of union, they were never entirely satisfactory to the leading statesmen of that day.

The Confederation Unsatisfactory.

It was but five or six years after their ratification by all the States before decisive steps were taken for their revision. Their insufficiency had become so completely demonstrated that a wide-spread conviction prevailed that they must either be revised or abandoned altogether.

QUESTIONS.

1. What was done after the Declaration of Independence?
2. What was proposed by Congress?
3. When did the States ratify the Articles of Confederation?
4. When did they go into operation?
5. How were the States united during the war?
6. What were some of the peculiarities of the Articles of Confederation?

CHAPTER IV.

LESSON IV. — ORIGIN OF THE CONSTITUTION.

ON the 21st of January, 1786, the Virginia Legislature took the first step which finally led to the formation of the present Constitution of the United States.

The First Call for a Convention. That day they passed the following resolution: —

“*Resolved*, That Edmund Randolph, James Madison, Jr., Walter Jones, St. George Tucker, and Meriweather Smith, Esqs., be appointed commissioners, who, or any three of whom, shall meet such commissioners as may be appointed in the other States of the Union, at a time and place to be agreed on, to take into consideration the trade of the United States;

“To examine the relative situations and trade of said States;

“To consider how far a uniform system in their commercial regulations may be necessary to their common interests and their permanent harmony;

“And to report to the several States such act relative to this great object, as, when unanimously ratified by them, will enable the United States in Congress effectually to provide for the same.”

The time and place of meeting were left to the commissioners, and they fixed on the first Monday of September following, at Annapolis, Md. In response to the action

of Virginia, but eight States appointed commissioners to attend the meeting. When the time of meeting arrived, only five States were represented: New York, Pennsylvania, Virginia, Delaware, and New Jersey.

The meeting, it had become evident, must prove a failure; for so few commissioners were present, it was thought to be unwise to proceed to the *But Five States* business for which the meeting was called. *respond.*

But they were reluctant to adjourn without taking some forward step.

The New Jersey deputation had a commission extending its object to a general provision for the "exigencies of the Union." Acting on this suggestion, a recommendation for this enlarged purpose was reported by a committee to whom the subject had been referred.

That report was written by Alexander Hamilton of New York, and addressed to the Legislatures of the States represented in the convention.

This report was an able, lucid, and elaborate document, recommending another convention of deputies from all the States, to meet on the second Monday of May following, 1787, in the city of Philadelphia. A copy of the report was also sent to Congress.

Virginia again took the lead, and was the first to appoint deputies to the proposed Philadelphia Convention, among whom was their most distinguished citizen, George Washington.

Feb. 21, 1787, a resolution was moved and carried in Congress, recommending a convention to meet in Philadelphia at the time suggested in the report, *Congress recommends a Convention.* "for the purpose of revising the Articles of Confederation, and reporting to Congress and the several State Legislatures such alterations and provisions therein as shall, when agreed to in Con-

gress and confirmed by the States, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union.”

But on account of the uprising, known as the Shays' Rebellion, in Massachusetts, which had occurred within the last year or two, the deranged condition of the finances of the country, and sharp controversies, verging on open hostility, between several of the States, the public mind was drifting in the right direction to favor the recommendation of Congress. The States promptly acted through their Legislatures, and delegates were appointed to meet in the proposed convention to revise the Articles of Confederation.

On the day appointed, however, the second Monday in May, 1787, there was by no means a full representation *The Constitutional* of the States, there being present but *Convention.* twenty-nine delegates. They did not immediately proceed to business, therefore, but adjourned from day to day, waiting for a fuller delegation, until Friday, the 25th. On that day they organized by unanimously choosing George Washington president of the convention.

The daily sessions of that body continued until the 17th of September, four months and three days from the day appointed for their meeting. Their sessions were secret (they sat with closed doors); and, although the new Constitution was soon published to the people, the daily proceedings of the convention were not known until more than fifty years after its labors were ended.

James Madison of Virginia, afterwards President of the United States, was a member of the convention. He was a very ready writer of shorthand, and took copious notes of the proceedings. These notes were published by authority of Congress over fifty years thereafter, and several years subsequent to their author's death. They

are known in their published form, three large volumes, as "The Madison Papers."

When their labors were finished, a copy of the new Constitution was sent to Congress, then in session, with the recommendation that it should be presented to the people for ratification by State conventions called for that purpose.

In response to the recommendation of the convention, Congress took the necessary steps to have the new Constitution transmitted to the several State Legislatures, in order to be submitted to a convention of delegates chosen in each State by the people thereof. *Ratification of the Constitution.*

By the terms of that document, the ratification of the conventions of nine States was declared sufficient for its establishment between the States so ratifying the same.

Three States ratified it before the close of the year 1787, and eight more by the 26th of July, 1788; so that, in less than one year from the time of its submission to the people, a sufficient number of States had accepted it as the fundamental law of the land to warrant the commencement of operations under it.

Under the direction of Congress, representatives were elected by the people, and senators by the State Legislatures, and electors of President and Vice-President were chosen. On Wednesday, the fourth day of March, 1789, the first Constitutional Congress met, and proceedings were commenced under the new organization soon after.

In those days travel was far more difficult than in these later days of railroad facilities. A quorum in Congress, therefore, did not assemble until the 6th of April, at which time the votes for President were counted; and it was found that George Washington was unanimously elected. John *The New Government organized.*

Adams of Massachusetts was elected Vice-President. Thus the new government was now in full operation.

QUESTIONS.

1. What did Virginia do Jan. 21, 1786 ?
2. Who were the commissioners appointed ?
3. What time and place did they select ?
4. How many States appointed commissioners besides Virginia ?
5. How many and what States were represented in the meeting ?
6. Why did not the meeting proceed to business ?
7. What course did they take ?
8. What subject was referred to a committee ?
9. By whom was that report written ?
10. What was the substance of the report ?
11. What course did Virginia take ?
12. What was done in Congress about the matter ?
13. What circumstances caused a favorable change in the public mind ?
14. What course did the States take ?
15. How many delegates appeared at the time and place of meeting ?
16. When did the convention organize ?
17. Who was chosen president ?
18. How long did the session continue ?
19. How were the sessions held ?
20. What is said of Mr. Madison ?
21. What was done when the convention finished its work ?
22. What course did Congress take ?
23. How many States ratified it in 1787 ?
24. How many in 1788 ?
25. What proceedings followed these ratifications ?
26. When did the first Congress meet ?
27. Who was chosen the first President ?

CHAPTER V.

LESSON V.¹—CONSTITUTION OF THE UNITED STATES OF AMERICA.

NOTE.— A figure in parentheses is placed at the beginning of each clause of this copy of the Constitution, for convenience of reference in the following pages.

- (1) PREAMBLE. — We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.
- (2) ARTICLE I. *Section 1.* — All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.
- (3) *Section 2.* — 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.
- (4) 2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and

¹ The teacher should require the pupil to become so familiar with this lesson that he will be able to answer the questions at the end of it.

who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

- (5) 3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and, until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.
- (6) 4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.
- (7) 5. The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.
- (8) *Section 3.* — 1. The Senate of the United States shall be composed of two senators from each State, chosen by the Legislature thereof for six years; and each senator shall have one vote.
- (9) 2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third

class, at the expiration of the sixth year ; so that one third may be chosen every second year : and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

- (10) 3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.
- (11) 4. The Vice-President of the United States shall be president of the Senate, but shall have no vote unless they be equally divided.
- (12) 5. The Senate shall choose their other officers, and also a president *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.
- (13) 6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside ; and no person shall be convicted without the concurrence of two thirds of the members present.
- (14) 7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States ; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.
- (15) *Section 4.* — 1. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the Legislature thereof ; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.
- (16) 2. The Congress shall assemble at least once in

every year ; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

(17) *Section 5.*— 1. Each House shall be the judge of the elections, returns, and qualifications of its own members ; and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

(18) 2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

(19) 3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy ; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal.

(20) 4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

(21) *Section 6.*— 1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same ; and for any speech or debate in either House, they shall not be questioned in any other place.

(22) 2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time ; and no

person holding any office under the United States shall be a member of either House during his continuance in office.

- (23) *Section 7.* — 1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.
- (24) 2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States: if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and, if approved by two thirds of that House, it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return; in which case it shall not be a law.
- (25) 3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8. — The Congress shall have power, —

- (26) 1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare, of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;
- (27) 2. To borrow money on the credit of the United States;
- (28) 3. To regulate commerce with foreign nations and among the several States, and with the Indian tribes;
- (29) 4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;
- (30) 5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;
- (31) 6. To provide for the punishment of counterfeiting the securities and current coin of the United States;
- (32) 7. To establish post offices and post roads;
- (33) 8. To promote the progress of science and useful arts by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries;
- (34) 9. To constitute tribunals inferior to the Supreme Court;
- (35) 10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;
- (36) 11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
- (37) 12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
- (38) 13. To provide and maintain a navy;
- (39) 14. To make rules for the government and regulation of the land and naval forces;
- (40) 15. To provide for calling forth the militia to execute

the laws of the Union, suppress insurrections, and repel invasions;

- (41) 16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;
- (42) 17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States; and to exercise like authority over all places purchased, by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and
- (43) 18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.
- (44) *Section 9.* — 1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.
- (45) 2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.
- (46) 3. No bill of attainder, or *ex post facto* law, shall be passed.
- (47) 4. No capitation or other direct tax shall be laid, unless in proportion to the *census* or enumeration hereinbefore directed to be taken.
- (48) 5. No tax or duty shall be laid on articles exported from any State.

- (49) 6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties, in another.
- (50) 7. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.
- (51) 8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.
- (52) *Section 10.* — 1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.
- (53) 2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress.
- (54) 3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.
- (55) *ARTICLE II. Section 1.* — 1. The executive power shall be vested in a President of the United States of

America. He shall hold his office during the term of four years, and, together with the Vice-President chosen for the same term, be elected as follows :—

- (56) 2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the State may be entitled in the Congress ; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[*The following paragraph (57) is the Twelfth Article of Amendment, and supersedes the clause originally inserted here (see TOWNSEND'S "Analysis of Civil Government").*]

- (57) 3. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves. They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President ; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each ; which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed ; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote. A quorum for this purpose shall consist of

a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death, or other constitutional disability, of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed ; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President. A quorum for the purpose shall consist of two thirds of the whole number of senators ; and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

(58) 4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes ; which day shall be the same throughout the United States.

(59) 5. No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President ; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

(60) 6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President ; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly

until the disability be removed, or a President shall be elected.

(61) 7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

(62) 8. Before he enter on the execution of his office, he shall take the following oath or affirmation:—

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

(63) *Section 2.* — 1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

(64) 2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

(65) 3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate

by granting commissions, which shall expire at the end of their next session.

- (66) *Section 3.* — He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.
- (67) *Section 4.* — The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.
- (68) **ARTICLE III.** *Section 1.* — The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation, which shall not be diminished during their continuance in office.
- (69) *Section 2.* — **I.** The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens, or subjects.

- (70) 2. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.
- (71) 3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed: but, when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.
- (72) *Section 3.* — 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.
- (73) 2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.
- (74) ARTICLE IV. *Section 1.* — Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.
- (75) *Section 2.* — 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.
- (76) 2. A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

(77) 3. No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

(78) *Section 3.* — 1. New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

(79) 2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States ; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

(80) *Section 4.* — The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature or of the Executive (when the Legislature cannot be convened), against domestic violence.

(81) *ARTICLE V.* — The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress : provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner

affect the first and fourth clauses in the ninth section of the first article ; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

(82) ARTICLE VI. — 1. All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.

(83) 2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

(84) 3. The senators and representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution ; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

(85) ARTICLE VII. — The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS TO THE CONSTITUTION.

The following are the Articles of Amendment which have been ratified and adopted since the year 1790, and are to all intents and purposes a part of the Constitution of the United States.

(86) ARTICLE I. — Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

(87) ARTICLE II. — A well-regulated militia being neces

sary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

- (88) ARTICLE III. — No soldier shall, in time of peace, be quartered in any house without the consent of the owner ; nor in time of war but in a manner to be prescribed by law.
- (89) ARTICLE IV. — The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated ; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- (90) ARTICLE V. — No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger ; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb ; nor shall he be compelled, in any criminal case, to be a witness against himself ; nor be deprived of life, liberty, or property, without due process of law ; nor shall private property be taken for public use, without just compensation.
- (91) ARTICLE VI. — In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.
- (92) ARTICLE VII. — In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved ; and no fact, tried by a jury, shall be otherwise reëxamined in any court of the United States than according to the rules of the common law.
- (93) ARTICLE VIII. — Excessive bail shall not be re-

quired, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(94) ARTICLE IX. — The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

(95) ARTICLE X. — The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

(96) ARTICLE XI. — The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

[As the subject-matter of the Twelfth Article of Amendment refers entirely to the election of the President and Vice-President of the United States, it is inserted in Article II. of the Constitution, constituting paragraph (57), and is omitted here.]

(97) ARTICLE XIII. — 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

(98) ARTICLE XIV. — 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

(99) 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United

States, representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

(100) 3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

(101) 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned.

But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

(102) ARTICLE XV. — 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State, on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

CHRONOLOGY OF THE AMENDMENTS TO THE CONSTITUTION.

The first ten Articles of Amendment were proposed by Congress in 1789, at their first session; and, having received the ratification of the Legislatures of three fourths of the several States, they became a part of the Constitution, Dec. 15, 1791.

The Eleventh Article was proposed by Congress in 1794. President Adams declared in his message, Jan. 8, 1798, that it had received the ratification of the constitutional number of States, and was therefore a part of the fundamental law of the land.

The Twelfth Article of Amendment was proposed by Congress at their session in 1803, and received the ratification of the requisite number of States during the following year, and became part of the Constitution of the United States.

The Thirteenth Article of Amendment was proposed at the second session of the Thirty-eighth Congress, passing the Senate in 1864, and the House in 1865. William H. Seward, then secretary of state, officially announced to the country, Dec. 18, 1865, that it had been ratified by three fourths of the States, and was therefore a part of the supreme law of the land.

The Fourteenth Article of Amendment was proposed by Congress in 1866. William H. Seward, then secretary of state, announced July 28, 1868, that it had been ratified by the Legislatures of the requisite number of States, and had therefore become a part of the Constitution of the United States.

The Fifteenth Article of Amendment was proposed by Congress in 1869. Hamilton Fish, then secretary of

The Fifteenth Amendment. state, announced March 30, 1870, that it had been ratified by the requisite number of States, and was therefore a part of the Constitution of the United States.

QUESTIONS.

1. In the Preamble, how many reasons are given for the establishment of the Constitution ?
2. In what order are they given ?
3. Into how many articles is the original Constitution divided ?
4. How many sections in the first article ?
5. In the first section how many clauses ?
6. How many in Section 2 ?
7. How many in each of the other sections of this article respectively ?
8. How many sections in Article II.?
9. How many clauses in Section 1 of this article ?
10. How many clauses in Section 2 of Article II.?
11. How many in each of Sections 3 and 4
12. How many sections in Article III.?
13. How many clauses in Section 1 ?
14. How many in Section 2 ?
15. How many in Section 3 ?
16. How many sections in Article IV.?
17. How many clauses in Section 1 ?
18. How many in each of the others respectively ?
19. How many sections and clauses in Article V.?
20. How many clauses in Article VI.?
21. How many clauses in Article VII.?
22. How many amendments to the Constitution have been adopted ?
23. When were the first ten articles declared to be a part of the Constitution ?
24. When was the eleventh ?
25. When the twelfth ?
26. When the thirteenth ?
27. When the fourteenth ?
28. When the fifteenth ?
29. Into how many paragraphs are the Constitution and Amendments divided ?

BLACKBOARD EXERCISE.

BRANCHES.

- I. *Legislative (Law-making).*
- II. *Executive (Law-enforcing).*
- III. *Judicial (Law-interpreting).*

CHAPTER VI.

LESSON VI. — BRANCHES OF GOVERNMENT.

THE constitution of any country, whether written or traditional, is the fundamental law of that country ; that is, *Constitution the Supreme Law.* the highest law by which the country professes to be governed. If any law is made in violation of that fundamental law, it is of no force whatever, and is, to all intents and purposes, null and void. The history of different countries shows that Legislatures have sometimes attempted to pass such laws, but they have been set aside and declared inoperative by the law-interpreting branch of the government.

All free government is administered through three distinctive and separate branches. These are : 1. The legislative, or law-making power ; 2. The executive, or law-enforcing power ; 3. The judicial, or law-interpreting power. In the United States the first is vested in a Congress, which consists of a Senate and House of Representatives ; the second, in a President of the United States ; and the third, in the Federal Courts of Law.

No free government can exist on earth in which the administration of its powers and functions is not distributed. If a single individual may assume to make the laws, to execute and interpret the same, he becomes a despot, and his government a despotism. Such a concentration

of authority in one man is utterly inconsistent with the liberty of his people.

If this combination of power be centered in any number of persons, the character of the government will be the same. One or more persons might safely be trusted with any one of these high prerogatives ; but the danger consists in the concentration of all in the same hands.

All writers on free government agree that the legislative, the executive, and the judicial powers should be kept as separate and distinct as possible. *Branches not entirely Independent.* It is hardly possible, however, for human wisdom to devise a plan by which they can be kept entirely separate in the administration of government.

This has been attempted by the wisest and best of minds, but has failed. Not one of all the American States has succeeded ; though, in some instances, they may have done all that finite wisdom could accomplish. But in all cases, without a single exception, there has been a partial mixture of these powers.

In several of the States, for instance, the executive is elected by the Legislature if no one receives a majority vote by the people. In South Carolina, for some time, he was elected by the Legislature without any attempt at an election by the people.

In nearly all of the States the judicial officers are impeachable by one or both branches of the Legislature. In some of the States the officers of the judiciary are appointed by the governor and the Legislature, or one branch of that body.

In some the governor may veto any act passed by the Legislature ; after which, in order that the act so vetoed may become a law, it must be repassed by a vote of two thirds of both Houses.

In some States the judicial officers are elected by the people, but removable on the address of one or both branches of the Legislature. In others they are removable by one or both branches, on the address of the executive. In still others the judicial officers are appointed by one or both branches of the Legislature, and removable by one branch on impeachment by the other.

QUESTIONS.

1. What is meant by the constitution of a country?
2. Of what force is a law that is contrary to the constitution?
3. What have Legislatures sometimes done?
4. By whom are such laws declared inoperative?
5. Through how many and what branches are free governments administered?
6. In whom are these branches respectively vested in the United States?
7. What is the distribution of governmental powers?
8. What is said of a despot and despotism?
9. In what do all writers on free government agree?
10. What difficulty is here mentioned?
11. What is said of the separation of these powers in the American States?
12. How are judicial officers impeachable in most of the States?
13. How are the officers of the judiciary appointed in some of the States?
14. How are the judicial officers elected, and how removable in some of the States?

LESSON VII. — BRANCHES OF GOVERNMENT, *Continued.*

In fact, there is no such thing as a complete and absolute separation of the three departments from each other. And all that is intended, in speaking of the three branches being kept separate and distinct, is that the powers and

duties properly belonging to any one branch or department shall not be interfered with or administered by either of the others ; that neither shall possess a controlling influence over the others in the performance of their respective duties.

In order that there may be official independence, it is necessary "that the legislative, executive, and judiciary powers shall be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the Constitution in one indissoluble bond of unity and amity."

The Constitution of the United States aims to separate the three departments as widely as possible, and to render them as independent, the one of the others, as the complicated nature of the subject will permit. The government of the United States is a representative government ; and there is far less danger to liberty arising from the partial mixture of these powers in this country than in a government of less direct responsibility to the people.

These three branches of the American government are located and exercised in the city of Washington, the capital of the nation. The President resides *The Capital* there during the term for which he is *City.* elected. He lives in a mansion known as the White House, built and kept constantly furnished at the expense of the nation. In this mansion he exercises the duties of his office during the period of his administration.

In another part of the city is an immense building covering several acres of ground, called the Capitol of the nation, erected at a cost of some twelve millions of dollars. In this magnificent edifice are numerous rooms and offices for the convenience of the government. But by far the largest is that which is known as the House of Representa-

tives. The assembly of men who occupy this hall during the session of Congress are called representatives. They are elected by the people of their respective congressional districts in the several States, and are sent here to assist in making the laws of the nation. No bill can become a law until it has received the approval of a majority of this body of men. By the theory of our government, all the people of the several States are present in this assembly in the person of their respective representatives. When all the representatives are present, the number is more than three hundred; and these constitute one division or portion of the lawmaking power.

In another part of this immense edifice is a much smaller room, known as the Senate Chamber. This is occupied by the senators. Of these there are two from each State, whether the State be large or small; and therefore, when the Senate Chamber is full, there are eighty-eight members, as we have at the present time ~~forty-four~~ ^{five} States in the Union.

The senators are not elected by direct vote of the people, but are chosen by the State Legislatures for the term of six years. No bill can become a law unless approved by a majority of the votes of this body as well as the House of Representatives. Thus each House is so far a check upon the other against hasty legislation as to insure full and careful deliberation in the passage of the laws.

In still another part of the Capitol is the Supreme Court Room. In this room the judges of the Supreme Court hold one term a year for the correct interpretation and application of the laws of the land. If any unconstitutional law is passed by Congress, and sanctioned by the President, this body has the power to declare that law utterly void, after which it is a dead letter in the statute

book. Thus each branch of the government exercises a salutary restraint on the others, effectually securing the safety of human rights.

QUESTIONS.

15. What is intended by a complete separation of these branches or powers?
16. What is necessary to official independence?
17. With respect to this, what is the aim of the Constitution of the United States?
18. What kind of a government is that of the United States?
19. Where are the branches of our government located and exercised?
20. What is the name of the house in which the President resides?
21. What do we find in another part of the city?
22. Which is the largest room of the Capitol?
23. By whom is this room occupied?
24. By whom are they elected, and for what purpose?
25. What is the theory of our government with respect to these persons?
26. Where is the Senate Chamber?
27. How many senators are there from each State?
28. How many in all?
29. By whom are these senators elected?
30. How is hasty legislation prevented?
31. What other room in the Capitol is mentioned?
32. By whom, and for what purpose, is this room occupied?

CHAPTER VII.

LESSON VIII.—PREAMBLE TO THE CONSTITUTION.

WE, the people of the United States,

1. In order to form a more perfect Union,
2. Establish justice,
3. Insure domestic tranquillity,
4. Provide for the common defense,
5. Promote the general welfare, and
6. Secure the blessings of liberty to ourselves and our posterity,

Do ordain and establish this Constitution for the United States of America.

The Preamble is no part of the Constitution, but is a key to that document. The Preamble sets forth the purposes *The Purpose of the Constitution.* and objects for which the Constitution was formed, and to secure which it was offered to the people for their ratification and adoption.

As stated elsewhere, the union of the States had been very imperfectly formed, and even more imperfectly sustained. It was entirely deficient in every particular mentioned in the Preamble.

The following were the more prominent defects of the Union as it existed at the time this Constitution was formed, as given by an eminent jurist of a later day:—

- 1st, There was an utter want of all coercive authority

in the Continental Congress to carry into effect any of their constitutional measures.

2d, There was no power in the Continental Congress to punish individuals for any breach of their enactments.

3d, They had no power to lay taxes, or *The Defects of the Confederation.* to collect revenue for the public service.

The power over taxes was expressly and exclusively reserved to the States.

4th, They had no power to regulate commerce, either with foreign nations or among the several States. It was left, with respect to both, exclusively to the management of each particular State.

5th, As might be expected, the most opposite regulations existed in different States ; and there was a constant resort to retaliatory legislation from their jealousies and rivalries in commerce, in agriculture, or in manufactures. Foreign nations did not fail to avail themselves of all the advantages accruing from this suicidal policy, tending to the common ruin.

6th, “ For want of some singleness of power, — a power to act with uniformity, and one to which all interests could be reconciled, — foreign commerce was sadly crippled, and nearly destroyed.”

7th, The country was deeply in debt, without a dollar to pay, or the means even to draw a dollar into the public treasury ; and what money there was in the country was rapidly making its way abroad.

8th, Great as these embarrassments were, the States, full of jealousy, were tenaciously opposed to making the necessary concessions to remedy the great and growing evil. All became impressed with the fear that, unless a much stronger national government could be instituted, all that had been gained by the Revolutionary struggle would soon be lost.

To these defects may be added the following also : —

1st, The Congress consisted of but one House ; and the States, large and small, had equal power in that body. When a bill had passed that House, it was the law of the land.

2d, There was no executive officer to enforce the laws, or whose sanction was required in making the laws.

3d, There was no national judicial tribunal to give construction and interpretation to the laws.

4th, Congress had no power to enforce obedience to treaties, although they could make them, and recommend their observance.

5th, They could borrow money pledging the faith of the Union, but had no positive means of raising a single dollar.

6th, They could declare war, but could not coerce into the field a single soldier.

QUESTIONS.

1. What is the Preamble to the Constitution ?
2. What does the Preamble set forth ?
3. What is said of the formation of the Union ?
4. What were the more prominent defects of the Union at the time of the formation of the Constitution, as given by an eminent jurist ?
5. What other defects are mentioned ?

LESSON IX. — PREAMBLE, *Continued.*

The first object expressed in the Preamble is to form a more perfect Union ; that is, a more perfect Union than *A more Perfect Union.* had existed under the Confederation. The government under the former system had been found wholly defective. The Union was so imperfect as to be almost unworthy of the name.

As already stated, under the Confederation there was no national judiciary, or system of national courts. The only means of legal redress was through the State courts; and the decisions of the courts of one State were often in direct conflict with the decisions of courts of neighboring States. The necessity of a court of higher authority, whose decisions should command the respect of the nation at large, was everywhere felt and acknowledged. The State Legislatures were often led to pass laws favoring their own immediate and respective localities, and their State courts were too ready to give them their sanction.

*To establish
Justice.*

The third object, as explained in the Preamble, was to insure domestic tranquillity. This means peace among the States. For several years some of the States had been involved in controversies with each other; and in a few instances these domestic dissensions led to bloodshed, and threatened the most alarming consequences. Troops were called out by one State to meet the hostile forces of another in battle array; and even the General Government seemed too weak for the emergency. Disputes of this character, by the Articles of Confederation, were to be left to Congress; but this body was not always in session, and, when it was, it did not possess the requisite power, and was slow to exercise what it had.

*Domestic
Tranquillity.*

The want of some common tribunal that could act with promptness and commanding authority was everywhere admitted. A liberty that was not clothed with authority to command peace at home was clearly more of a curse than a blessing. One of the purposes, therefore, of the Constitution was the creation of ample power to insure domestic tranquillity.

The common defense was not properly provided for

under the Confederation. A people not prepared for war, and known not to be, will constantly be liable to aggressions from neighboring nations. On the contrary, a nation known to be prepared will be quite unlikely to be attacked. A weak nation is never formidable, and will never command the respect of its neighbors.

Congress, under the Confederation, as we have seen, could recommend, but could not enforce, measures for the *Common Defense.* common defense. They could not even declare war, nor exercise any of the war powers, without the concurrence of nine of the thirteen States ; nor even when they had declared war under these restrictions, should they do so, could they force into service a single soldier. Sound statesmanship demanded, therefore, that something should be done to provide more effectually for the common defense. By reference to the war power in the Constitution, it will be seen that this provision has been made.

To promote the general welfare is another object specified in the Preamble. This duty properly devolves on every national sovereignty. It is, indeed, *General Welfare.* or should be, the primary purpose of every government. The individual States of America had not the means, nor have they now, to secure this desirable object. It requires larger resources than belong to a single State.

From the poverty of language it would be impossible to specify, within any convenient limits, all the powers which a government like that of the United States might at some time find it necessary to exercise, and under some possible emergencies.

And although fears may be indulged in some quarters, that, under a clause of such broad signification, some of the departments, especially the legislative, and perhaps

the executive, may overreach and go beyond their prerogatives, yet the ballot is the remedy in the one case, and impeachment in the other.

“To secure the blessings of liberty to ourselves and our posterity,” is the closing language of the Preamble. It is an appropriate climax. It briefly expresses the whole purpose of human government.

*To secure
Liberty.*

“Give me liberty, or give me death!” exclaimed the immortal orator of the Revolution. Without political and religious liberty, life itself would become valueless, and existence a burden: with it, we may have all that is valuable in earthly institutions; for, if a nation enjoys liberty, its citizens have the means of enjoying every other earthly blessing.

But the patriotic authors of the Constitution were not content with this sacred boon for themselves merely: they were earnest to perpetuate this inestimable blessing to the remotest posterity.

QUESTIONS.

6. What is the first object expressed in the Preamble?
7. What were the only means of legal redress?
8. What is said of the necessity of a higher court?
9. What were the State Legislatures often led to do?
10. What is the third object expressed in the Preamble?
11. What had been the condition of the States for several years?
12. To whom were disputes of this character to be referred?
13. What is said of the ability of Congress to settle them?
14. What want was felt on that account?
15. What is the fourth object mentioned in the Preamble?
16. What is said of the necessity of being prepared for war?
17. What is said of the weakness of Congress under the Confederation?
18. What is the fifth object mentioned in the Preamble?
19. What should be the primary purpose of every government?
20. What is said of the inability of States to do this?
21. What is the closing language of the Preamble?

BLACKBOARD EXERCISE.

LEGISLATIVE.

I. House of Representatives.

II. Senate.

CHAPTER VIII.

LESSON X.—CONGRESS.

THE Congress of the United States is the lawmaking branch of our government. All the lawmaking powers are vested in it, and it consists of a Senate and a House of Representatives.

In saying that this is the lawmaking branch, the statement must be taken with this qualification: that if the President of the United States shall officially object to any bill passed by the two Houses, the same must be re-passed by a vote of two thirds of each branch of that body, or it fails to become a law.

In the Congress are vested all, or nearly all, the powers and attributes of national sovereignty, —
Powers of Congress. such as belong to all independent nations.

Among these powers are: 1. To lay and collect taxes, duties, imposts, and excises; 2. To borrow money; 3.

To regulate commerce ; 4. To coin money ; 5. To constitute judicial tribunals ; 6. To declare war ; 7. To grant letters of marque and reprisal ; 8. To raise and support armies ; 9. To provide and maintain a navy ; 10. To provide for the calling-forth of military forces ; 11. To admit new States into the Union.

All these powers, and many more, as will be seen in treating of the powers of Congress hereafter, are vested by the Constitution in this branch of the Federal Government. They must assemble at least once every year, which meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Either or both Houses, on extraordinary occasions, may be required to convene in extra session, on the call of the President of the United States.

The House of Representatives is, in a special sense, that division of the legislative body which represents the people of the several States. The members are *The House of Representatives.* elected by the votes of the qualified voters of the several State congressional districts. As will be seen hereafter, they are a much more numerous body than the Senate. In many respects they may be compared to the House of Commons in England. The term of its existence, by constitutional limitation, can never extend beyond the period of two years.

We have a new House of Representatives every alternate year, always commencing with the years of odd numbers ; and Congress is numbered by the number of times we have had a new House of Representatives. Thus we speak of the Fiftieth, Fifty-first, Fifty-second, and Fifty-third Congresses, and the numbers of these Congresses correspond to the number of times respectively that the House has been organized.

The Senate is a perpetual body, consisting of two mem-

bers from each State, chosen by the Legislature thereof for the term of six years. The Constitution requires

The Senate. higher qualifications for membership here than in the other House. The reasons for this will appear hereafter when we reach the analysis of the Senate.

The Senators represent the States *as* States in their sovereign or political capacity. On the floor of the Senate the States, large and small, are equal in political power and influence.

QUESTIONS.

1. What is the Congress of the United States ?
2. Of what does it consist ?
3. What if the President of the United States objects to a bill ?
4. What powers are vested in Congress ?
5. Will you state some of these powers ?
6. How often and when shall Congress assemble ?
7. What is said of an extra session of Congress ?
8. What is the special character of the House of Representatives ?
9. How are members elected ?
10. To what may they be compared ?
11. How long is a Representative term ?
12. How often do we have a new House ?
13. How are Congresses numbered ?
14. What is the Senate ?
15. What do the senators represent ?
16. What is the relative power of the States in the Senate ?

BLACKBOARD EXERCISE.

HOUSE OF REPRESENTATIVES.

- I. *How composed* (3)
- II. *Eligibility:*
 - 1. *Age* (4)
 - 2. *Citizenship* (4)
 - 3. *Inhabitancy* (4)
- III. *Number of Members* (5)
- IV. *How apportioned* (99)
- V. *Enumeration.*
 - 1. *When made* (5)
 - 2. *How made* (5)
- VI. *By whom elected* (3)
- VII. *Qualification of Voters* (3)
- VIII. *When elected* (3) (15)
- IX. *How Vacancies are filled* (6)
- X. *House Powers.*
 - 1. *Legislative.*
 - (a) *Concurrent* (2)
 - (b) *Exclusive* (23)
 - 2. *Inquisitorial* (7)
 - 3. *Elective.*
 - (a) *House Officers* (7)
 - (b) *President of U. S.* (57)

CHAPTER IX.

LESSON XI.—HOUSE OF REPRESENTATIVES.

THE House of Representatives is one branch of the American Congress, and it assembles at Washington at least once a year to take part in making laws to govern the nation. This body alone cannot make the laws, but is coördinate with the Senate in lawmaking.

The House of Representatives is composed of members elected by the people of the several States. These members

I. How are called representatives because they are
composed (3). supposed to represent the views and wishes of the people who elect them. They act and speak and vote as the agent of the people, who are called their constituency.

The people cannot all assemble in one body or convention to make the laws, and therefore they send their agents or representatives to do this business for them. It would be impossible for millions of people to assemble in one convention, and make the laws by which they would promise to be governed.

Eligibility, as here used, signifies the right to hold and enjoy an office or position, if properly
II. Eligibility. elected or appointed thereto. To be eligible to an office, one must possess the proper legal qualifications for it.

The conditions of eligibility to the House of Representatives are three: 1. *Age*; 2. *Citizenship*; 3. *Inhabitancy*.

1. Age is the first condition of eligibility to membership of the House of Representatives required by the Constitution. The representative must have attained to the age of twenty-five years.

1. *Age* (4).

Before the age required by the Constitution, few men have had sufficient experience and preparation to qualify them for so important a public trust.

2. Another condition of eligibility is that the member must have been a citizen of the United States at least seven years.

2. *Citizenship* (4).

The following quotation from the Fourteenth Article of Amendment to the Constitution defines the meaning of the word "citizen" thus:—

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

We learn by this extract that a person may be a citizen of the United States either by birth or by naturalization.

Naturalization is that process by which an alien or foreigner becomes a citizen of the United States. Before the adoption of the Constitution, this whole subject was under the control of the several States, some requiring a longer, and others a shorter, period of time for its completion; but under the present Constitution, Congress has exclusive control of the matter, and now, by the laws of that body, it requires five years. These, added to the seven years of citizenship required by the Constitution, make it necessary that a person of foreign birth shall have actually resided in this country at least twelve years before he can take a seat as a member of the House of Representatives if elected thereto.

This is a period sufficiently long, perhaps, to enable a person of foreign birth to make himself acquainted with our

institutions and form of government, and to demonstrate his attachment to our country.

3. The third condition of eligibility is that the member must be an inhabitant of that State in which he shall be chosen. States having more than one member are divided into congressional districts. A person may reside in one district and yet be elected by and for another district of the same State ; but this is not usual, though it has been done in some instances. If a person has been elected a member in one congressional district, and removes to another, or even to another State, this removal does not deprive him, during the term for which he was elected, of his seat in the House.

*3. Inhabit-
ancy (4).*

QUESTIONS.

1. What is the House of Representatives ?
2. How does this branch stand related to the Senate in law-making ?
3. How is the House composed ?
4. Why are the members called representatives ?
5. Why do the people send representatives to the House ?
6. What does eligibility here signify ?
7. What are the conditions of eligibility to the House ?
8. What does the word " citizen " mean ?
9. How many ways of becoming a citizen of the United States ?
10. What is naturalization ?
11. In whose hands was this subject before the adoption of the Constitution ?
12. Under whose control is this matter now ?
13. How long time does it require for a person of foreign birth to become eligible to the House ?
14. What is the third condition of eligibility ?
15. How are the States divided ?

LESSON XII.—HOUSE OF REPRESENTATIVES,
Continued.

On this subject the Constitution says, “The number of representatives shall not exceed one for every thirty thousand ; but each State shall have at least one representative.”

When the Constitution was formed in 1787, the population of the States was not known, with anything like exactness, to the convention that framed that document. It was provided, however, by the Constitution, that the population should be ascertained within a few years by actual count or enumeration.

The number of representatives in the first Constitutional Congress was sixty-five. This number, it was presumed, gave one member to about thirty thousand inhabitants.

As the population of the United States should increase, of course the number of members in proportion to the inhabitants represented must be diminished. If not, the number of members in the House of Representatives would become too great, in the course of a few years, for the convenient transaction of business. Hence once in ten years Congress fixes by law the proportion of representation to population. The necessity for this is manifest. For instance, the population of the United States one hundred years after the adoption of the Constitution was over sixty millions. With one representative for every thirty thousand, the House would then have consisted of two thousand members, — a number far beyond that of any legislative body in the world.

The number of members is fixed by a law of Congress once in ten years, and their appointment is based on the

last census. The number fixed, in accordance with the Eleventh Census, was 356, being 1 for each 173,901 persons. Using this number as a divisor, and dividing the population of each of the States by it, the quotient will be its number of members by *ratio*; but in each instance there will be a remainder, larger or smaller. To those States having the larger remainders additional members are allowed, so as to make the total of all the States 356. Each State is divided into congressional districts by its Legislature; but, in case the number of representatives of a State is increased and the Legislature fails to redistrict the State before an election occurs, the additional member is elected *at large* on the general State ticket. In case the number is diminished and the State is not redistricted, the entire number of representatives is elected *at large*.

Delaware, Idaho, Montana, Nevada, and Wyoming have each a population less than 173,901; but they have each one member under the constitutional provision that "each State shall have at least one representative."

The number of members will be augmented, of course, when new States are admitted into the Union.

Each organized Territory is allowed one *delegate*, who may speak, but not vote, on any question.

QUESTIONS.

16. What does the Constitution say on this subject?
17. What was known about the population of the States when the Constitution was formed?
18. What was provided by the Constitution in reference to this?
19. How many members were in the first Constitutional Congress?
20. As the population of the United States should increase, what must be done?
21. Why must this be done?
22. By whom and how often is the number of members fixed?

23. What is the present number? How apportioned and allotted among the States?
24. What members are called members *at large*?
25. How are members *at large* elected?
26. What if new States are admitted into the Union?
27. What is said of organized Territories?

LESSON XIII. — HOUSE OF REPRESENTATIVES, *Continued.*

When the Constitution was adopted, slavery existed in every State excepting Massachusetts. As a matter of compromise between the North and South, and *IV. How apportioned (99).* after long and earnest debate in the convention that framed that document, the following clause was accepted as the rule for determining the representative population:—

“Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.”

The last clause of this period, “three fifths of all other persons,” refers to slaves. Three fifths of these were to be counted as representative population.

It will be observed that the Constitution nowhere mentions the word “slave” or “slavery.” Whenever it is necessary to allude to that class of persons, a definition is adopted instead of the word itself. This was deliberately intended by the authors of that instrument, feeling that it would be a stain upon their work. The word “slavery” occurs in the Thirteenth Article of Amendment, and

there only for the purpose of abolishing that institution throughout the United States, and in all places subject to their jurisdiction. This amendment was proclaimed by the secretary of state, Dec. 18, 1865, to be a part of the supreme law of the land. From that day, therefore, slavery ceased to exist throughout the United States and their Territories.

By a part of the second clause of the Fourteenth Article of Amendment, which was subsequently adopted July 28, 1868, the count of representative population was essentially modified. From the time of the adoption of that article, representatives are to be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

By a subsequent provision of the same clause, if any State shall disfranchise the male negro population, being twenty-one years of age and citizens of the United States, and prohibit their voting at the usual elections, the basis of representation is to be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

By the Fifteenth Article of Amendment, subsequently adopted March 30, 1870, the States are forbidden to deny or abridge the right of citizens of the United States to vote on account of race, color, or previous condition of servitude.

Thus it will be seen that the entire population, and the representative population, excluding Indians not taxed, are identical.

QUESTIONS.

28. How many States held slaves at the adoption of the Constitution?
29. How were representatives then apportioned?
30. To whom does "three fifths of all other persons" refer?
31. Where and for what purpose does the word "slavery" occur in the Constitution?
32. When was slavery abolished in this country?
33. How are representatives now to be apportioned?
34. For what cause is the basis of representation to be reduced?
35. What is the substance of the Fifteenth Article of Amendment?

LESSON XIV. — HOUSE OF REPRESENTATIVES,
Continued.

It will be remembered that the Constitution was formed in 1787. In reference to the enumeration, it says that the actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. *V. Enumeration.*

The enumeration is what is generally known as the census. The primary and leading object for which the census is taken is to equalize representation in the House of Representatives in proportion to the population of the several States. Indeed, this is the only means by which equality by representation can be secured.

The Constitution requires that the census shall be taken once in ten years. By act of Congress it was taken the first time in 1790; and it has been taken decennially ever since, during the first year of every regular decade: thus, 1800, 1810, 1820, etc. *1. When made (5).* It has therefore already been taken eleven times.

The manner of taking the census is under the control of Congress, to be fixed from time to time by law. Since the organization of the Department of the Interior (1849), that department has had general supervision of the matter. The Eleventh Census was by law placed under the immediate direction of the superintendent of the census, who was made the head of the Census Office. Supervisors had charge of limited districts, one or more in each State, under whose direction the enumerators canvassed their respective subdistricts during the month of June, 1890.

The duties of these enumerators consisted in visiting personally every dwelling-house and family within the limits of their respective jurisdictions, and propounding to some member of the family, of suitable age and intelligence, such questions as are required by act of Congress.

These questions relate not only to the number of inhabitants, but to their ages, sex, color, ability to read and write, facts relating to agriculture, manufactures, commerce, resources of the country, its productions, and, in fact, everything that may be necessary to give a general view of the condition of the United States.

Nor is it left to the discretion of persons questioned whether they will answer these interrogatories. They are compelled to answer, under a penalty of thirty dollars for each refusal; and the person so refusing can be imprisoned until the penalty is paid, and a new refusal can be followed by a new penalty and imprisonment.

Representatives are elected by the people of the several States. This is required by the express language of the Constitution. The word "people," however, does not include all persons, men, women, and children, but includes those persons only who are qualified voters.

VI. By whom elected (3).

This provision of the Constitution met with very strong opposition in the convention that framed that document. Some of the ablest men of that body contended that it was unsafe to allow the people to elect, by direct vote, their own representatives to Congress. This class of members earnestly contended that it would be an excess of democracy most dangerous in the hands of the people; that they were not qualified to exercise this prerogative. By the members holding this view it was proposed that these elections should be referred to the several State Legislatures. But at length the provision passed by a very close vote. Had the proposition prevailed to elect representatives by State Legislatures, it is highly probable that the Constitution would have been rejected by the people.

QUESTIONS.

36. When was the Constitution formed?
37. What does it say of enumeration?
38. What is the leading object for which the census is taken?
39. How often must the census be taken?
40. When was the first census taken?
41. How many times has it been taken?
42. Who has the control of this matter?
43. What department has the supervision of this matter?
44. Where has that department placed the execution of it?
45. How do the marshals divide their districts?
46. How do the census-takers do this business?
47. What penalty attaches to a refusal to answer the officer's questions?
48. By whom are representatives elected?
49. Who are these people?
50. What is the substance of the discussion in the convention on this subject?

LESSON XV. — HOUSE OF REPRESENTATIVES,
Continued.

The word “electors” here means voters. The Constitution requires that the electors, or voters for members of the House of Representatives, shall have the qualifications requisite for the voters, or electors of the most numerous branch of the State Legislature.

VII. Qualifications of Electors (3).

A State Legislature, like the Federal Congress, consists of two Houses, one of which is called the Senate, and the other of which is known as the Assembly, House of Delegates, or House of Representatives, — in one State by one name, in another by another. The Senate is the least numerous branch, and is frequently called the upper House; the other branch is the most numerous, and is often called the lower House.

In some States higher qualifications are required to vote for members of the upper than of the lower House; but, by the provision of the Constitution just referred to, no State has the right to require any higher qualification of an elector to vote for a member of the House of Representatives than it requires to vote for a member of its own lower House.

For instance: the Senate of the State of New York consists of thirty-two members; the Assembly, of one hundred and twenty-eight, the Assembly being the most numerous branch of the State Legislature. Now, if the State of New York were to require a property qualification to vote for a State senator, and no such qualification to vote for a member of the other House, that State could not require a property qualification to vote for a member of the National House of Representatives. Whoever may

vote for a member of Assembly in New York may enjoy the right to vote for a representative in Congress. Each State, therefore, determines this whole question for itself. Were women allowed to vote for members of the Assembly in the State of New York, they must also be allowed to vote for members of the lower House of Congress.

Members of the House of Representatives are elected in the several States by congressional districts. When it has been ascertained how many members each State is entitled to, the Legislatures of the several States divide them respectively into as many congressional districts as they are each entitled to members. These congressional districts are numbered, for convenience, 1st, 2d, 3d, etc., and are known by their numbers.

The electors of each district vote for but one candidate, though that candidate need not necessarily be a resident of the voter's district. He must, however, as we have seen, be an inhabitant of the State in which he shall be chosen.

The Constitution says that representatives shall be chosen every second year; that is, once in two *VIII. When elect-
ed (3) (15).* years. The representative term commences the fourth day of March next after the election of the members, and continues for two years.

For many years the day of election of representatives was not the same in the several States,—the time was regulated by each State Legislature for its own jurisdiction,—but by paragraph (15) of the Constitution the time of holding elections for representatives may be determined by Congress.

Under this authority a law was passed Feb. 2, 1872, fixing the time for election of representatives; and by this law the time is the same throughout the United States, except in a few States where another day is fixed by the State constitutions.

In all other States and Territories the election must be held on the first Tuesday after the first Monday in November, the year of the election.

The Constitution says, "When vacancies happen in the *IX. How Vacancies are filled (6)* representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies."

The writ of election is directed to the proper officer of the congressional district in which the vacancy occurs. The writ commands that the election shall be held at a time therein named, and it is the duty of the officer to whom it is directed to give notice thereof. The election held in pursuance of such writ is called a special election.

The representative elected to fill a vacancy serves only the unexpired portion of the term for which his predecessor was elected. Vacancies can only happen by death, resignation, or expulsion of the incumbent from his seat in the House.

QUESTIONS.

51. What does the word "electors" mean?
52. What must be the qualifications of voters?
53. Of what do State Legislatures consist?
54. Which is the most numerous branch?
55. What qualifications has a State a right to require of voters for a representative in Congress?
56. Give the substance of the illustration.
57. What is said about congressional districts?
58. How often are members chosen?
59. When does a representative term begin, and how long continue?
60. By whom has the time for electing representatives been determined heretofore?
61. By whom is it now determined?
62. Hereafter on what day is the election to take place?
63. Where is the election to be held on that day?
64. How are vacancies filled?
65. What is said about this writ of election?
66. How may vacancies occur?

LESSON XVI. — HOUSE OF REPRESENTATIVES,
Continued.

The House is coördinate with the Senate in general legislation. There are special powers peculiar to each House, and these are so clearly defined in *X. House Powers.* the Constitution as to take away all ambi- *1. Legislative.* guity. There can be no mistaking the pow- *(a) Concurrent (2).* ers of one House for those of the other. But in the general ordinary business of lawmaking the Houses are coördinate in legislative power.

The Constitution says, "All bills for raising revenue shall originate in the House of Repre- *(b) Exclusive (23).* sentatives."

It will be seen, therefore, that the power for originating bills which may result in a tax upon the people belongs *exclusively* to the House.

This body, as has been stated, is constituted of the more immediate representatives of the people; and as the people are to pay the taxes, if any are imposed, it would seem fit and proper that their representatives should be the prime movers in any measures that require money to prosecute them.

The House of Representatives has the sole power of finding, or preferring articles of impeachment. An impeachment is a solemn and specific accusa- *2. Inquisito-* tion brought against a public officer, drawn *rial (7).* out in due form, charging him with treason, bribery, or other crimes and misdemeanors.

It is in the nature of an indictment, being only *prima facie* evidence of guilt; sufficient, however, to put the accused on trial at the bar of the Senate. Although it requires a majority of two thirds of the Senate to convict

the accused, it requires only a numerical majority to prefer the impeachment by the House.

It would be in the highest degree improper for the accusing party to try and pronounce upon the guilt of the accused. When originating charges of impeachment, the House acts as the grand inquest of the nation. The Senate alone decides on the innocence or guilt of the accused.

In England the power of impeachment is vested in the House of Commons, the people's branch of the legislative department; and the trial of impeachment belongs to the House of Lords, to which our Senate is somewhat analogous (see TOWNSEND'S *Analysis of Civil Government*).

The Constitution says that the House shall choose their speaker and other officers. The speaker is the presiding officer of the House. He is chosen from among the members themselves being himself a representative. It is his duty to preside over the deliberations of the House, to keep order, and to appoint standing committees. The other officers are a clerk, sergeant-at-arms, postmaster, and doorkeeper. These officers are not members of the House.

Among the peculiar and exclusive powers of the House of Representatives is that of choosing a President of the United States in a certain contingency.

When the electors of President and Vice-President fail to elect a President by a majority of all the electors appointed by the people for that purpose, the election of the President devolves on the House. This has occurred twice since the adoption of the Constitution.

The first instance of an election by the House occurred in 1801. The two opposing candidates were Thomas Jefferson of Virginia, and Aaron Burr of New York. Mr. Jefferson was elected on the thirty-sixth ballot.

The second instance of the kind occurred in 1825. At that time there were three candidates for the office, whose names were before the House. These were John Quincy Adams of Massachusetts, Andrew Jackson of Tennessee, and William H. Crawford of Georgia. Mr. Adams received a majority of the votes on the first ballot, and was declared elected. He was the sixth President of the United States.

QUESTIONS.

67. How are House powers divided and subdivided?
68. What is said about the special powers of the two Houses?
69. What bills must originate in the House?
70. What is an impeachment?
71. What is said about impeachments in England?
72. What are the position and duties of the speaker?
73. What are the other officers of the House?
74. In what case does the House elect a President of the United States?
75. How many times, and when, has this occurred in our history?

BLACKBOARD EXERCISE.

SENATE.

- I. *How composed* (8)
- II. *Eligibility.*
 - 1. *Age* (10)
 - 2. *Citizenship* (10)
 - 3. *Inhabitancy* (10)
- III. *Senatorial Term* (8)
- IV. *By whom chosen* (8)
- V. *When chosen* (9)
- VI. *How classed.*
 - 1. *Expires Second Year* (9)
 - 2. *Expires Fourth Year* (9)
 - 3. *Expires Sixth Year* (9)
- VII. *How Vacancies are filled.*
 - 1. *Legislature* (9)
 - 2. *State Executive* (9)
- VIII. *Vote* (8)
- IX. *Presiding Officer.*
 - 1. *Vice-President U. S.* (11)
 - 2. *President pro tempore* (12)
 - 3. *Chief Justice* (13)
- X. *Senate Powers.*
 - 1. *Legislative.* (2)
 - 2. *Executive.*
 - (a) *Appointments* (64)
 - (b) *Treaties* (64)
 - 3. *Elective.*
 - (a) *Senate Officers* (12)
 - (b) *Vice-President U. S.* (57)
 - 4. *Judicial* (13)

CHAPTER X.

LESSON XVII. — SENATE.

THE Senate of the United States is composed of two senators from each State. While in the House each State is represented in proportion to the population thereof, and consequently enjoys political power in that proportion, no such distinction exists in the Senate: here the States, large and small, are equal. This is an unalterable provision of the Constitution, as will be seen by the closing language of Article V. of that document, which says, "No State, without its consent, shall be deprived of its equal suffrage in the Senate."

*I. How
composed (8).*

The composition of the Senate is the result of compromise between the larger and smaller States represented in the Constitutional Convention. Under the Confederation, it will be remembered, the representative power in Congress was the same in all the States; and that body consisted of but one House. The small State of Rhode Island had one vote, and the great State of Virginia had no more. The small States were tenacious of this power, and were reluctant to allow any encroachment on their sovereignty.

The large States yielded one point in the compromise, and the small States another. The large States consented to equality in the Senate; and the small States, to representation in the House in proportion to population. And as every bill, before it can become a law, must pass both

Houses of Congress, the rights of the smaller States are not likely to be compromised in the legislative departments.

The age of a senator must be at least thirty years. By reference to the age required for membership in the other

II. Eligibility. House, it will be seen that there is a differ-

1. Age (10). ence of five years, a man being eligible to a seat in that House at twenty-five years. It is considered, that, at least in some respects, the duties of a senator are more responsible than the duties of a member of the House of Representatives.

This may be inferred from the following :—

1st, There can be but two senators from one State, while the number of representatives will depend on the population. The State of New York, for instance, can have but two senators, but, by the apportionment based on the census of 1890, has thirty-four members of the other House.

2d, The responsible duty of trying all impeachments devolves on the Senate ; and from their decision there is no appeal.

3d, On the Senate rests the grave responsibility of deciding on the fitness of executive nominations to office.

4th, In the Senate is vested, jointly with the executive, the prerogative of treaty-making.

Any person born or naturalized in the United States, and subject to the jurisdiction thereof, is a citizen. The

2. Citizenship period of citizenship here required, before
(10). a person can be eligible to a seat in the Senate, is nine years. This refers to persons of foreign birth, who must go through the process of naturalization in order to become citizens.

The laws of Congress require five years' residence before an alien can become naturalized, and the Constitution nine years' citizenship before he can hold the office

of United States senator; making fourteen years' residence necessary before he is eligible to a seat in that body.

A senator of the United States must be an inhabitant of that State for which he is chosen.

3. *Inhabitancy*

(10).

But let it be observed, that necessity of inhabitancy is limited to the time *when chosen*. A senator chosen for New York, for instance, does not vacate his seat in the Senate by changing his residence to any other State during the term for which he was elected. It might be in the highest degree proper that he should resign, but that is a matter within his own discretion.

QUESTIONS.

1. How is the Senate of the United States composed, and how does it differ in composition from the House of Representatives?
2. What is the provision of the Constitution with reference to this?
3. Of what is the composition of the Senate of the United States the result?
4. What is said of the power of Congress under the Confederation?
5. What are the conditions of eligibility to the Senate of the United States?
6. In what respects are the duties of a senator more responsible than those of a member of the other House?
7. Who are citizens of the United States, and what are the citizenship conditions of eligibility to the United States Senate?
8. What time is required for naturalization?
9. What is said of the necessity of continuous inhabitancy to render one eligible as presiding officer of the Senate?

LESSON XVIII. — SENATE, *Continued.*

The full senatorial term is six years,—a period three times as long as a term in the other House. The senatorial term was a subject of earnest debate

III. Senatorial Term (8). in the convention, and on which, at first, there was great difference of opinion.

The terms of three, four, five, six, seven, and nine years were severally proposed, and each had its advocates. Several members were in favor of extending the term for life, or during good behavior.

All were in favor of a term sufficiently long to insure to the office dignity, stability, and independence. Six years was probably not the choice of half the members of the convention, but that term was adopted as a compromise of the extremes.

It was the intention of the authors of the Constitution that the Senate should be a far more grave, dignified, and aristocratic body than the House.

The senators are chosen by the Legislatures of their respective States. They represent their States in their political capacity, and are not regarded as

IV. By whom chosen (8). representatives of the people. In the other House, a member, as we have seen, represents the people of his congressional district. The senator represents the whole State, by which he is chosen through its Legislature. Therefore State Legislatures claim the right to instruct their senators in regard to the course which they wish them to take on great national questions, even to the extent of dictating how they shall vote on such questions.

As the Legislature appoints the senator, they consider him as their immediate agent, or servant, and properly subject to their dictation and authority.

They often *request* the representative, but *instruct* the senator.

By a provision of the Constitution, one third of the number of senators is chosen every second *v. When chosen*
(9).
year.

This must necessarily be so, on account of the mode of classifying the senators which is prescribed in the Constitution, and which is therein directed to take place at the first organization of the Senate under the new government.

Only one third of the senators being chosen every second year, and but one third retiring every second year, the Senate must always be constituted of members one third of whom have had at least four years of legislative experience, and of another third who have had at least two.

By act of Congress, passed July 26, 1866, relating to the election of United States senators by the State Legislatures, it is provided, —

1st, That each House shall, by a vote *vivâ voce* of each member present, on the second Tuesday after the meeting and organization thereof, name a person for senator of the United States.

2d, On the day following, the two Houses shall meet in joint assembly; and, if the same person shall have received a majority of all the votes cast in each House, he shall be declared duly elected senator of the United States.

3d, If no person has received such majorities, then the joint assembly shall choose by a *vivâ voce* vote a person for senator; and the person who shall receive a majority of all the votes of the joint assembly, a majority of the members of each House being present, shall be declared duly elected.

4th, If such senator is not elected on the first day, the joint assembly shall meet, and take at least one vote per day, during the entire session of the Legislature, or until a senator shall be elected.

5th, In relation to vacancies, the act provides that when one exists at a meeting of the Legislature, the same proceedings shall be had on the second Tuesday after their meeting and organization.

6th, When a vacancy shall happen during the session of the Legislature, like proceedings shall be had, beginning with the second Tuesday after notice of such vacancy shall have been received.

7th, The governor of the State shall certify the election of a senator to the President of the United States.

QUESTIONS.

10. What is a senatorial term?
11. How does this compare with a term in the other House of Congress?
12. What were the views of the members of the convention on this subject?
13. By whom are the senators chosen, and whom do they represent in their political capacity?
14. How does the representation of senators differ from that of the other House?
15. Why do State Legislatures claim the right to instruct their senators?
16. What portion of the senators is chosen every second year, and why must this be so?
17. What is the result of this?
18. When, and by what formality, are United States senators elected?

LESSON XIX. — SENATE, *Continued.*

The Constitution says, “Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three *VI. Three Classes* classes. The seats of the senators of the *of Senators (9)* first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year.”

By the foregoing provisions of the Constitution, it will be seen that the Senate is a perpetual body. This was the intention of the framers of that instrument. The prerogatives with which it is invested, and the duties required of it, render this indispensable. It may be necessary to convene them at any time for the purpose of trying impeachments, confirming executive nominations to office, or concurring with the President in making treaties. Of course, there would be times when this could not be done if the Senate were not a perpetual body.

The number of senators at first was twenty-six, there being thirteen States in the Union, and two senators from each State. Were each of these senators to serve for six years, their terms would all expire at the same time; but the plan was, that one third should retire every second year: hence the first Congress classified the senators, and determined by lot who should retire at the end of two years, who at the end of four, and who at the end of six. That classification has been preserved, as nearly as practicable, ever since.

When a new State is admitted into the Union, and it chooses two senators, it is determined by lot which shall serve for the short and which for the full term.

The language of the Constitution on the subject of filling vacancies is as follows:—

“ If vacancies happen by resignation or otherwise during the recess of the Legislature of any State, the Executive *VII. How Vacancies are filled.* thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.”

As implied by this language, if the Legislature of the State in which the vacancy occurs is in session when it *1. By the Legislature (9).* happens, that body will fill the vacancy. As to when and how they shall fill it, has been explained under the head, in this chapter, “ When chosen.”

The Executive is the governor of the State. He may *2. By the Executive (9).* make temporary appointments to fill vacancies that occur when the State Legislature is not in session.

If the Legislature is in session when the vacancy happens, the governor has no authority over the matter: nor can he make an appointment, even for a single day, in anticipation of a vacancy that is soon to occur; he must wait until it has really taken place. This has been decided by the Senate of the United States. Nor can the State Legislature choose a senator to fill a vacancy, until the vacancy has actually happened.

The Constitution says, “ Each senator shall have one vote.”

This clause would seem to be superfluous, unless it be remembered, that, under the Confederation, each State, *VIII. Vote (8).* whatever the number of its members in Congress, had but one vote; and, if less than two members were present, it had no vote.

The States were each allowed from two to seven members; and, if their delegation was equally divided, they

lost their vote. One member was incapable of voting alone.

It was the intention of the Constitution to give equality of suffrage in the Senate ; with the further advantage that a senator shall not lose his vote, nor his State go entirely unrepresented, on account of the absence of one of the members from the Senate Chamber.

QUESTIONS.

19. How are senators classed, and when do their terms expire ?
20. How long does the Senate exist ?
21. What is the necessity of this ?
22. How many senators were in the first Constitutional Congress ?
23. By what means were they classified ?
24. What is done when new States are admitted ?
25. By whom are vacancies filled ?
26. What has been decided by the Senate in regard to filling vacancies ?
27. What is the origin of the provision that each senator shall have one vote ?

LESSON XX.—SENATE, *Continued.*

The Vice-President of the United States is *ex officio* (that is, by virtue of his office) president of the Senate. He performs the ordinary duties devolving on a presiding officer, except that he does not appoint the standing committees. This exception is proper from the fact that he is not a member of the body over which he presides.

**IX. Presid-
ing Officer.
1. Vice-Pres.
U. S. (11).**

In case of the removal of the President of the United States from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, these duties devolve on the Vice-President ; and he becomes

President of the United States. In such case, of course, he will not act as presiding officer of the Senate ; nor will he act as president of that body during the trial of the President of the United States on impeachment, should such an event occur.

By the Constitution, the Senate are required to choose a
2. President pro tempore president *pro tempore*, in the absence of the Vice-President, or when that officer shall be occupying the office and performing the duties of President of the United States.

The president *pro tempore* of the Senate is sometimes called the Vice-President of the United States; only, however, when the Vice-President has become President. This is often done, doubtless, by way of courtesy, but sometimes because he is really thought to be in fact such officer. This is a mistake which arose from the fact that until 1886 the president *pro tempore* of the Senate stood next in the line of succession to the office of chief magistrate, in case of the death of both the President and Vice-President.

The Vice-President is an officer of the United States, and no such officer can be a member of either House of Congress. The president *pro tempore* of the Senate is a member of that body, while the Vice-President of the United States is not.

A person may be eligible to the office of senator, and consequently to the position of president *pro tempore*, though ineligible to the office of Vice-President of the United States (see TOWNSEND'S *Analysis of Civil Government*).

The President of the United States is removable from office on impeachment by the House, and conviction by
3. Chief Justice the Senate. The Senate has the sole
 (13). power to try all impeachments. When the President is tried, the chief justice of the United States Supreme Court shall preside.

It would be manifestly improper for the Vice-President of the United States to preside over the trial of the President, whose conviction would result in removal from office. As the Vice-President, in such case, would succeed to the office of President, the former would be directly interested in the conviction of the latter. The President of the United States is the highest officer under our government; and it may be regarded in the highest degree proper and befitting, that, if brought to trial on impeachment, the highest judicial officer should preside over the solemn deliberations of such an august proceeding.

QUESTIONS.

28. Who is the presiding officer of the Senate of the United States?
29. What are his duties?
30. Why does he not appoint committees?
31. To what other duties may he be called?
32. Under what circumstances does he not preside over the Senate?
33. When is the president *pro tempore* chosen?
34. What is the president *pro tempore* sometimes called?
35. Why is he not such officer?
36. When does the chief justice of the United States Supreme Court preside over the Senate?
37. Why would it be improper for the Vice-President to preside in such case?
38. Why is the chief justice of the Supreme Court a more appropriate presiding officer?

LESSON XXI. — SENATE, *Continued.*

The Constitution makes no general distinction between the powers of the two Houses in legislation. It vests all *x. Senate Powers.* legislative power in a Congress of the *1. Legislative (2).* United States, consisting of a Senate and House of Representatives. These bodies are therefore coördinate with each other in general legislation.

But, as we have seen in a former chapter, there is one power relating to legislation vested in the House exclusively; and that is the power to originate bills for raising revenue.

Yet, when these bills reach the Senate, that branch of the Legislature may treat them in all respects as though they originated there. They can propose amendments, concur with amendments, or reject them, if proposed by the House, at any stage of the proceedings; or they can reject the bills altogether.

The power over appointments to office and of ratifying treaties is called executive, because in such cases the Senate *2. Executive.* acts on the recommendations of the President. In the transaction of such business *(a) Appoint-ments (64).* the session is called an executive session; and they sit with closed doors, the members being generally under an injunction of secrecy.

The President nominates, and by and with the advice and consent of the Senate appoints, ambassadors, other public ministers, and consuls; judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise provided for in the Constitution, and which are established by law.

The power is vested in the Senate of ratifying or rejecting these nominations of the President.

A treaty is an agreement or contract between two or more nations, entered into with proper formality and solemnity, defining the rights of the respective parties thereto with regard to trade, commerce, boundaries, or any other subject of interest to the nations concerned. (b) *Treaties* (64).

The terms of treaties are usually agreed upon either by commissioners appointed by their respective governments for the specific purpose of arranging the details, or by ambassadors or other public ministers.

Treaties are discussed by the Senate in secret session. They can ratify or reject a treaty, or ratify it in part and reject it in part; or they can make additions to it. Every part of a treaty, to be valid, must of necessity be ratified by a vote of at least two thirds of the senators present and voting thereon.

When amendments to, or alterations of, the treaties have been made by the Senate, the whole document must be re-submitted to the President, and also to the foreign government with whom negotiations are pending.

The Senate has the power to elect its officers, except the president thereof, who holds this position by virtue of his being Vice-President of the United States. They are required by the Constitution to choose a president *pro tempore* also. Deliberative bodies, with few exceptions, elect their own officers; and this is necessary to their independence. Here is one of the exceptions to the general rule, however, that the Vice-President is, *ex officio*, president of the Senate. 3. *Elective.*
(a) *Senate Officers* (12).

Besides the president *pro tempore*, the Senate officers are a secretary, who keeps the record or journal, has charge of the papers, and reads such as he may be called upon by the members to read: a sergeant-at-arms, who sees that

orders of the Senate are executed ; a postmaster, who sees to the mailing and distributing of letters and papers for the members ; and a doorkeeper, who has charge of the doors.

These officers, except the president *pro tempore*, are not specified in the Constitution, and are not elected from the members of the Senate.

As a last resort, the Senate elects a Vice-President of the United States. This is not done, however, until an attempt to elect this officer on the part of electors chosen by the people has resulted in a failure. An election of a Vice-President by the Senate has taken place in the history of our government but once : in 1837 Richard M. Johnson was elected by the Senate.

The Constitution vests in the Senate the sole power to try all impeachments.

4. *Judicial.*

When trying impeachments, the Senate sits as a *court* ; and from their decision there is no appeal. Nor can the President of the United States exercise the pardoning power in cases of impeachment.

It requires a concurrence of two thirds of the members present to convict a party on impeachment. This was believed to be necessary in order to guard against hasty and inconsiderate decisions, and to prevent convictions from party zeal and political bias and prejudice. So large a majority, moreover, would be more likely to command the respect and peaceable acquiescence of the whole country.

The Constitution limits the punishment to be inflicted by the Senate on impeachment (1) to removal from office ; and (2) to disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

QUESTIONS.

39. What is said of the general legislative power?
40. What legislative power belongs to the House only?
41. What power has the Senate over these bills?
42. What are the Executive powers of the Senate?
43. On what appointments to office does the Senate act?
44. What is a treaty?
45. By whom are the terms of treaties generally proposed?
46. What power over treaties has the Senate?
47. What officers has the Senate?
48. By whom are they chosen?
49. What are the duties of these officers?
50. When does the Senate elect a Vice-President of the United States?
51. How many times has this occurred?
52. What is the judicial power of the Senate?
53. What is said about impeachments?
54. What punishment may follow impeachment?

BLACKBOARD EXERCISE.

PROVISIONS COMMON TO BOTH HOUSES.

I. <i>Membership</i>	(17)
II. <i>Ineligibility.</i>	
1. <i>Official Incumbrance</i>	(22)
2. <i>Disloyalty</i>	(100)
III. <i>Business Quorum</i>	(17)
IV. <i>Parliamentary Rules</i>	(18)
V. <i>Yeas and Nays</i>	(19)
VI. <i>Journal.</i>	
1. <i>Keeping</i>	(19)
2. <i>Publishing</i>	(19)
VII. <i>Penalties.</i>	
1. <i>Punishment</i>	(18)
2. <i>Expulsion</i>	(18)
VIII. <i>Prohibitions.</i>	
1. <i>Adjournment.</i>	
(a) <i>Time</i>	(20)
(b) <i>Place</i>	(20)
2. <i>On Members.</i>	
(a) <i>Offices created</i>	(22)
(b) <i>Emoluments increased</i>	(22)
IX. <i>Official Oath</i>	(84)
X. <i>Salaries</i>	(21)
XI. <i>Official Privileges.</i>	
1. <i>From Arrest</i>	(21)
2. <i>Of Debate</i>	(21)

CHAPTER XI.

LESSON XXII.—PROVISIONS COMMON TO BOTH HOUSES.

THE Constitution says, “ Each House shall be the judge of the elections, returns, and qualifications *I. Membership* of its own members.” (17).

These are powers which, from the necessity of the case, must be vested in the House where membership is claimed. It is necessary to settle the legality and regularity of the election; otherwise any person might intrude himself into either House without the least show of authority. Regularity and legality of election can be determined only by an inquiry into the election through the returns, which opens the whole subject for investigation; for, in ascertaining the validity of the returns, it may be necessary to go back of them, and inquire into the legality of the election itself.

Were it not for these powers, a person might claim membership to either House who was wholly ineligible.

Even though regularly elected, he might lack any or all those qualifications required by the Constitution.

The power of determining the right to membership belongs not only to each House of Congress by express constitutional provision, but like authority is conceded to the legislative bodies of all the States, and to kindred bodies under all free governments.

The language of the Constitution on this subject is, “ No

person holding any office under the United States shall be

II. Ineligibility: a member of either House during his con-
1. Official Incum- tinuance in office.”
brance (22).

If a person holds any Federal office at the time of his election to either House of Congress, he must resign it before he has the right to take his seat. This provision originated in a deference to State jealousy, and fear that the General Government would obtain an undue influence in the national councils. If a Federal officer were allowed to be a member of either House, he might wield an undue influence over those with whom he would be associated in legislative deliberations.

In the year 1861 a great civil war broke out in the United States, which continued more than four years. It cost the

2. Disloyalty country more than a million of lives and
(100). several billions of money. Most of the

slave-holding States passed ordinances of secession, and organized the Confederate States; and many of their citizens, to the number of several hundred thousand, took up arms against the government of the United States. Among these were thousands of the prominent men of the South, many of whom had held high offices in State and Nation. The conflict resulted in the downfall of the Confederacy, and in the triumph of the Federal Government.

The Federal and State office-holders who were engaged in the secession movement had taken an oath to support the Constitution of the United States. By the third clause of the Fourteenth Article of Amendment to the Constitution, all such persons are declared ineligible to a seat in either House of Congress; though, by a further provision of the same clause, such disability may be removed by a vote of two thirds of the members of each House.

The Constitution says, “A majority of each House shall constitute a quorum to do business; but a smaller

number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.”

III. Business Quorum (17).

It is indispensable that the Constitution specify the number necessary to do business; otherwise a reckless and intriguing minority might take advantage of the absence of the majority, and usurp the functions of legislation by enacting repugnant and odious laws, or by repealing those most acceptable to the people.

On the contrary, if a smaller number could not adjourn from day to day, or compel the attendance of absent members, the whole business of legislation might be suspended at the pleasure of a few refractory absentees. The necessity of these three provisions in reference to business, therefore, must be evident at a glance.

The Constitution says, “Each House may determine the rules of its proceedings.”

Every deliberative assembly has an inherent right to adopt such parliamentary rules as it chooses for the transaction of business, provided those rules do not violate any organic law from which such assembly receives its authority.

IV. Parliamentary Rules (18).

Take away this right to adopt their own rules of proceeding, and it would be utterly impracticable to transact business with facility and dispatch.

QUESTIONS.

1. What does the Constitution say about membership in either House of Congress?
2. Why is this necessary?
3. What may be necessary to the inquiry of the legality of the returns?
4. What qualifications might a person lack, though regularly elected?

5. To what legislative bodies is the power of determining this right accorded?
6. What are the conditions of ineligibility?
7. What is the language of the Constitution in regard to the conditions of ineligibility?
8. In what did this originate?
9. What great event was precipitated in 1861, and how long did it continue?
10. What did it cost the country?
11. What did the Southern States do?
12. How did the conflict terminate?
13. What oath had many of the Federal and State office-holders engaged in the secession movement taken?
14. What does the Fourteenth Article of Amendment say about these?
15. What does the Constitution say as to what shall be considered a quorum?
16. Why does the Constitution define the quorum to do business?
17. What is said about parliamentary rules?
18. What would be the result if this right concerning parliamentary rules were taken away?

LESSON XXIII. — PROVISIONS COMMON, *Continued.*

The Constitution says, "The yeas and nays of the members of either House on any question shall, at the desire of
v. Yeas and one fifth of those present, be entered on
Nays (19). the journal."

The usual method of taking a vote in deliberative bodies is substantially this: The question being stated by the presiding officer, he puts it first affirmatively, "As many as are in favor of the proposition, say 'ay'" (all the members in favor of it respond "ay"); the presiding officer then puts the question negatively, "Those opposed say 'no.'" The president is generally able to decide by the

sound; but if not, he repeats the trial, calling the vote both affirmatively and negatively. If still in doubt, or at the request of a member, the House may be divided, the affirmative taking one side, and the negative the other, when the secretary counts; and, on the count, the decision is made.

But in taking the yeas and nays the process is quite different. The presiding officer states both sides at once, thus: "As many as are in favor, etc., will, when their names are called, answer 'yea;' and as many as are opposed will, when their names are called, answer 'no.'" The names are then called, usually in alphabetical order, each member rising at the call of his name by the secretary or clerk, and answering "yea" or "nay," as he votes; the clerk noting the vote in each case. He then usually reads over the list of names and the votes in each case, so that, if any mistakes have been made, they may be corrected.

Several objects are secured by taking the yeas and nays:—

1st, They are entered on the journal, which shows, therefore, the way each member votes. The record is kept for future inspection.

2d, The record also shows who were absent, — a matter of scarcely less importance to the member, or his constituency, than the vote itself one way or the other. Members sometimes absent themselves for the purpose of avoiding responsibility in voting.

3d, As the newspapers publish a list of the yeas and nays, the people soon learn how each member has voted on any important question.

The Constitution says that each House shall keep a journal of its proceedings. This provision imposes a salutary restraint upon the members of the two Houses. In a

certain sense, it brings representative and constituent face to face. The journal contains a lasting record of the doings of the body for which it is kept, and is accessible for inspection at all proper times.

VI. Journal.
1. Keeping (19). The journal contains a lasting record of the doings of the body for which it is kept, and is accessible for inspection at all proper times.

The Constitution requires that from time to time the journal shall be published excepting such parts as are proper to suppress, of which each House is the judge.

2. Publishing (19).

There may be proceedings in every legislative body, especially in times of insurrection or invasion, the immediate publication of which would be imprudent in the highest degree. The publication of such from day to day might give great advantage to a public enemy, and endanger the very existence of the government itself.

The Constitution says that "each House may punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

VII. Penalties.
1. Punishment (18). The power to punish members for disorderly behavior is usually given to legislative bodies. Without this power, it might be impossible, at times, to transact business. Under high excitement, members are sometimes boisterous and tumultuous in conduct; and they might persist in disturbing the assembly, but for this power to punish. Rules would be of no use without the power to enforce them.

The power to expel a member is given for the same purpose; that is, for the preservation of order, and for the maintenance of proper decorum. Without these powers, the country would lose all respect for its legislative assembly. But lest party-spirit might overstep the limits of propriety, and a domineering majority expel members of opposite political sentiments from improper motives, a salutary restraint is imposed, re-

quiring a vote of two thirds for the expulsion of a member. So large a majority it would be difficult to secure in any case where the rights of the assembly had not been grossly outraged.

A member may be expelled, not only for misbehavior in the presence of the assembly itself, but for any conduct elsewhere incompatible with his obligations as a legislator.

QUESTIONS.

19. What does the Constitution say about yeas and nays?
20. What is the usual method of taking votes?
21. How by yeas and nays?
22. What objects are secured by this method?
23. What does the Constitution say about keeping a journal?
24. What is the use of this provision?
25. What about publishing the journal?
26. Why not publish the whole journal?
27. What does the Constitution say about penalties?
28. What is the use of this power?
29. For what is the power of expulsion given?
30. Why is so large a vote required to expel a member?
31. For what may a member be expelled?

LESSON XXIV.—PROVISIONS COMMON, *Continued.*

The Constitution says, “Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.”

VIII. Prohibitions.
1. Adjournment.

If there were no limitation as to the time for which either House, during the session of Congress, might adjourn without the consent of the other, a factious party-spirit controlling in either House

(a) *Time (20).*

might seriously interrupt legislation, or bring it to an untimely close.

Were there no restriction with regard to the place to which either House might adjourn without the consent of the other, mischief equally disastrous and embarrassing might be perpetrated. One House might compel the other to follow it from place to place for the very purpose of preventing legislation. This might be done by a minority taking advantage of the absence of a majority, as a minority has power to adjourn.

(b) *Place (20).*

The duration of the sessions of Congress depends, —
1st, On the constitutional limitation, which cannot extend beyond the period of two years.

2d, On the pleasure of the two Houses, subject to the foregoing restriction.

3d, On the pleasure of the President of the United States, when the two Houses cannot agree on the time of adjournment.

The Constitution says, "No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time."

2. *Members.*

(a) *Offices created (22).*

(b) *Emoluments increased (22).*

If a member of Congress were permitted to assist in creating an office, and then to resign his seat for the purpose of obtaining that office on being nominated to it by the President, it would throw wide open the doors to executive corruption. Numerous lucrative offices might thus be created by legislation, with the understanding, express or implied, between the legislators and the Executive, that the offices so created should be distributed among those who were instrumental in creating them.

The chairman of the Judiciary Committee might pro-

pose, to the House of which he was a member, the creation of a United States judgeship in California, with a salary of ten thousand dollars a year; and, through his official influence, the bill might pass both Houses of Congress. By pre-arrangement with the Executive, that office might be secured to the very man who had been the chief means of creating it, were he at liberty to resign his seat and take it.

Also, by a system of "bargaining and selling," the salaries of certain offices might be greatly increased by mercenary legislation; and then those salaries might be bestowed on the very men who had been active in augmenting them, but for the restrictions under consideration.

Senators and representatives shall be bound by oath or affirmation to support the Constitution of *IX. Official Oath* the United States. (84).

This oath is administered to the members, before taking their seats, by the President of the Senate, or Speaker of the House of Representatives. He who takes it appeals to the Supreme Being for the rectitude of his intentions. Such an oath is calculated to make a deep and solemn impression on the mind of any candid and conscientious man.

It seems fit and proper, therefore, that all who assume the important trust of legislation for their country should take upon themselves this solemn obligation. They assume grave responsibilities, the faithful discharge of which concerns the welfare of the whole people of the United States.

Some persons are conscientiously opposed to taking an *oath* on any occasion whatever. Out of respect to the scruples of such persons, a solemn affirmation is administered instead of an oath.

QUESTIONS.

32. What does the Constitution say about adjournments?
33. Why this limitation?
34. Why the limitation as to place?
35. On what does the duration of Congress depend?
36. What are the constitutional prohibitions on members?
37. How might members profit but for this prohibition?
38. What is the official oath?
39. Why should this oath be taken?
40. Who may be excused from taking it?

 LESSON XXV.—PROVISIONS COMMON, *Continued.*

The language of the Constitution on the subject of salaries is, "The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States."

X. Salaries (21).

The salaries of the representatives are the same as the salaries of the senators. At first, in 1789, they were fixed at six dollars a day, and six dollars for every twenty miles' travel in going to and returning from the seat of government. This compensation has been increased from time to time by various acts of Congress. The salary of a member of either House at the present time is five thousand dollars per year. That of the speaker of the House is eight thousand dollars; of the president of the Senate, the same.

The Constitution says that the compensation is to be ascertained by law; which is by no means a very difficult matter, as the members make the law to suit themselves. As to the amount, there is no constitutional restraint or limit. The want of some provision of limitation was not

entirely overlooked by the authors of the Constitution. They thought it improbable, however, that such an authority placed in such hands would be abused; but, right or wrong, much complaint has been uttered on the subject.

The members of the British Parliament, whether of the House of Commons or the House of Lords, receive no compensation whatever.

Many of the members of the convention that formed the Constitution were opposed to allowing salaries to senators and representatives. It was proposed to consider the honor of the position a sufficient reward, believing that this would secure the services of men of higher character and more distinguished ability.

But the majority of the convention were in favor of salaries, and this view prevailed. It was thought best that the salaries of members should be paid from the United States Treasury, as that would be more likely to secure promptness of payment, and consequently promptness of attendance. Under the Confederation, the members were paid by their respective States. The pay was often slow, and the attendance tardy and reluctant.

The Constitution says, "They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the ses- *XI. Official Privileges.*
sion of their respective Houses, and in
going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place."

This is a privilege accorded to members of all legislative bodies. But for it the House of Representatives might suffer great inconvenience in the transaction of business, and the congressional district, or the State, might be for a time without representation.

*1. From Arrest
(21).*

Prominent members of important committees, or even the speaker of the House of Representatives, might be detained from the performance of legislative duties at the instance of private creditors; and thus private interests would be allowed to interfere with the performance of public duties.

They can be arrested for crime only. An eminent English jurist says that it has immemorially constituted a privilege of both Houses of the British Parliament. It is also necessary in order to sustain the personal independence of the members.

For the purpose of securing entire freedom of discussion, no member of either House can legally be questioned elsewhere for anything which he may see fit to utter in debate in his place as a member; that is, he cannot legally be called to account before the courts, no matter how much he may slander private character. This provision is for the purpose of securing entire and unlimited freedom of discussion.

Of course, this is a right which may be, and sometimes is, abused; but the public interests may require the most critical and searching examinations into personal and official qualifications of individuals proposed as candidates for public stations of grave responsibility. Members should be allowed to perform these duties without fear of future personal retribution.

QUESTIONS.

41. What does the Constitution say about salaries?
42. How does the salary of a representative compare with that of a senator?
43. What was the salary of a member in 1789?
44. What is the salary now?
45. What are the salaries of the presiding officers?

46. Who fixes the amount of salaries?
47. Is there any provision in the Constitution as to the limit of the amount?
48. What is said about the salaries of members of the British Parliament?
49. What was the opinion of many of the members of the Constitutional Convention regarding salaries of senators and representatives?
50. Why should the salary be paid out of the treasury of the United States?
51. By whom was it paid under the Confederation?
52. Why should members be privileged from arrest?
53. For what may they be arrested?
54. What is the second privilege?
55. Why is this?

BLACKBOARD EXERCISE.

POWERS OF CONGRESS.

I. <i>Finances.</i>	
1. <i>Resources.</i>	
(a) <i>Taxes, Duties, Imposts, Excises</i>	(26)
(b) <i>Borrow Money</i>	(27)
(c) <i>Territory</i>	(79)
(d) <i>Other Property</i>	(79)
2. <i>Disbursements.</i>	
(a) <i>United States Debts</i>	(26)
(b) <i>Common Defense</i>	(26)
(c) <i>General Welfare</i>	(26)
II. <i>Commerce.</i>	
1. <i>Foreign Nations</i>	(28)
2. <i>Several States</i>	(28)
3. <i>Indian Tribes</i>	(28)
III. <i>Commercial.</i>	
1. <i>Coinage of Money</i>	(30)
2. <i>Value of Coin.</i>	
(a) <i>Domestic</i>	(30)
(b) <i>Foreign</i>	(30)
3. <i>Weights and Measures</i>	(30)
4. <i>Bankruptcy</i>	(29)
IV. <i>Penalties.</i>	
1. <i>Counterfeiting.</i>	
(a) <i>United States Securities</i>	(31)
(b) <i>United States Coin</i>	(31)
2. <i>Crimes on High Seas</i>	(35)
3. <i>International Offenses</i>	(35)
4. <i>Treason</i>	(72)
V. <i>Postal.</i>	
1. <i>Post Offices</i>	(32)
2. <i>Post Roads</i>	(32)
VI. <i>Patent and Copy Rights</i>	(33)
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1. <i>Declaration</i>	(36)
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CHAPTER XII.

LESSON XXVI.—POWERS OF CONGRESS.

THE word “finances,” as here used, signifies the resources and disbursements of the country.

I. Finances.

The resources of a country are the pecuniary means which it has at its command.

1. Resources.

By our Constitution the resources consist in part of the power to lay and collect taxes, duties, imposts, and excises.

A tax is a sum of money levied on the property or inhabitants of a country for the support of the government. The power to lay and collect taxes *(a) Taxes, Duties, Imposts, Excises* belongs to every human government, without which the expenses thereof could not

be defrayed. This is one of the means which it has of enabling it to perform its obligations to the country. No government could sustain itself without regular and reliable resources.

Direct taxes are the kind here referred to. They are to be apportioned among the several States in the same manner as representatives; that is, in proportion to the representative population. Taxes are of two kinds,—direct and indirect. Direct taxes are such as are laid on the property of the country or on persons, the latter being called a capitation tax. Indirect taxes are such as are

levied on articles of consumption, of which no person pays, except in proportion to the quantity or number of such articles which he may consume.

Duties, imposts, and excises are also of the nature of indirect taxes. These must be uniform throughout the United States; that is, the same in all States.

The word "duties" refers to a kind of taxes levied on goods and merchandise imported or exported. In *our* country, an *export* duty is not permitted to be levied. The Constitution forbids it.

The imposts, under our government, are equivalent to customs, referring strictly to the duties on imports from foreign countries.

The word "excises" is applied more particularly to internal taxation, being levied on articles manufactured and consumed in the country, and also on various kinds of business. The money paid for licenses to sell liquors, or to deal in any other commodities, is called excises, or excise taxes.

Duties on imports are of two kinds, — specific and *ad valorem*, — and are collected at the customhouse. A specific duty is a certain sum of money charged according to quantity or weight, without any reference to the value of the articles weighed or measured; as a dollar on a yard of silk, or ten cents on a pound of tea.

"*Ad valorem*" is a word or phrase that signifies "according to the value of." *Ad-valorem* duties are levied on articles according to their value; as twenty-five per cent on the cost of cloth, and ten per cent on the cost of tea.

Duties are collectible at the customhouse where the goods are landed for consumption. Goods are estimated at their value where they are purchased, not where delivered. This is shown by the invoice, unless there is evidence of fraud in the bill; in which case, the proper

officers investigate the matter, and decide according to the proof.

If fraud is proved, the goods are forfeited to the use of the United States, and the perpetrator of the fraud may be punished for it as well as for the perjury.

The power to borrow money on the credit of the United States is classed among the government resources. It has *(b) Borrow Money* often been found to be of great importance *(27)*. in sustaining the financial interests of the country. No country can sustain itself through a long and expensive war, simply on its ordinary income. All the great powers of the world have found it necessary, at one time or another, to borrow money.

In our wars with Great Britain and with Mexico, we found it necessary to borrow in large sums; but in our more recent domestic war we were compelled to run up our national debt to nearly three thousand millions, thus anticipating the government income for a quarter or half a century.

QUESTIONS.

1. What does the word "finances" mean?
2. Of what do the resources of this country consist?
3. What is a tax?
4. Why are taxes collected?
5. How many and of what kinds are taxes?
6. What are duties, imposts, and excises?
7. Of what kinds are duties, and where collected?
8. What is the result of fraudulent invoices?
9. Why has it been necessary for the United States to borrow money?

LESSON XXVII.—POWERS OF CONGRESS,

Continued.

The right of ownership always implies the right of transfer. The right to dispose of the territory of the United States is to be understood here in a restricted sense. The United States does ^{(c) *Territory* (79).} not own a State in fee simple, or in any sense implying an interest in its soil. The government has no authority whatever to sell a State to any foreign power.

The power of Congress herein referred to is limited to,—

- 1st, Unorganized and unoccupied tracts or territories.
- 2d, Public lands in parcels to settlers, or to individuals desiring to purchase.
- 3d, Disposing of them in any other way for the promotion of the general welfare.
- 4th, Ceding to States unoccupied lands lying within their boundaries, for literary or school purposes.
- 5th, Re-ceding to States, for instance, from which they have been obtained, any lands, when the purposes for which they were obtained no longer exist.

This power to dispose of the territory of the United States implies the power to sell the lands, or to give them away for the public good. Many of the Western States have received grants of large tracts of lands within their borders by act of Congress. In selling lands to individual purchasers, the government has received many millions into its treasury, so that the disposition of the territory belonging to the United States may be regarded as one of the national resources.

Congress is invested with power to dispose of other property of the United States. This doubtless includes every

species of personal property. In time of war, especially, a vast amount of personal property accumulates in the (d) *Other Property* hands of government, such as ships, horses, (79). wagons, guns, clothing for soldiers, etc., which become useless in time of peace, and may be disposed of to the advantage of the public treasury.

The disbursements of a government are the sums of money paid out by it. Congress is authorized to make appropriations for the following purposes :—

2. *Disbursements.*

The only purposes for which the burden of taxes, duties, imposts, and excises can be imposed are to pay the debts and (a) *United States* provide for the common defense and general (26). welfare of the United States. The power of raising money through these means is for these definite and stipulated purposes.

Everything necessary for the welfare of the country is included in these powers of collecting money and disbursing it. The want of this, it will be remembered, was a serious defect under the Confederation. Before the adoption of the present Constitution, the government was utterly powerless to maintain its credit at home or abroad.

To provide for the common defense is one of the objects for which the various kinds of taxes may be imposed. A (b) *Common De-* nation without the ability to protect itself (26). *fense* from foreign invasion or domestic insurrection is destitute of one of the attributes of sovereignty essential to its independence. The army and navy are the organizations through which a nation demonstrates its strength in time of war. To support these on a scale commensurate with the wants of the United States necessarily requires the expenditure of immense sums of money. They will be further noticed in considering the war power of Congress.

To provide for the welfare of its citizens is the first duty of every government. Unable to do this, it will soon fail to command the respect, homage, and loyalty of its subjects ; and no government, especially republican in form, can long exist without the regard and affection of the people. (c) *General Welfare (26).*

If there is a single sentence or clause in the Constitution more comprehensive of its purposes than any other, it is this one requiring Congress to make provision for the general welfare. Indeed, this is the one great object of its origin.

QUESTIONS.

10. In what sense is the right to dispose of territory to be understood ?
11. What does the power here imply ?
12. What was the country's credit under the Confederation ?
13. What other object for imposing taxes ?
14. What is the first duty of every government ?

LESSON XXVIII. — POWERS OF CONGRESS, *Continued.*

Under the Confederation, Congress did not possess the power to regulate commerce. It belonged entirely to the several States ; and each acted according to the dictates of its own interests. This produced angry disputes and rivalry between them, from which not only the several States, but the General Government, greatly suffered. *II. Commerce. 1. Foreign Nations (28).*

The authors of the Constitution, therefore, had no hesitation in conferring this power upon Congress. The vexations and bitter experiences of the past induced the country at large to readily accept this provision.

The disastrous troubles of the past had rendered it evident that the power to regulate foreign commerce and interstate commerce ought to be in the same hands. Indeed, they could not safely be separated. The power to regulate foreign commerce, if vested in Congress, it was believed might be so exercised as to compel foreign nations to meet us on terms of reciprocity.

But if the States were to be allowed to restrict each other, to cultivate rivalry of interests, and to foster the jealousies of the past, commerce must languish, and the whole country must suffer.

If goods landed or manufactured in New York or Massachusetts could not be sold and conveyed into Pennsylvania or Connecticut without being burdened with State restrictions, not only would feuds be cultivated among the States, but foreign commerce would be seriously embarrassed, if not wholly destroyed; and this would strike a fatal blow at our national revenue.

Under the Confederation, Congress had but a limited power over commerce with the Indian tribes. They had none, except with those tribes located outside the limits of the State. Within a State the State itself had the authority. Each State adopted its own policy with this people: consequently there was no uniformity of traffic with the Indians; and, this creating dissatisfaction among the tribes, frequent aggressions and depredations were the result.

That this power should be vested in Congress was indispensable, for three reasons: —

1st, Experience had proved that it was extremely hazardous to leave it with the States.

2d, Congress could much more easily command the confidence of the tribes than any State Legislatures.

3d, It was necessary for the preservation of the rights, and for the defense of the territory of the Indians themselves.

QUESTIONS.

15. With whom has Congress the power to regulate commerce?
16. Why was this power given to Congress?
17. What objections to State restrictions?
18. Why is it necessary that Congress should regulate commerce with the Indians?

LESSON XXIX.—POWERS OF CONGRESS, *Continued.*

The power of Congress to coin money is one of the ordinary prerogatives of sovereignty. It is exercised for the purpose of securing a proper circulation of genuine instead of base coin in commercial transactions. In order to insure its purity and uniformity of value, the coining of money is placed exclusively under the supervision of the Federal Government. Money is the common standard by which the value of all articles of merchandise and real estate is measured or determined. Were it left to the States to coin money, there would be no uniformity in the standard of value; depending, as it would, on State lines and boundaries.

The advantages arising from placing this power exclusively in the hands of Congress are, —

- 1st, The facilitation of exchanges at home and abroad.
- 2d, The encouragement and stimulus which it imparts to commerce.
- 3d, The barrier which it erects against embarrassments arising from undue and forced scarcity.

4th, The uniformity of value which it insures, as it insures uniformity of alloy.

The power to regulate the value of domestic coin is expressly conferred on Congress by the Constitution. This

2. *Value of Coin.* is especially for the purpose of securing
(a) *Domestic Coin* entire uniformity of value, in order that it
(30).

may pass from hand to hand in business transactions, obviating the necessity of a test being applied to each piece of money in each commercial transaction. Every piece of money is stamped in such a manner as to indicate its precise value.

When at first metals were used as media of exchange, especially in ancient Britain, it was necessary to weigh such as were used, in every business transaction. It was also necessary to subject them to tests that would determine their purity.

They were not formed in the similitude of the beautiful coins of modern times.

The power of regulating the value of foreign coin is also given to Congress. If it were not for this power to
(b) *Foreign Coin* regulate the value of foreign coin, it would
(30). be very difficult to regulate the value of domestic coin.

Different States might attach different values to the same piece of foreign coin. Massachusetts might call a piece of English money, known as a sovereign, five dollars; and New York, four dollars. A citizen of Massachusetts owing a citizen of New York five thousand dollars, to be paid in Boston, could compel the latter to accept a thousand sovereigns in payment, on which the citizen of New York would lose a thousand dollars if he used the money at home. Thus foreign coin would become an article of commerce, the same as any other commodity.

Congress has the express power to fix the standard of

weights and measures ; but as yet it has not been exercised by this body.

3. Weights and Measures (30).

Until Congress shall fix a standard, the understanding seems to be that the States possess the power to fix their own weights and measures ; or, at least, the existing standards at the adoption of the Constitution remain in full force.

It is desirable that a pound, a gallon, and a bushel shall be the same in all the States and Territories ; but this entire uniformity will hardly be secured until Congress shall exercise its power over the subject.

The power to pass or establish uniform laws on the subject of bankruptcies is classed here as among the commercial interests of the government. A law of this character is regarded as indispensable to the commercial interests of the country.

4. Bankruptcy (29).

A bankrupt is one who owes more than he can pay. Especially is he to be regarded as such when the question of his inability to pay his debts has been judicially ascertained. No State has a right to pass a bankrupt law, or any other law impairing the obligation of contracts.

The objects of a bankrupt law are twofold : —

1st, To enable creditors to secure an appropriation of all the property of a debtor who fails to pay his debts ; allowing the courts, in such cases, to give the debtor a complete discharge from all indebtedness.

2d, To relieve unfortunate debtors from their debts, and from liability to imprisonment, on their own application, and surrender of all their property.

A bankrupt law must not be confounded with an insolvent law. An insolvent law simply relieves from a liability to imprisonment for debt, on the surrender of the debtor's property to the creditors : it does not discharge the indebtedness itself. In such cases, the future property of

the debtor may be seized for his debts, and appropriated to their payment. On the contrary, a discharge under a bankrupt law annihilates the debts themselves, and the creditors have no further claims.

QUESTIONS.

19. Why should the coinage of money be placed in the hands of the government?
20. What is money?
21. Why not leave coinage to the States?
22. Why should it be placed in the hands of Congress?
23. Why should government determine the value of money?
24. What was necessary when metals were first used?
25. Why was it necessary that Congress should regulate the value of foreign coin?
26. What is said about the standard of weights and measures?
27. What is a bankrupt?
28. What is the object of bankrupt laws, and how do they differ from insolvent laws?

LESSON XXX.—POWERS OF CONGRESS, *Continued.*

Counterfeiting consists in making imitations of coin, bank-bills, or other securities, approaching so near to a likeness

IV. Penalties. of the originals as to deceive a person of
1. Counterfeiting. but ordinary experience.

The power to punish, or to prescribe the punishment as it is here to be understood, for counterfeiting the securities
(a) United States and current coin of the United States, is a
Securities (31). necessity growing out of the power of Congress to coin money and to regulate its value.

We have seen that Congress has the sole power to coin money. It consists chiefly of gold and silver, and is struck
(b) United States at the mint in denominations adapted to
Coin (31). the uses of commerce.

Without the power to attach severe penalties to the crime of counterfeiting, the securities and coin of the United States would soon become comparatively worthless; the country would be filled with spurious bills, bonds, and coin; and it would not be long before money would cease to be a medium of exchange among the masses, who are unskilled in detecting the counterfeit from the genuine.

Congress is vested with power to define and punish piracies and felonies when committed on the high seas. In pursuance of this authority Congress has passed several acts on the subject. For instance, in 1820 the foreign slave trade was made piracy, punishable by death.

2. *Crimes on High Seas.*

(a) *Piracies (35).*
(b) *Felonies (35).*

From the foundation of our government, until 1808, the foreign slave trade was lawful commerce. Congress has the power to enlarge or contract the definition of "piracy" from its common-law meaning. Sir William Blackstone defines "piracy" at common law to consist in committing those acts of robbery and depredation on the high seas, which, if committed on land, would amount to felony.

"Felony" is another word of common-law definition. The author last quoted defines it to be every species of crime which at common law occasioned the forfeiture of the lands and goods of the criminal; and this happens most frequently in those crimes for which a capital punishment is or was inflicted.

Therefore "felony" is a word of generic import, and includes many crimes, such as murder, larceny, arson, burglary, etc. The Constitution authorizes Congress to change this common-law definition of "felony" in cases where it may be necessary to do so. When committed on the high seas, it could not properly be left with the States to define it, as the jurisdiction of offenses not committed

within State limits must necessarily be restricted to the Federal courts.

The high seas embrace not only the waters of the ocean which are out of sight of land, but also the waters on the sea coast below low-water mark, whether within the territorial boundaries of a nation or within those of a domestic State.

The Constitution says that Congress shall have the power to declare the punishment of treason. This crime

3. Treason (73). consists in levying war against the United States, or in adhering to their enemies, giving them aid and comfort. In 1790 Congress affixed to this crime the penalty of death. In 1862 Congress passed another act, punishing treason with death, or imprisonment for not less than five years, and a fine of ten thousand dollars, and the slaves of the party convicted to be free. This act was passed before the abolition of slavery in the United States.

QUESTIONS.

29. What is counterfeiting?
30. Why is punishment for counterfeiting the securities and current coin of the United States necessary?
31. What is the power of Congress over piracies and felonies committed on the high seas?
32. What is piracy at common law, and what power has Congress with reference to defining the same?
33. How is "felony" defined, and what is said in regard to changing this definition when necessary?
34. What are the high seas?
35. What is treason?
36. What penalty has Congress attached to this crime?

LESSON XXXI.—POWERS OF CONGRESS,
Continued.

The power to establish post offices and post roads is given to Congress by the Constitution. Nothing like a uniform postal system could have been established and carried on had the matter been left to the several States. There would have been as many different postal systems as there are States.

Under such a system, or rather such a want of system, the burdens must be unequal. It is far more expensive to transport the mails in some parts of the country, mile for mile, than in others. Yet it is in a high degree important to the whole country that the forest and the prairie be subjected to the hand of cultivation. And who will become pioneer, if he must be shut out from all communication with that world which he has left behind?

The general superintendence and direction of the Post Office Department is under the care of the postmaster-general. He has the establishing of post offices, appoints most of the postmasters, and has the letting of the contracts for carrying the mails.

Some of the postmasters in the larger offices are appointed by the President, by and with the advice and consent of the Senate. Formerly postage was at much higher rates than now. From the beginning of the postal system in this country, down to 1845, the rates of postage on a letter weighing half an ounce, or less, ranged from six to twenty-five cents, depending on the distance it was carried. For each additional half ounce or less, an additional postage was charged.

From 1845 to 1851 the rates of postage were five cents for half an ounce or less, if carried less than three hun-

dred miles, and ten cents if conveyed over three hundred miles. In 1851 the uniform rate of postage on letters not exceeding half an ounce was fixed at three cents, if not conveyed over three thousand miles and wholly within the United States. In 1870 the three-cent rate was extended to include all points within the United States, the limit of three thousand miles being removed ; and in 1883 this rate was further reduced to two cents ; while in 1885 the weight covered by this low rate was increased to one ounce.

For letters sent to foreign countries, various rates have been established (higher than these), the rates depending on the countries to which the letters are sent.

In 1790 there were but seventy-five post offices in the United States. In 1891 there were upwards of 64,000. The aggregate number of miles traveled in carrying the mail, in 1790, was 7,365 ; in 1891, more than 327,000,000.

It is encouraging to know, that, under the cheap postage plan with which the American people are now favored, the Post Office Department is nearly self-sustaining.

A post road is a road established as such by authority of law, over which the government mails are to be regularly carried.

2. Post Roads (32).

It has not been necessary, except in a few instances, that Congress should exercise their power to establish post roads. Generally the roads already opened by the inhabitants of the country through which the mails are conveyed have been found sufficient. They are regularly selected, and declared, however, to be post roads, before being used as such. The waters on our rivers and lakes, over which travel is public and regular, are, in many instances, established as post roads in this way.

The mails are carried by private individuals, or by railroad or steamboat companies, the contract being made

with the postmaster-general in behalf of the United States. He advertises for bidders, and lets the contract in each case to the lowest responsible bidder. Those who are in immediate charge of the mails are sworn to the faithful discharge of their duties.

The Congress shall have power, the Constitution says, "To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their *VI. Patent and Copy Right (33).* respective writings and discoveries."

Under the Confederation, the power did not belong to Congress to make provisions for patent and copy rights. From the very nature and character of the interest, these rights could not be protected by the several States to authors and inventors; for State legislation could not afford the necessary protection to authors, as their legislation could only cover their own respective territorial boundaries.

A *copyright* may be secured to authors for books, maps, charts, musical compositions, cuts and engravings, or for any other literary and scientific productions. The copyright extends for twenty-eight years; and if, at the end of that time, the author is still living, he may obtain its extension for fourteen years longer; or, if dead, his living representatives may obtain its extension; making, in all, forty-two years.

The expense of securing a copyright is but a trifle,—only about a dollar. When procured, it insures to the author during its continuance a monopoly of the publication and sale of his work.

Any one desiring to secure a copyright should write to the librarian of Congress for a circular of instructions; and he will receive one, without charge, by early mail.

Patents are issued by the Patent Office at Washington,

giving the inventor of any new and useful machine, instrument, manufacture, or composition of matter, or any new and useful improvement of them, the monopoly in their manufacture and sale for the term of seventeen years.

This patent right is secured to the inventor by the issue of what are called letters patent. To obtain letters patent, the applicant must make a distinct specification, giving a full and complete description of his invention; and in cases admitting of drawings and models, these must be made, and all deposited with the commissioner of patents. The Patent Office belongs to the Department of the Interior.

Letters patent cost the patentee thirty-five dollars, fifteen of which must accompany the application. The further sum of twenty dollars must be paid on their issue. The fifteen dollars that accompany the application will not be refunded should letters patent be refused, but will be retained to pay for making search through the Patent Office to ascertain whether there is not some conflicting patent already in existence.

Circulars may be obtained, without charge, giving full information on this subject, by addressing the Patent Office, requesting them to be forwarded by mail.

QUESTIONS.

37. Why should not the postal system be committed to the States?
38. Why should it be committed to Congress?
39. Under whose immediate care is the Post Office Department?
40. How are postmasters appointed?
41. What were former rates of postage?
42. What changes have taken place in them?
43. How many post offices in the United States?
44. What is a post road?
45. How are the roads established?
46. By whom are the mails carried, and how are the contracts let?

47. What does the Constitution say about patent and copy rights?
48. Why might not this subject be left with the several States?
49. How long does a copyright continue?
50. What is the expense of obtaining it?
51. What is a patent right?
52. What are the steps necessary to secure it?
53. What is the expense of letters patent?
54. How long does a patent continue?

LESSON XXXII. — POWERS OF CONGRESS,
Continued.

A declaration of war is a solemn, formal, and deliberative notice to all the world in general, and particularly to the citizens of both nations involved, that hostilities actually exist, or are about to commence.

VII. War.
1. Declaration (36).

The power to declare war is one of the ordinary prerogatives of sovereignty. As we have no person in this country whom we acknowledge as sovereign, of course there is no one who has the authority to declare war.

In this country the will of the people, when clearly known, whether exercised by direct vote or through the indirect forms of legislation, is the only sovereign to which the American people pay homage. Could that will be definitely ascertained without delay, the power to declare war should be vested in the people, to be ascertained by direct vote. But this is utterly impracticable: hence the war power is vested in Congress, that being the representative body of the whole nation.

When a formal and solemn declaration of war has been made by Congress, peace can be secured only through the negotiations of ambassadors or ministers representing the contending powers. After the ministerial or ambassadorial

conference has agreed on the terms of peace, the power to accept or reject those terms on the part of the United States belongs to the President and Senate. It requires a concurrence of two thirds of the senators present to conclude a treaty of peace.

The power to grant letters of marque and reprisal also belongs to Congress. These are sometimes issued by the government to prevent the necessity of a declaration of war. This may be done when the subjects of one nation have been injured or oppressed by another nation that refuses to grant indemnity for the injury.

Letters of marque signify a license from the government to pass beyond the limits or jurisdiction of one's own country; and *reprisal* signifies a taking in return. Letters of marque and reprisal are a commission from the government authorizing the bearer to pass beyond the boundaries of his own country for the purpose of capturing prizes of the enemy, consisting of their persons or goods.

In case it so happens in their conflicts that they are taken prisoners, the letters of marque and reprisal from their government indicate to the captors that they shall be treated as prisoners of war; and that, in case they should be treated otherwise, their government would retaliate.

But it is necessary that rules should be adopted concerning captures made, whether on land or water. Congress is authorized by the Constitution to make these rules, which, when made, become laws the same as any other laws; and, for the purpose of enforcing them, courts of admiralty have been established, whose business it is to inquire into the legality of the course pursued in taking these prizes.

The remedy for illegal acts of capture is by the institu-

tion of proper prize proceedings in the prize courts of the captors.

The other war powers vested in Congress would be utterly useless without the power to raise and support armies.

The Constitution says that Congress shall have power to raise and support **4. Armies (37).** armies, but that no appropriation of money to that use shall be for a longer term than two years.

The army is created by enlistments under the acts of Congress. The enlistment is for five years in the Regular Army. Since the civil war, this branch of the military service has numbered about twenty-seven thousand men.

Congress has the power to provide and maintain a navy. The navy consists of the entire number of ships of war, considered collectively, belonging to a nation or people. A navy is necessary for **5. Navy (38).** the protection of our fisheries, commerce, and navigation. We need it not only on the ocean, but also on our lakes and on several of our rivers, and this even in time of peace.

But in time of war a navy becomes indispensable to a people whose geographical position is like ours. Without it, the necessary protection could not be afforded to the great commercial cities on our seaboard. Should an invading army obtain possession of these, they could demand contributions without stint or limit.

QUESTIONS.

55. What is a declaration of war?
56. What is the sovereign power in this country?
57. In whom is the power to declare war vested?
58. After a declaration of war, how can the terms of peace be settled?
59. What are letters of marque and reprisal?

60. What protection do letters of marque and reprisal afford ?
61. What power decides on the legality of captures ?
62. Who makes the rules concerning captures, and whose business is it to see that these rules are enforced ?
63. What is the remedy for illegal captures made either on the land or on the water ?
64. What does the Constitution say about the power to raise and support armies ?
65. How is the Regular Army created, and how long is the term of enlistment in the same ?
66. What is the navy, and in whom is the power vested to provide and maintain the same ?
67. What is the necessity of a navy, and when is one indispensable to a people whose geographical position is like ours ?

LESSON XXXIII.—POWERS OF CONGRESS,
Continued.

By the Constitution, Congress has power to make rules for the government and regulation of the land and naval forces.

6. Rules.—Land and Naval Forces (39). Nothing need be said to indicate the policy and necessity of vesting in Congress the power to make rules for the government and regulation of the land and naval forces. It naturally follows the power to raise and support armies, and to provide and maintain a navy.

Congress is authorized by the Constitution “to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.”

7. Militia.
(a) General Control (41).

The country could not safely rely solely on its standing army for any and every emergency that might arise. The Constitution, therefore, gives Congress jurisdiction over the militia of the several States, and this power of providing for organizing, arming, and disciplining them, as incidental to that jurisdiction.

Congress is authorized also to make provision for governing such part of the militia as may be employed in the service of the United States. Rigid discipline and government have always been found necessary in the army, whether constituted of regulars or militia. This government must be uniform to be salutary. To be uniform, it must emanate from a single source.

*(b) Calling
Forth (40).*

There are three purposes for which Congress may make provision for calling forth the militia:—

1st, To execute the laws of the Union.

2d, To suppress insurrections.

3d, To repel invasions.

The nation must have the means of maintaining its authority at home, as well as of carrying on a foreign war. It is not according to the policy of our government to maintain a standing army sufficient to answer all of these purposes.

The organization of the militia is maintained at an expense comparatively trifling, when the advantages to the country are considered. It saves the immense cost of a large standing army in time of peace. The standing army of the United States numbers at the present time less than thirty thousand. The standing armies of the European nations are much larger.

The British army numbers about two hundred thousand men; the Austrian army, about three hundred thousand men; and the Russian army numbers about eight hundred thousand men.

The organization of the militia system in this country is preferred for the following reasons:—

1st, It is far more economical, as it costs but little to maintain it in time of peace.

2d, In time of war, after an experience of a few months in the field, they have proved themselves to be orderly and courageous to the last degree.

3d, The militia constitute a standing and reserved force, subject to the call of the President of the United States under the laws of Congress.

The laws enacted by Congress define the emergencies under which the President of the United States is authorized to bring into action this branch of our service.

When called into the service of the United States, the President of the United States is commander-in-chief of the militia of the several States, as well as of the standing army of the nation.

QUESTIONS.

68. According to the Constitution, what power has Congress regarding the government and regulation of the land and naval forces?
69. What power has Congress over the militia, and why the necessity of this power?
70. For what purposes may Congress provide for calling forth the militia?
71. What are the advantages of the militia system?
72. What is the number of our army as compared with some European armies?
73. Why is the organization of the militia system preferred in this country?

LESSON XXXIV.—POWERS OF CONGRESS,

Continued.

The Constitution establishes a Supreme Court, but it is left with Congress to organize that tribunal. The power is vested in Congress to establish tribunals *VIII. Judiciary.* inferior to the Supreme Court; and, as *1. Inferior Tribunals (34).* these tribunals constitute a part of the national judiciary, they will be considered in the chapter relating to that department of the government. These inferior tribunals consist of circuit and district courts.

Congress has the power to determine by law where the trials of crimes shall be held which are not committed within any State. Crimes committed within any State are to be tried in the State where *2. Place of Trial (71).* they are committed, yet they may be committed on the high seas, or within the limits of unorganized territories. This clause of the Constitution gives Congress the power to provide for such cases.

The appellate jurisdiction of the Supreme Court is subject to such exceptions and regulations *3. Restrictions (70).* as Congress shall from time to time establish by law. This power will be noticed in treating of the judiciary.

Naturalization is that legal process by which an alien or a foreigner becomes a citizen of the United States. Congress has exclusive control over this sub- *IX. Naturalization (29).* ject. It can determine the forms and the necessary steps to be adopted in the process, and the time within which it may be completed.

An alien is one who is born in a foreign country, of foreign parentage. Children born in foreign countries,

of parents who are citizens of the United States absent from home on public business, are not aliens.

Under the Confederation, each State determined for itself the conditions on which an alien might become a citizen of the United States. Some required a shorter, and others a longer, period of time. If New Jersey required one year for naturalization, and New York seven, the shortest way to become a citizen of New York would be through naturalization in New Jersey; for a citizen of any State was a citizen of any other State in which he might become a resident.

Congress, having control of this subject under the Constitution, passed a law, in 1790, requiring two years; in 1795, five years; in 1798, fourteen years; and in 1802 that law was passed, which has been in force ever since, requiring five years to complete the process of naturalization.

A soldier, having served one year in the United States Army, and having obtained an honorable discharge, may become a citizen of the United States on making oath to these facts, and taking the oath of allegiance to our government.

With the above exception, five years is the shortest possible time for naturalization. At least two years before final admission, the alien must make formal declaration of his intention to become a citizen. This he can do in any court having jurisdiction of the subject-matter.

Two years from the time of declaring his intention, he must again appear in court, take the oath of allegiance in the proper form, on which he is admitted to full citizenship. If this oath were administered in the county of Monroe, State of New York, to Thomas S. Wilson, an Englishman, on the eleventh day of June, 1892, it would be substantially as follows.

FORM OF OATH.

I, Thomas S. Wilson, do solemnly swear that I will support the Constitution of the United States; and that I hereby renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, and sovereignty whatever, and particularly to the Queen of England, of whom I am a subject. So help me, God.

THOMAS S. WILSON.

Sworn to in open court, this eleventh day of June, 1892, before me,

CHARLES J. POWERS,

Clerk of Monroe County.

When a foreigner becomes naturalized, his children under twenty-one years of age, if residents of the United States at the time, become citizens without further formality. If a foreigner makes his declaration of intention to become a citizen of the United States, and dies before the time to become naturalized, his wife and children may become citizens of the United States at that time, on taking the necessary oath.

QUESTIONS.

74. What power has Congress over the courts?
75. What power has Congress over places of trial?
76. What is naturalization?
77. What power has Congress over this subject?
78. What is an alien?
79. How long does it take an alien to become a naturalized citizen of the United States?
80. What is the process of naturalization, and what is the shortest possible time in which it may be completed?
81. How does naturalization affect other persons of the same family?

LESSON XXXV. — POWERS OF CONGRESS,
Continued.

Ownership of territory by any government implies the right to govern it, and the right to govern implies the right

X. Territory. to make all needful rules and regulations
1. Government for that purpose. Hence this provision of
(79). the Constitution: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States."

Since the close of the revolutionary war the General Government has acquired, by one means and another, a vast extent of territory beyond the limits of the original States.

First, by the liberality of the States owning it, the General Government acquired that immense region known as the Northwestern Territory. This was before the adoption of the Constitution.

Second, we acquired of France the Louisiana territory.

Third, we purchased Florida of Spain.

Fourth, we acquired Texas.

Fifth, we obtained California of Mexico.

Sixth, we purchased Alaska of the Russian Government.

The extent of our territory now is over three times what it was at the adoption of the Constitution. It is about 3,600,000 square miles. It is the duty of Congress to adopt the necessary rules and measures to govern this vast territory until such time as, by the increase of its population, it shall be divided and erected into independent States, and admitted into the Union.

2. Seat of Govern- The constitutional provision gives Con-
ment (42). gress the power

"To exercise exclusive legislation in all cases whatsoever,

over such district, not exceeding ten miles square, as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States."

Under this clause, Judge Story says, the cession of the present District of Columbia was made by the States of Maryland and Virginia to the National Government; and the present seat of the National Government was established at the city of Washington in 1800. That convenient spot was selected for this very purpose by the exalted patriot whose name it bears.

The District of Columbia was a tract of land ten miles square, belonging partly to Maryland and partly to Virginia. That part of it obtained from Virginia was re-ceded to that State in 1846, so that now the District is confined to the Maryland side of the Potomac.

Before the year 1800 the seat of government had been temporarily established at Philadelphia, Baltimore, Lancaster, and several other places. On account of the frequent changes, the public suffered great inconvenience.

The Congress has the same authority, by the Constitution, "over all places purchased by consent of the Legislatures of the States in which the same *3. Public Works* shall be, for the erection of forts, maga- *(42).* zines, arsenals, dock-yards, and other needful buildings."

Two steps are necessary to obtain a site for any of the foregoing purposes, — first, the consent of Congress; and, second, the consent of the Legislature of the State in which the proposed site is. When the cession is made, the government comes into full possession, and then Congress may exercise over such place exclusive legislation.

Unless the State of which such purchase is made re-

serves the right, no legal State authority can be exercised in such places, even to the serving of writs of any kind, civil or criminal. But States usually make such reservations, but for which these places might become retreats and asylums for fugitives from justice who may be guilty of crimes against State authority. Almost every State has more or less of these places within its limits subject to the jurisdiction of national authority.

The power to dispose of the territory belonging to the United States has been discussed in another place, and therefore need not be repeated here (see TOWNSEND'S *Analysis of Civil Government*).

“New States may be admitted by the Congress into this Union.” Under the Confederation, Canada might have been admitted by “acceding to the Union, and joining in the measures of the United States ;” but the admission of any other British province would have required the consent of nine States, and they never made application. No power except that just specified was given to Congress in the Articles of Confederation to admit States into the Union.

As there were immense tracts of vacant territory lying within the chartered limits of several of the States, the omission to confer this power on Congress was doubtless an oversight.

This was a serious omission, as the events of our history since the adoption of the Constitution have proved. By the liberality of the States owning this territory, it was early ceded to, and became the common property of, the United States. These State cessions began with New York in the year 1781, followed by Virginia, Massachusetts, Connecticut, South Carolina, and North Carolina, at various dates, and closing with Georgia in the year 1802.

Since that time, as already stated in another place in this work, we have, by purchase and treaty, added immensely to the territory of the United States.

It was foreseen by the authors of the Constitution that this power to admit new States into the Union would soon become necessary, and it was accordingly vested in Congress. Under this provision, thirty-one States have been added to the American Union, while we have territory lying outside of the limits of the States sufficient to constitute twenty more of the size of New York.

QUESTIONS.

82. What does the ownership of territory by any government imply?
83. What territory did our government acquire before the adoption of the Constitution?
84. What other territory has the General Government acquired since the close of the revolutionary war?
85. What is the present extent of our territory, and how much has it increased since the adoption of the Constitution?
86. What is the duty of Congress with reference to this vast territory?
87. What power does the Constitution give Congress over the District of Columbia?
88. Over what other places has Congress like authority?
89. How can these be obtained?
90. What reservations do States usually make over these places, and why?
91. What provisions did the Confederation make in regard to the admission of provinces or new States?
92. At what dates did several of the States make cessions of territory to the United States?
93. How is the necessity of this power shown?

LESSON XXXVI. — POWERS OF CONGRESS,

Continued.

It is left with the States to fix the times, places, and manner of holding their elections of senators and representatives in Congress ; but, should they

- XI. States.* neglect to do this, Congress has jurisdiction over the whole subject, except as to
1. Elections. the places of choosing senators.
(a) Members of Congress (15).

Each State can consult its own local convenience with regard to these elections ; but it has no right to wholly neglect making the necessary provisions for holding them. Should it do so, and should other States follow the bad example, it is manifest that the affairs of government might suffer serious embarrassment, but for the provision giving Congress jurisdiction over the subject. It would be equivalent to a withdrawal of their representation from the national councils. This would be a violation of a fundamental principle of every sovereignty, which is an inherent right to provide for the perpetuity of its own existence.

The power here given to Congress is simply discretionary, not mandatory ; and such a power must be vested somewhere. It is primarily with the States, but ultimately with the National Legislature.

Congress has provided for the election of members of the House of Representatives by congressional districts, and the day of their election is the same throughout the United States.

Congress has also exercised supervision to a limited extent over the manner of electing senators.

The Constitution says, " The Congress may determine the time of choosing the electors, and the day on which

they shall give their votes, which day shall be the same throughout the United States.”

(b) *Presidential Electors (58).*

Jan. 23, 1845, Congress passed an act specifying that electors should be elected the Tuesday next after the first Monday in the month of November of the year in which they are to be chosen.

The second Monday in January after their election is, by law of Congress, the day fixed on which the electors shall give their votes. Each State fixes by law the place where these votes shall be given, and they have generally designated the State Capitol.

The Constitution says with reference to State records, “Full faith and credit shall be given in each State to the public acts, records, and judicial proceed-

2. *State Records.*

ings of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.”

Under a clause of the Constitution, when a judgment is rendered by any State court in proper form, from which no appeal has been taken to any higher court within the time allowed for appeals, that judgment is conclusive ever after, between the parties to it, as to the matters in controversy. That judgment will be received in evidence when offered in any other court within the limits of the State within which it was rendered.

(a) *Method of Proving (74).*

Under this power, Congress has passed laws defining the manner in which they shall be authenticated, and the effect to be given to their authenticity.

Congress has declared that they shall have such faith given to them in every court within the United States as they have by law or usage in the courts of the State from which the records are taken.

(b) *Effect of Proof (74).*

The effect, therefore, of the proof is this: that a judg-

ment obtained in a court of competent jurisdiction in one State is valid in every other State in the Union.

By the Constitution, States are prohibited from laying
3. *Imposts and Duties* (53). any impost or duties on imports or exports without the consent of Congress, except what may be necessary for the execution of their inspection laws.

If States should attempt to lay burdensome inspection duties, Congress has the power to pass acts of revision, and, in case it becomes necessary, to control the whole subject.

The subject of impost and duties, we have seen, is exclusively under the control of Congress; and, should a State attempt by some indirect method to lay duties or impost, Congress has the higher right to control and revise its legislation.

If the office of President of the United States is vacated, by death or otherwise, the powers and duties of that office
XII. *Executive Vacancy* (60). devolve on the Vice-President; but it is possible that both the President and Vice-President might be removed from office, and the Constitution therefore provides for such a possibility in the following language:—

“The Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly until the disability be removed or a President shall be elected.”

Under this provision of the Constitution, Congress has provided by law that the secretary of state, and after him the heads of the other executive departments in a specified order, shall succeed to the duties of the President until the disability be removed or a President shall be elected;

but such officer must be constitutionally eligible to the presidency, and not under impeachment.

QUESTIONS.

94. What power has Congress over State elections of members?
95. What is the duty of States as to these elections?
96. How has Congress provided for the election of representatives?
97. What authority has Congress over the election of presidential electors?
98. When must electors be elected, and when give their votes?
99. What does the Constitution say of State records?
100. What laws has Congress passed on this subject?
101. What is the effect of judgments?
102. What power has Congress over the laws of States in regard to imposts and duties?
103. What power has Congress over the power of Executive vacancy?
104. What law has Congress passed on the subject?

LESSON XXXVII. — POWERS OF CONGRESS, *Continued.*

The Constitution says, "The Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments." *XIII. Appointments (64).*

These appointments are restricted to inferior officers. The Constitution does not say who are such: it is therefore left to Congress to define this class. Neither the heads of departments, nor the judges of courts, nor ambassadors to foreign countries, are inferior officers. They doubtless include clerks of departments, clerks of court, and some other officers.

Congress has no power to alter or amend the Constitu-

tion ; but they can take the initiatory steps. They can submit propositions to the States for this purpose whenever, in the estimation of two thirds of the members of both Houses, amendments become necessary.

XIV. Constitutional Amendments (81).

If two thirds of both Houses deem it necessary that any amendments should be made to the Constitution, the amendment proposed is drawn out in due form under the direction of Congress, and proposed to the Legislatures of the several States for their ratification or rejection ; or the proposed amendments may be submitted to State conventions called for that purpose.

Or on the application of the Legislatures of two thirds of the several States, made to Congress, it is the duty of that body to call a convention whose business it shall be to propose amendments.

It is further the duty of Congress, by whichever body the amendments shall be proposed, to declare whether they shall be submitted to State Legislatures or to State conventions.

When these new amendments are ratified by the Legislatures of three fourths of the States, or by conventions in three fourths thereof, they become, to all intents and purposes, part of the Constitution.

Thus far, fifteen articles of amendment have been adopted. These have all originated with Congress, and have been ratified by State Legislatures.

The Constitution, as it came from the hands of its authors in 1787, recognized slavery as a State institution. *XV. Slavery (44), True, the word "slave," or "slavery," is (97).* not in the instrument. These words were carefully and intentionally omitted.

In the Thirteenth Article of Amendment the word "slavery" appears for the first time in the Constitution, and

that article abolishes the institution throughout the United States and their Territories.

This amendment gives Congress legislative authority over the subject. As four or five millions of men, women, and children were suddenly transferred from slavery to freedom, it was presumed that national legislation would become necessary to protect them in their new condition. Congress has already exercised this power in the passage of several statutes on the subject.

QUESTIONS.

105. In whom may Congress vest the appointment of inferior officers?
106. What power has Congress over constitutional amendments?
107. When and how may it be exercised?
108. How many amendments have been adopted?
109. Where, and for what purpose, does the word "slavery" appear in the Constitution?

LESSON XXXVIII.—POWERS OF CONGRESS, *Continued.*

By the forty-third paragraph of the Constitution as numbered in this work, which it is not necessary to repeat here, it will be seen that the whole subject of *XVI. General lawmaking*, for the purpose of carrying *Lawmaking (43)* into effect the provisions of the Constitution, is vested in Congress.

As it is impossible to specify in the fundamental law of a nation all the powers which at some time it may be indispensably necessary to exercise for the common good, this provision seems to be among the wisest to be found in the Constitution.

Had the attempt been made to enumerate affirmatively all laws necessary and proper which Congress might pass, it must have resulted in failure.

An eminent jurist says it would have rendered necessary a complete digest of all laws on every subject to which the Constitution relates. It must have embraced all future as well as all present exigencies, and been accommodated to all times and all occasions, and all changes of situation and character.

The Constitution says, "The Congress shall assemble *XVII. Frequency and Time of Meeting (16).* at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day."

On extraordinary occasions the President of the United States may convene either or both Houses of Congress; but a bad President might desire to have no Congress during his administration. In such case, there would be a practical demonstration of the necessity of the foregoing provision.

Again: it seems necessary that the Constitution should contain some such provision, as otherwise the two Houses of Congress might not agree in reference to the time of assembling. By this provision, if they cannot agree on any other time, they must meet on the first Monday in December.

The place of meeting is not designated, and probably for two reasons: first, the seat of the National Government had not been established at the time when the Constitution was formed; and, second, war or pestilence might at times interfere with the meeting at any place that might be named in the Constitution.

In England the sovereign convenes and dissolves Parliament at pleasure.

QUESTIONS.

110. What power does the forty-third paragraph of the Constitution give to Congress over general lawmaking?
111. How often and when must Congress meet?
112. Why was it necessary that the Constitution should specify a time of meeting?
113. Why is not the place of meeting named?

BLACKBOARD EXERCISE.

LAWMAKING.

First Process.

1. *Action in Congress* (24)
2. *Delivery to Executive* (24)
3. *Executive Signature* (24)

Second Process.

1. *Action in Congress* (24)
2. *Delivery to Executive* (24)
3. *Executive Veto* (24)
4. *Record of Veto* (24)
5. *Reconsideration* (24)
6. *Approval by Congress* (24)
7. *Method of Voting* (24)
8. *Record of Votes* (24)

Third Process.

1. *Action in Congress* (24)
2. *Delivery to Executive* (24)
3. *Executive Neglect* (24)
4. *Effect of Neglect* (24)

Orders, Resolutions, and Votes.

1. *Action in Congress* (25)
2. *Delivery to Executive* (25)
3. *Executive Veto* (25)
4. *Subsequent Action* (25)

CHAPTER XIII.

LESSON XXXIX.—LAWMAKING.

By reference to Paragraph (24) of the Constitution, it will be seen that a bill may become a law through any one of the three following processes:—

FIRST PROCESS.

1. The bill shall pass both Houses of Congress.
2. It shall then be presented to the President.
3. If he approve, he shall sign it.

SECOND PROCESS.

1. The bill shall pass both Houses of Congress.
2. It shall then be presented to the President.
3. If he disapprove it, he shall return it, with his objections, to that House in which it originated.
4. That House shall enter objections at large on their journal.
5. They shall proceed to reconsider it; and if, after such reconsideration, two thirds of the House shall agree to pass it, it shall be sent, with the objections, to the other House.
6. The other House shall reconsider the bill; and, if approved by two thirds of that House, it shall become a law.

7. The votes of both Houses shall be determined by the yeas and nays in all such cases.

8. The names of the persons voting for and against the bill shall be entered on the journal of each House respectively.

THIRD PROCESS.

1. The bill shall pass both Houses of Congress.
2. It shall then be sent to the President.
3. He neglects to approve or return it.
4. It becomes a law at the end of ten days (Sundays excepted), unless Congress, by adjournment within that time, prevent its return.

A bill is the draught of a proposed law. It is usually, though not always, introduced by the chairman of the committee who properly has the subject-matter of the bill in charge. As to what committee will introduce it depends on the character of the bill. If it relate to commerce, the Committee on Commerce would be the proper one to originate and introduce it. A bill may be amended by either House; but, if amended by one House after having passed the other, it must be returned, with the amendment, to the House it had before passed, for their concurrence.

After it has passed both Houses, it is sent to the President of the United States for his approval and signature. He cannot make or propose amendments.

At any time during the pendency of a bill, amendments to it may be proposed, and passed, by either House.

A bill in Congress must receive three several readings before it is put upon its final passage. No bill can be read more than once on the same day without the special permission of the House. The vote is taken on its third reading. The arguments for and against the bill, if any,

are made before its third reading, or between its third reading and the taking of the vote.

The second process of lawmaking is the one in which the President's veto, as it is commonly called, is interposed. To become a law in opposition to the President's objections requires a vote by yeas and nays of two thirds of each House. So the President's veto is only qualified, not absolute.

This executive power may operate, and indeed it has sometimes, as a salutary check on hasty legislation. The Executive, not having participated in the rivalry of debate, and being quietly retired from the scenes of political strife, may be presumed to be better qualified to pronounce correct judgment than those who were active in the contest.

The third process of lawmaking differs from the other two, simply through the inaction of the President. If he neglect to sign and return the bill for ten days, Sundays excepted, it becomes a law as though it were signed by him; unless the Congress, by their adjournment, prevent its return, in which case it fails to become a law.

ORDERS, RESOLUTIONS, AND VOTES.

The Constitution says, "Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

Were it not for this provision, Congress might exert their power in the form of orders, resolutions, or votes, thus preventing the President from interposing his veto. They

could thus substantially legislate in these forms without the sanction of the Executive, and without the necessity of a vote of two thirds of each House.

QUESTIONS.

1. What is the first process of lawmaking ?
2. What is the second process of lawmaking ?
3. What is the third process ?
4. What is a bill ?
5. By whom is it generally introduced ?
6. What is said about amendments ?
7. What is done with the bill after it has passed both Houses ?
8. What may be done during the pendency of a bill ?
9. What is said about the readings of a bill ?
10. What is said about the President's veto ?
11. What may be the effect of the veto power ?
12. Why is the President the best judge ?
13. How does the third process of lawmaking differ from the first two ?
14. What does the Constitution say about orders, resolutions, votes ?
15. But for this provision, what might Congress do ?

BLACKBOARD EXERCISE.

PROHIBITIONS ON THE UNITED STATES.

I. <i>Habeas Corpus.</i>	
1. <i>Rebellion</i>	(45)
2. <i>Invasion</i>	(45)
II. <i>Export Duties</i>	(48)
III. <i>Interstate Commerce</i>	(49)
IV. <i>Public Money.</i>	
1. <i>Drawing</i>	(50)
2. <i>Published Statement</i>	(50)
3. <i>For Armies</i>	(37)
V. <i>Nobility</i>	(51)
VI. <i>Penalties.</i>	
1. <i>Bill of Attainder</i>	(46)
2. <i>Ex post facto Law</i>	(46)
3. <i>Attainder of Treason</i>	(73)
VII. <i>Foreign Slave Trade</i>	(44), (81)
VIII. <i>Repudiation.</i>	
1. <i>Forbidden.</i>	
(a) <i>Land-claims</i>	(79)
(b) <i>Contracts</i>	(82)
(c) <i>Public Debt</i>	(101)
2. <i>Enjoined</i>	(101)
IX. <i>Freedom.</i>	
1. <i>Religious</i>	(86)
2. <i>Civil</i>	(86)

CHAPTER XIV.

LESSON XL. — PROHIBITIONS ON THE UNITED STATES.

THE Constitution says, "The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it."

I. Habeas Corpus.

The writ of *habeas corpus* is a writ of relief. A person may be wrongfully imprisoned before he is tried on the crime with which he is charged. He may be innocent or guilty; but, in either case, it may happen that he is restrained without the proper forms of law, and without sufficient legal authority.

This is a kind of intermediate writ or proceeding, under which the lawfulness of his imprisonment may be tested, between the moment of the prisoner's arrest and the time of final trial. Proceedings under this writ are not for the purpose of determining upon the guilt or innocence of the accused, but they are for the purpose of settling whether he is properly or improperly held for trial.

Persons are sometimes unlawfully restrained of their liberty, though charged with no crime whatever; as, improperly holding a child in custody, or locking a person in a room.

The privilege of this writ is the birthright of every American citizen. It is a kind of writ of inquiry; and it

is the duty of every court of competent jurisdiction to issue it, on proper application. The only exceptions to this statement are those specified in the foregoing clause of the Constitution.

If the court, on inquiry, decides that the prisoner is properly restrained, he is remanded to imprisonment; but if the prisoner is improperly restrained, the court sets him at liberty.

Rebellion here means open, active hostility, and defiant opposition to the government. It is an uprising of a considerable portion of the citizens of a country against its authority. In cases of rebellion or invasion, it may be necessary to temporarily suspend the privilege of this writ. In such an emergency oftentimes the government knows not whom to trust. There may be well-known leaders of organized opposition, whose every act may be so veiled in secrecy as to defy detection. Clear and tangible proof of their guilt, perhaps, cannot be obtained, yet they are as well known to be secretly and earnestly opposed to the war measures of the government as though their hostility were of a more open and public character. If, on the arrest of such public enemies, they could avail themselves of the writ of *habeas corpus*, it might defeat the very ends of justice, and render the government unable to protect itself.

The power of suspension of the privilege of this writ was vested by Congress in the President of the United States during the civil war from 1861 to 1865.

Invasion, as used in the Constitution, means the entry of a hostile force of a foreign nation into our territory. Under such a condition of things, the suspension of the privilege of this writ may be as necessary to the welfare of the government as in cases of rebellion.

1. *Rebellion (45).*

2. *Invasion (45).*

The Constitution says, "No tax or duty shall be laid on

II. Export articles exported from any State."

Duties (48).

The intention of this prohibition is to prevent taxing the interests of any State to its detriment, and giving undue advantages to others. The productions of some of the States are very different from those of others; and, were export duties allowed to be enforced, the burden of taxation would be as unequal as the exports. It would be impossible to so adjust export duties, were they allowed, as to distribute the burdens equally.

QUESTIONS.

1. Recite the forty-fifth paragraph of the Constitution.
2. Give a full explanation of a writ of *habeas corpus*.
3. Under this writ, what is done by the court if the prisoner is improperly restrained?
4. What if properly restrained?
5. What is rebellion?
6. When and why may the privilege of this writ be suspended?
7. Who may suspend the privileges of this writ?
8. What does invasion here signify?
9. What does the Constitution say about export duties?
10. What is the intention of this prohibition?
11. What is said about State productions?

LESSON XLI.—PROHIBITIONS, *Continued.*

The Constitution says, "No preference shall be given, **III. Interstate** by any regulation of commerce or revenue, **Commerce (49).** to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another."

Although the power to regulate commerce among the States is vested in Congress, yet that power is coupled with these Constitutional prohibitions: no preference shall

be given to the ports of one State over another; nor shall entrance or clearance fees, or the payment of duties, be required in an intermediate State while vessels are passing from one State to another.

A vessel bound to Philadelphia from Liverpool, in passing Boston or New York, cannot be compelled to enter, clear, or pay duties in either of the last two ports named. The duties must be paid in Philadelphia, the port to which the vessel is bound.

The Constitution says, "No money shall be drawn from the treasury but in consequence of appro- *IV. Public*
priations made by law; and a regular *Money.*
statement and account of the receipts and expenditures of all public money shall be published from time to time."

"No appropriation of money to that use (to raise and support armies) shall be for a longer term than two years."

The object of this provision is to secure strict faithfulness in the public expenditures. Neither the Executive, nor the judiciary, nor the heads of departments, nor even members of Congress *1. Drawing (50).*
themselves, can draw a dollar of the public money except by appropriations made by law.

This provision puts a salutary check on the possible profusion and extravagance of the National Legislature. The people have the right to know how, *2. Published*
and for what purposes, their money is ex- *Statement (50).*
pended. The heads of the departments must make an annual exhibit of their transactions respectively.

The fear that the army might possibly become a power too formidable to be consistent with the rights and liberties of the people led to this constitutional lim- *3. For Armies.*
itation of army appropriations. Lest Con- *(37).*
gress may be extravagant in this direction, or the administration acquire too much power over the army, they are

forbidden to make appropriations extending beyond the period of two years.

A Congress lasts for but two years; and, should they be profuse in their appropriations of army money, the people will be likely to correct the error in their election of the succeeding Congress.

The Constitution says, "No title of nobility shall be granted by the United States."

The government instituted in this country at the close of the revolutionary war, and which took definite form in the Constitution of the United States, was intended to be characterized for republican simplicity. The theory of our institutions is, all citizens are equal before the law. Orders of nobility are forbidden in accordance with this theory.

The Constitution says, "No bill of attainder or *ex post facto* law shall be passed."

A bill of attainder, which is here forbidden, is a phrase borrowed from England. It is a special act of the legislative body, inflicting capital punishment on a person for high crimes, without having been first convicted before a court of law. This kind of proceeding was very common in England two or three hundred years ago.

A person against whom such an act was passed was said to be attainted and outlawed. The victim's blood became so corrupted, that he could neither inherit anything from his ancestry, nor transmit by hereditary descent to his heirs. All his property, real and personal, was forfeited to the crown.

An *ex post facto* law is one that is retroactive, and which makes an act criminal which was not criminal when committed; or it increases the severity of the punishment which attached to the crime when

it was committed. Both the United States and the several States are forbidden by the Constitution to pass such a law.

The Constitution says, "No attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person at-
3. Attainder of Treason (73).
 tainted."

Treason is defined by the Constitution; but its punishment, by Congress. But this clause of the Constitution defines what penalties shall not attach to this crime. By the laws of England, treason was punishable by death in many horrid forms; but the penalty was not limited to the death of the victim. By fiction of law, his blood became so corrupted that all powers of transmission of property to his kindred were destroyed. But our Constitution forbids the punishment of the innocent for the crimes of the guilty.

In affirmance of this clause of the Constitution, Congress has passed laws strictly limiting the punishment to the party convicted, so that in no legal sense can it reach his posterity.

QUESTIONS.

12. What does the forty-ninth paragraph of the Constitution say?
13. What is said concerning the payment of duties at intermediate ports?
14. What restrictions does the Constitution impose in regard to the disbursement of public money?
15. What is the object of this provision?
16. What is said in regard to published statements?
17. By whom are the statements published?
18. What is said in relation to the appropriations by Congress for armies?

19. Why is the appropriation of money limited to a term of two years?
20. What does the Constitution say in relation to titles of nobility?
21. What is the theory of our government concerning titles of nobility?
22. What is said concerning bills of attainder and *ex post facto* laws?
23. What are they?
24. What was the consequence of a bill of attainder in England?
25. What does the Constitution say in regard to attainder of treason?
26. Who declares the punishment for treason?

LESSON XLII. — PROHIBITIONS, *Continued.*

As slavery and the slave trade are entirely abolished, the clauses of the original Constitution relating to the slave trade have long since become obsolete. *VII. Foreign Slave Trade (44), (81).* They are inserted here merely as matter of history, and not as of present binding obligation. The following are the only clauses that refer to this subject: "The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

There is another clause in Article V. of the Constitution which prohibits any amendment to the foregoing clause prior to the year one thousand eight hundred and eight. The student will find it in the eighty-first paragraph. After prescribing the manner in which the Constitution may be amended, it contains the following restriction, which refers to the clause just given in full.

“ Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article.”

The word “ persons ” in the first foregoing quotation from the Constitution is but another word for “ slaves.” At the time of the adoption of the Constitution, slaves were held by authority of law in every State excepting Massachusetts ; and the slave trade, that is, importing negroes from Africa, was sanctioned by all, or nearly all, the nations of Christendom.

But towards the close of the eighteenth century the slave trade began to excite a spirit of disapprobation ; and the conviction fastened itself on the consciences of men, that this traffic in human beings was repugnant to the principles of Christian obligation. Many of the great and good men who formed the Constitution of the United States shared in this conviction.

Hence the foundation was laid in our Constitution, in the clause just given, by which the legality of the African slave trade was to end in this country with the dawn of the year 1808.

By Act of March 2, 1807, Congress prohibited, under severe penalties, the importation of slaves into the United States from and after Jan. 1, 1808. In 1818 another act was passed, making the penalties more severe ; and in 1820 Congress defined the slave trade to be piracy, and attached to it the penalty of death.

On the 18th of December, 1865, William H. Seward, secretary of state, officially announced to the country that the Thirteenth Article of Amendment had been ratified by the Legislatures of three fourths of the several States, and had become, to all intents and purposes, a part of the Constitution of the United States.

By that article, slavery was abolished throughout the United States, and in all places subject to their jurisdiction.

QUESTIONS.

27. What is said about slavery and the slave trade.
28. In what year was the slave trade abolished by Congress, and what penalty was attached to it by Congress in the year 1820?
29. When was slavery abolished in the United States and in places subject to their jurisdiction?

LESSON XLIII. — PROHIBITIONS, *Continued.*

The following is found in Paragraph (79) of the Constitution: "Nothing in this Constitution shall be so construed

VIII. Repudiation. as to prejudice any claims of the United States or of any particular State."

1. Forbidden.

(a) Land Claims (79).

This is a part of a clause in which the authority is given to Congress to dispose of territory belonging to the United States. This provision relates to conflicting claims and unsettled titles to some parts of the Western Territory. The intention of this clause is to give assurance that the adoption of the Constitution of the United States shall in no way affect the validity of any claims to these lands, but that the rights of parties interested shall be the same as they were under the Confederation.

On the matter of repudiating contracts existing under the Confederation, the language of the Constitution is thus:

(b) Contracts (79).

"All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation."

This clause is intended to give assurance to the creditors of the proposed new government that all just claims against the Confederation will be recognized and liquidated under the Constitution.

This is in accordance with well-settled law, binding on all nations, notwithstanding any changes in their forms of government.

The Constitution says, "The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned." (c) *Public Debt*
(101.)

The Constitution says, "Neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave." 2. *Enjoined*
(101.)

The repudiation here enjoined, if such it is, was made a part of the Fourteenth Article of Amendment so as to prevent all future Congresses and State Legislatures from making any attempt to legalize any State or individual contracts, express or implied, assumed in the interest of the Confederate cause.

Hundreds of millions of obligations of this character were contracted by the Southern Confederacy, and by several of the States that espoused the cause of opposition to the United States.

This clause operates as a severe pecuniary penalty upon those who had such faith in the success of the insurrection as to induce them to invest their means in Confederate bills and bonds. It is also intended to operate as a premium for allegiance to the government and authority of the United States. It secures this end by exonerating debtors from all debts and obligations incurred in aid of the lost cause.

No judicial tribunal, State or National, has power to render judgment in favor of parties seeking to enforce such demands.

The Constitution says, "No religious test shall ever be required as a qualification to any office or public trust under the United States."

*IX. Religious
and Civil
Freedom (86).*

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

In Paragraph (86) of the Constitution, Congress is expressly forbidden to pass any law abridging the freedom of speech or of the press.

But this does not exonerate from personal and pecuniary responsibility any person who may speak slanderous words, or publish libelous matter against the fair fame of another. The law holds every man strictly amenable for the abuse of this freedom of speech and of the press. If men will slander and libel others, the law says they must pay for it.

In the same paragraph of the Constitution, Congress is forbidden to pass any law denying the right of the people peaceably to assemble and to petition the government for a redress of grievances. This is what is called the right of petition.

The Constitution says, "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

This paragraph of the Constitution refers to an organization of the militia of the States. Fears have been expressed that the liberty of the people might be destroyed by the perverted power of a formidable standing army. The militia, that might be called out at any time on a month's notice, would outnumber, twenty to one, any standing army in time of peace that will ever be tolerated in the United States.

QUESTIONS.

30. What are the clauses in the Constitution in reference to repudiation?
31. What is the language of the Constitution enjoining repudiation?
32. Why is this repudiation enjoined?
33. What does the Constitution say about religious freedom?
34. What does the Constitution say about freedom of speech and of the press, and of the right of petition?
35. What does it say about the right to bear arms?
36. To what does this refer?
37. What is the utility of the militia system?

BLACKBOARD EXERCISE.

RIGHTS OF STATES.

I. <i>Representation.</i>	
1. <i>House</i>	(5)
2. <i>Senate</i>	(8)
II. <i>Privileges of Citizenship</i>	(75), (98)
III. <i>State Amity.</i>	(74)
IV. <i>New States.</i>	
1. <i>By Dismemberment</i>	(78)
2. <i>By Function</i>	(78)
V. <i>Election</i>	(15)
VI. <i>Militia.</i>	
1. <i>Militia Officers</i>	(41)
2. <i>Training Militia</i>	(41)
VII. <i>Federal Protection.</i>	
1. <i>Government</i>	(80)
2. <i>Invasion</i>	(80)
3. <i>Domestic Violence</i>	(80)
VIII. <i>Fugitives.</i>	
1. <i>From Justice</i>	(76)
2. <i>From Service</i>	(77)
IX. <i>Reservations.</i>	
1. <i>Rights enumerated</i>	(94)
2. <i>Powers not delegated.</i>	(95)

CHAPTER XV.

LESSON XLIV. — RIGHTS OF STATES.

THE Constitution says, "The House of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative." *I. Representation.*

This quotation from the Constitution is *1. House (5).* found in Paragraph (5). It is not here declared that there shall be one representative for every thirty thousand, but that the proportion shall not exceed that. The population of the United States has increased eight or ten fold since the adoption of the Constitution. It now numbers about sixty-three millions.

Were the proportion of representation in the House at the present time one for every thirty thousand, the number of representatives would be over two thousand, — a body far too numerous for the convenience of deliberative legislation.

The ratio of representation is now one member for 173,901 persons (see p. 66). When there is a full membership of the House, under its present organization, it consists of three hundred and fifty-six members. As the population increases from decade to decade, the proportion of representation must be correspondingly reduced.

Some of the States have not a population of sufficient number to give them the right to one representative ; that is, they have each less than one hundred and seventy-three thousand, but the Constitution says that each State shall have at least one representative.

The Constitution says, "The Senate of the United States shall be composed of two senators from each State."

2. *Senate (8).*

This is an unamendable clause of the Constitution. By reference to Paragraph (81), it will be seen that no State can, without its consent, be deprived of its equal suffrage in the Senate.

The number of representatives from any State depends on the population of that State. The larger States, therefore, have a greater number than the smaller States. The smaller States vigorously opposed this in the convention that formed the Constitution. It was giving the larger States a great advantage in the House. But the opposition was withdrawn on the larger States consenting to equality of suffrage in the Senate, and that this provision should be unalterable. This is a right of States not to be voted away by majorities, however large.

QUESTIONS.

1. What does the Constitution say about representation in the House?
2. What has been the increase of the population of the United States?
3. What would be the number of representatives in Congress if we were now to have one for every thirty thousand inhabitants?
4. Of how many members does the House of Representatives consist under its present organization?
5. What is the present proportion of representation?
6. How is the Senate composed?
7. Why may not this be changed?
8. What compromise was made between the larger and smaller States?

LESSON XLV.—RIGHTS OF STATES, *Continued.*

The Constitution says, "The citizens in each State shall be entitled to all the privileges and immunities of citizens of the several States."

*II. Privileges of
Citizenship
(75) (98).*

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside."

The purpose of these clauses is to create a general national citizenship. Perhaps it does not so properly come under the rights of States as the rights of citizens derived from the States.

A person, being a citizen in one State of the Union, may remove to any other without prejudice to his social, pecuniary, or political rights in his new home.

He may purchase, hold, convey, and inherit property, and enjoy all other rights arising from citizenship, the same as though he were born or naturalized in the State to which he migrates.

The Constitution says, "Full faith and credit shall be given in each State to the acts, records, and judicial proceedings of every other State."

*III. State
Amity (74).*

By this provision, the following rights are given to States and individuals:—

1st, A State has the right to demand of another State that its acts, records, and judicial proceedings shall be respected, and that full faith and credit shall be given to them.

2d, Individuals may demand the same, when that demand is necessary to the vindication of their rights.

3d, States on whom such demands are properly made are under obligations to heed and respect them.

A judgment rendered by a court in the State of Massachusetts, for instance, would be conclusive in the State of New York, provided the courts of Massachusetts would hold it conclusive.

The Constitution says, "No new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction

IV. New States. of two or more States, or parts of States, without the consent of the Legislatures of the States concerned."

The first clause above — "No new State shall be formed or erected within the jurisdiction of any other State" —

1. By Dismemberment (78). was inserted by the Constitutional Convention, to quiet the fears of the larger States that their territories might be dismembered for the purpose of increasing the number of States.

Notwithstanding this guaranty to States against dismemberment, the State of Virginia was dismembered in 1863; and West Virginia, a part of the original State, was admitted into the Union as an independent State. But that was a revolutionary measure, growing out of the civil war, in which Virginia voted to secede from the Union, and enlisted in the cause of the Southern Confederacy (see TOWNSEND'S *Analysis of Civil Government*).

No new State has ever been formed by the junction of two or more States. The second provision above — "nor

2. By Junction (78). any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned" —

was inserted to quiet the fears of the smaller States that a junction of States might take place without their consent, and thus their sovereignty be destroyed.

QUESTIONS.

9. What does the Constitution say about privileges of citizenship?
10. What is the purpose of these clauses?
11. What is the consequence of this national citizenship?
12. What is said of State amity?
13. What authority does the provision give to States and individuals?
14. What are the prohibitions in regard to new States?
15. What is the object of the first clause?
16. What is said about West Virginia?
17. What is the object of the second provision?

 LESSON XLVI. — RIGHTS OF STATES, *Continued.*

The Constitution says, "The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators." *V. Election (15).*

This clause gives the regulation of the election of senators and representatives primarily to the legislative authority of the several States. Should they fail to exercise it, however, or exercise it improperly, the interests of the country would justify the interposition of Congress.

By the forty-first paragraph of the Constitution, Congress has power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." *VI. Militia.*

As the National Government is to depend on the several States for the militia, it seems proper that the officers who are to train and discipline them should be appointed by the States. This arm or power of national security is in some sense a local police force, a means of State defense, for the proper organization and discipline of which the several States are responsible to the national authority.

But, in order that there may be uniformity of organization and discipline, it is left with Congress to prescribe the mode. In case of an invasion by a foreign power, or a widespread rebellion, the militia of States distant from each other may be placed side by side in the same army. Hence the necessity of uniformity of discipline, and of its being under the direction of a single power, instead of being distributed among the several States.

The Constitution says, "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence."

The United States is one great political family, and each State is a member of that family; and each member has the right of protection from invasion without, or insurrection within.

This is one of those State rights that give assurance of the stability and solidity of the State governments, as well as the perpetuity of the Federal Union.

The States have the right of Federal protection against foreign invasion. They cannot declare war, nor even engage in it as States, unless the danger is so imminent as not to admit of delay.

For the surrender of this right, it is but reasonable that the National Government should pledge its power to defend them.

Perhaps there is more danger of insurrectionary outbreaks under a republican form of government than under any other. Enjoying, as the people do, a greater degree of freedom under this than *3. Domestic Violence (80)* under other forms of government, that freedom is correspondingly more liable to be abused.

Our history has in several instances demonstrated this liability. The national aid has been invoked, and Federal relief has been afforded to the States, in several cases since the formation of our government.

QUESTIONS.

18. What does the Constitution say about elections for senators and representatives?
19. What is the order in which this power is conferred?
20. What rights are reserved to the several States in regard to the militia?
21. Why is this reservation proper?
22. Who prescribes the mode of discipline, and why?
23. What does the Constitution say in relation to Federal protection?
24. Of what does this give assurance?
25. How are the States restricted as to war?
26. What pledge from the National Government have the States for the surrender of this right?
27. What is said about danger of insurrection under a republican form of government?
28. What has the history of the United States demonstrated as to this danger?

LESSON XLVII. — RIGHTS OF STATES, *Continued.*

The Constitution says, "A person charged in any State with treason, felony, or other crime, who shall flee from *VIII. Fugitives.* justice, and be found in another State, *1. From Justice* shall, on demand of the executive authority (76). of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."

Provisions have been made by Congress to enforce the foregoing paragraph. An act was passed Feb. 12, 1793, by which,

1st, The Executive of the State in which the crime is committed must make demand for the return of the criminal on the Executive of the State to which the criminal has fled.

2d, The demand must be accompanied by a copy of the indictment against the criminal ; or,

3d, By an affidavit made before a magistrate charging the person demanded with having committed the crime, and having fled from justice.

4th, The copy of the indictment, or the affidavit, must be certified by the governor or chief magistrate making the demand, to be authentic.

5th, When this is done, it is the duty of the Executive of the State to which the person has fled to cause the accused to be arrested and secured.

6th, It is the duty of the Executive causing the arrest to give notice thereof to the Executive making the demand, or to his agent.

7th, Following these proceedings, the person charged with the crime is delivered over for trial to the State authorities from which he fled.

The Constitution says, "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law *2. From Service* or regulation therein, be discharged from (77).

such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

This paragraph refers to slaves exclusively. Acts of Congress have been passed and amended to enforce this provision. But they were all repealed in 1864; the next year after which, slavery was abolished in this country. This provision of the Constitution, therefore, is now superseded.

The Constitution says, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." *IX. Reservations.*

In several paragraphs of the Constitution *1. Rights enumerated (94).* certain rights are enumerated as reserved

to the States; and, but for the foregoing provision, it might possibly be inferred that all rights were surrendered by the States to the General Government except those included in such reservations. This amendment was adopted for the purpose of guarding against such possible construction. All such rights are reserved to the States as are not expressly, or by necessary implication, taken away.

The Constitution says, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States *2. Powers not delegated (95).* respectively, or to the people."

Cases of doubtful authority may arise between a State and the United States. This amendment to the Constitution furnishes a rule of interpretation in such cases.

The powers of the National Government are limited, being conferred by the people of the several States, and enumerated in the Constitution as far as practicable. Of

course, all the means necessary to carry into execution the spirit of the Constitution are not, and could not be, expressly named.

For instance: the power to regulate commerce is expressly given to Congress; and, while some of the means to carry this power into effect are enumerated, they are not all specified. Nor is this necessary, for a power conferred always implies the right to adopt the requisite means to make that power effective.

QUESTIONS.

29. What does the Constitution say about fugitives from justice?
30. What steps must be taken to secure the return of fugitives from justice?
31. What is said about the return of fugitives from justice?
32. What does the Constitution say of the enumeration of certain rights therein?
33. What is the object of this provision?
34. What rights are reserved to the States?
35. What is said in the Constitution of powers not delegated?
36. What rule does this furnish?
37. What is said of the national powers?
38. What is said about powers, and means for carrying them into execution, being expressed?
39. What instance is given as an illustration?
40. What does a power conferred imply?

BLACKBOARD EXERCISE.

STATE SUBORDINATION.

- I. *State Obligations.*
 - 1. *United States Constitution* (85)
 - 2. *Amendments* (81)
- II. *Supremacy of United States Authority* (83)
- III. *Official Oath.*
 - 1. *State Legislators* (84)
 - 2. *State Executives* (84)
 - 3. *State Judicial Officers* (84)

CHAPTER XVI.

LESSON XLVIII.—STATE SUBORDINATION.

THE Constitution says, "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

I. State Obligations.

1. United States Constitution (85). The origin of the obligations of the States to the General Government is founded in their assent to the Constitution of the United States. Before ratifying the Constitution, the States were at liberty to make their choice: they could come into the Union or stay out. Should they refuse their assent to the terms of national association, they would each be an independent political division, having all the attributes and prerogatives of sovereign States. But, having accepted the terms of union, they became subordinate to the national authority.

In the eighty-first paragraph the Constitution provides for its own amendment. When an amendment is regularly

2. Amendments (81).

made, being ratified by the Conventions or Legislatures of three fourths of the several States, it must be obeyed by all the States, as, to all intents and purposes, a part of the Constitution. It is equally binding on the States that do not ratify it and on those who do give it their sanction; for, by coming into the Union, they solemnly agreed to the terms on which this Great Charter might be amended.

The Constitution says, "This Constitution, and the laws

of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”

*II. Supremacy
of United States
Authority (83).*

The above is a solemn declaration of the binding and supreme authority over all State authority, —

1. Of the Constitution of the United States.
2. Of all laws made in pursuance of it.
3. Of all treaties made under it.

4. Furthermore, in case of collision by authority between the United States, acting constitutionally, and any particular State, the former is supreme. The judges of every State are bound to so interpret the law. Were State authority supreme, the National Government would be characterized by weakness and imbecility.

The Constitution says, “The senators and representatives before mentioned, and the members of the several State Legislatures, and all executives and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution.”

*III. Official
Oath (84).*

We see by this passage that not only senators and representatives in Congress, and all executive and judicial officers of the United States, must be bound by oath or affirmation to support the Constitution, but that all members of the several *State* Legislatures, and all State executive and judicial officers, are required to assume the same obligation.

This is but a reasonable requirement, because the members and officers of the State governments have an essential agency in giving effect to the Federal Constitution.

The election of the President of the United States and senators in Congress will depend in all cases on the Legislatures of the several States.

In many cases the election of the House of Representatives may be effected by their agency.

The judges of the State courts will frequently be called upon to decide upon the Constitution and laws and treaties of the United States, and upon rights and claims growing out of them. Decisions ought to be uniform, as far as possible; and uniformity of obligation will greatly tend to such a result.

The executive authority of the several States may be often called upon to exert powers or allow rights given by the Constitution, as in filling vacancies in the Senate during the recess of the Legislature, in issuing writs of election to fill vacancies in the House of Representatives, in appointing officers of the militia, and in the surrender of fugitives from justice.

QUESTIONS.

1. Of how many States was assent to the Constitution required, to form the Union?
2. What is the origin of the State obligation to the Federal Union?
3. Had they not ratified the Constitution, what would have been the condition of the States?
4. What was the result of their acceptance?
5. What provision does the Constitution make for its own amendment?
6. On whom are the amendments binding?
7. What passage in the Constitution establishes the supremacy of the United States authority?
8. What would be the result if State authority were supreme?
9. What does the Constitution say about official oaths?
10. Why is the requirement reasonable as to State officers?
11. What depends on the Legislatures of the several States?
12. What may be the duties of the State judges?
13. What duties belong to State executives?

BLACKBOARD EXERCISE.

STATE PROHIBITIONS.

I. <i>State Relations</i>	(52) (54)
II. <i>Commercial.</i>	
1. <i>Coining Money</i>	(52)
2. <i>Bills of Credit</i>	(52)
3. <i>Tender</i>	(52)
4. <i>Contract Obligations</i>	(52)
III. <i>War</i>	(52) (54)
IV. <i>Penalties.</i>	
1. <i>Bill of Attainder</i>	(52)
2. <i>Ex post facto Law</i>	(52)
V. <i>Nobility</i>	(52)
VI. <i>Duties.</i>	
1. <i>Imports and Exports</i>	(53)
2. <i>Tonnage</i>	(54)

CHAPTER XVII.

LESSON XLIX. — STATE PROHIBITIONS.

THE Constitution says, “No State shall enter into any

I. State Relations (52) (54). treaty, alliance, or confederation.”

By the fifty-fourth paragraph of the Constitution, States are forbidden to enter into any agreement or compact with another State or with any foreign power.

The Constitution intends to confer the whole treaty-making power upon the General Government. It would not be safe to allow the States even to treat with each other. Were this permitted, two or more States might enter into a compact, not only quite adverse to the interests of neighboring States, but also to the interests of the Federal Union.

Were the States at liberty to treat with foreign powers or neighboring States, they might enter into such arrangements as would interfere with those made by the General Government at home and abroad.

If the States were permitted to enter into treaties with foreign powers, the authority of the General Government on the same matter would be at an end.

Foreign powers might secure an advantage over all the States by securing the favor of one State.

By the fifty-second paragraph of the Constitution, States

II. Commercial. are prohibited from exercising any of the following commercial powers: —

1. To coin money.
2. To emit bills of credit.
3. To make anything but gold and silver coin a tender in payment of debts.
4. To pass any law impairing the obligation of contracts.

The power to coin money is confided to the General Government. Were the States invested with it, the effect would be to multiply expensive mints, and diversify the forms and weights of the circulating coins. This would destroy all hope of uniformity of currency, and would seriously cripple and embarrass the interests of commerce.

1. Coining Money (52).

The bills of credit as here referred to, and which States are forbidden to emit, are engagements to pay money. At the close of the revolutionary war, and for some years afterwards, the whole country was flooded with a nearly worthless paper currency. It was issued under the direction of Congress, but it was expected that each State would redeem its proper proportion; but they did not do this, and it became utterly worthless as a medium of exchange. It is known in history as the "Continental currency." It amounted in the aggregate to over three hundred and fifty millions.

2. Bills of Credit (52).

The States themselves had also, on their own account, largely issued similar bills of credit. At last it was hardly worth a penny on a dollar.

This was the experience that led the authors of the Constitution to insert this clause.

The States are also forbidden to pass any laws making anything but gold and silver coin a tender in payment of debts. This prohibition has the same general object in view as the preceding clauses.

3. Tender (52).

It is intended to give uniformity and stability to the currency

of the country, and to establish confidence in commercial transactions.

Though the States cannot make anything but gold and silver a legal tender, this prohibition does not apply to the General Government. A large part of the present paper currency is made legal tender by a law of Congress, passed early in 1862. But this is a national medium of exchange, and the law authorizing its issue has been declared by the Supreme Court of the United States to be constitutional.

QUESTIONS.

1. On whom does the Constitution intend to confer the treaty-making power?
2. Why would it not be safe to allow the States to treat with each other?
3. Why not with foreign powers?
4. What commercial powers are the States prohibited from exercising?
5. What would be the effect if the States were allowed to coin money?
6. What are bills of credit?
7. What is said about paper money at the close of the revolutionary war?
8. What was expected of the States with respect to this paper currency?
9. What was the result of their not doing this?
10. What was the amount of Continental currency?
11. How far did it finally depreciate in value?
12. What are the restrictions on the States about money as a tender in payment of debts?
13. What is the object of this provision?
14. What is said about our present paper currency?
15. What decision has the Supreme Court given on this?

LESSON L. — STATE PROHIBITIONS, *Continued.*

By the fifty-second paragraph, States are forbidden to grant letters of marque and reprisal ; and by the fifty-fourth they are forbidden to keep troops or ships of war in time of peace without the consent of Congress, or engage in war unless actually invaded or in such imminent danger as will not admit of delay. *III. War (52) (54).*

These citations from the Constitution embrace all the restrictions imposed on the States in reference to making war. The power of making war and of making treaties of peace belongs exclusively to the General Government.

A State may be so situated that it may become indispensable to possess military forces to resist an expected invasion or insurrection. The danger may be too imminent to admit of delay ; and under such circumstances a State would have a right to raise troops for its own safety, even without the consent of Congress.

By the fifty-second paragraph of the Constitution, States are forbidden to pass any bill of attainder or *ex post facto* law. These are explained in the chapter *IV. Penalties (52).* "Prohibitions on the United States."

Bills of attainder and *ex post facto* laws are contrary to the first principles of the social compact and of every principle of sound legislation. Congress is forbidden to pass them, as we have seen ; and for the same, if not for stronger reasons, the prohibition is extended to the States.

By the same paragraph, the States are forbidden to grant any title of nobility. We have seen in another place that the United States are under the same prohibition. *V. Nobility (52).*

Besides the royal family in England, there are five orders of nobility, — dukes, marquises, earls, viscounts, and barons.

These are all included under the general term "lords" or "peers." These titles descend to the heirs.

It would be absurd to provide against the exercise of this power by the General Government, and yet leave the States at liberty to exercise it.

The Constitution says, "No State shall, without the consent of the Congress, lay any imposts or duties on imports

VI. Duties. or exports, except what may be absolutely
1. Imports and Exports (53). necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States."

The restraint on the power of the States over imports and exports is enforced by all the arguments which prove the necessity of submitting the regulation of commerce to the Federal councils. Imposts and duties were explained in treating of the "Powers of Congress."

Inspection laws are not, strictly speaking, regulations of commerce. Their object is to improve the quality of articles produced by the labor of the country, and to fit them for exportation or for domestic use. These laws act upon the subject before it becomes an article of commerce.

States are also forbidden to lay any duty of tonnage without the consent of Congress.

Tonnage duty is a tax or duty laid on ships or vessels in proportion to their cubical contents expressed in tons. A ton, expressed by measure, is forty-two cubic feet.

In reference to the subject of duties generally, it was the intention of the authors of the Constitution to place it entirely under the supervision and control of Congress.

QUESTIONS.

16. What are the restrictions on the States in the fifty-second, fifty-third, and fifty-fourth paragraphs?
17. To whom does the war and treaty making power belong?
18. When may a State raise troops without the consent of Congress?
19. What is said of bills of attainder and *ex post facto* laws?
20. What is said about titles of nobility?
21. How many and what are the titles of nobility in England?
22. By what other general names are they known?
23. What are the restrictions on the States about imports and exports?
24. What is the object of inspection laws?
25. What is said about the duty of tonnage?
26. What is a ton in measure?

BLACKBOARD EXERCISE.

PERSONAL RIGHTS.

- I. *Domicile.*
 - 1. *In Peace* (88)
 - 2. *In War* (88)
- II. *Searches and Seizures* (89)
- III. *Judicial.*
 - 1. *Indictment* (90)
 - 2. *Second Trial* (90)
 - 3. *Life, Liberty, and Property* (90)
 - 4. *Private Property* (90)
- IV. *Criminal Actions.*
 - 1. *Accusation* (91)
 - 2. *Jury Trial* (91)
 - 3. *Witnesses* (90) (91)
 - 4. *Counsel* (91)
 - 5. *Bail* (93)
 - 6. *Fines* (93)
 - 7. *Punishments* (93)
- V. *Civil Actions.*
 - 1. *Jury Trial* (92)
 - 2. *Second Trial* (92)
- VI. *Treason.*
 - 1. *What is Treason* (72)
 - 2. *Conviction for Treason* (72)

CHAPTER XVIII.

LESSON LI.—PERSONAL RIGHTS.

THE Constitution says, “No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.”

I. Domicile.

The place most sacred to every citizen is that one which he calls his home. The enjoyment of it, uninterrupted, is among the most sacred of personal rights. Arbitrary rulers, even in time of peace, are prone to trespass on this right, and in the very mode here forbidden.

1. In Peace (88).

A man's house is his castle, and in every land of law and order it is the owner's right that it should be protected.

But the necessities of war may sometimes require the sacrifice of private property and individual rights for the public good. In such cases, under our Constitution, just compensation must be made for the sacrifice of private property. In time of war it may become a public necessity not only to quarter troops in private houses, but to convert churches, court-houses, and other public buildings, into barracks and hospitals.

2. In War (88).

But invasion of private property must, under our government, be strictly according to law. This would not be regarded as an encroachment, however, by any patriotic

or reasonable man, but rather as cause for gratitude to his country.

The Constitution says, "The right of the people to be secure in their persons, houses, papers, and effects, against *II. Searches and Seizures (89)* unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

This provision requires no explanation. It is an affirmation of a well-known principle of common law, recognized for ages. But it had been so frequently and so shamefully violated by despotic rulers for centuries, that our fathers thought it prudent to incorporate it among the earlier amendments to the Constitution.

QUESTIONS.

1. What does the Constitution say about quartering soldiers in private houses?
2. What is said about the personal rights of a citizen in reference to his home, and what about arbitrary rulers?
3. What do the necessities of war sometimes require for the public good?
4. What is said about compensation for the sacrifice of private property?
5. What is said in relation to unreasonable searches and seizures?
6. What does the Constitution say are the conditions necessary to the issue of warrants?
7. What is said of this provision?

LESSON LII.—PERSONAL RIGHTS, *Continued.*

The Constitution says, "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, **III. Judicial.** except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

A capital crime is one that subjects the offender to the penalty of death.

1. Indictment

(90).

An infamous crime is one that exposes the criminal to the abhorrence and detestation of mankind, and to ignominious punishment more or less severe.

An indictment is a written accusation or a formal charge made against a person for the commission of a crime, and is made by a grand jury on oath.

A grand jury generally consists of twenty-three men. It requires a majority to find an indictment. They sit under the direction of court with closed doors, and are sworn to secrecy in regard to their proceedings. The prosecuting attorney, being the law officer for the State, draws up the indictment according to the forms of law. The foreman of the grand jury indorses on it the words, "A true bill," and signs his name under the indorsement. This must be done before the accused can be put on his trial.

Crimes committed in the army or navy, or in the militia, when in actual service in time of war or public danger,

are tried by court-martial or by military commission, without going through with the formalities of an indictment.

The Constitution says, "Nor shall any person be subject, for the same offense, to be twice put
2. Second Trial (90). in jeopardy of life or limb." This refers to second trials for the same crime.

By the authority of this clause, no person having been once tried for a crime, whether found guilty or not guilty; if the jury agree on a verdict at all, can be put on his trial a second time for the same offense. But this statement must be taken with the qualification that the accused does not himself apply for a new trial.

The Constitution says, "Nor be deprived of life, liberty,
3. Life, Liberty, and Property (90). or property, without due process of law." The first object of human government is protection of the citizen. This clause is inserted for the purpose of giving assurance that life, liberty, and property shall be held sacred in the eye of the law, and that the citizen shall not be deprived of either except through all the forms and substance of the regular administration of justice.

On the other hand, the public good, which is paramount to private interest, often requires the appropriation of private property for the ends of government,
4. Private Property (90). or for the greater good of the greater number. Where the public interests require it, private property may be taken by rendering a just compensation to the owner of the same.

What is just compensation in such cases is to be ascertained by such process of investigation as shall be fixed by law. It may be necessary to project a railroad, a military road, or to construct a canal; or it may become necessary to appropriate private property for the support of an army

This may be done by authority of law, but not without just compensation to the owner of the property.

QUESTIONS.

8. Will you recite the Fifth Article of Amendment to the Constitution?
9. What is a capital, and what an infamous, crime?
10. What is an indictment?
11. What is a grand jury?
12. What is said about their proceedings?
13. What is said about the trial of crimes committed in the army, navy, and militia?
14. What is said about second trials?
15. What is the first object of government?
16. Why is this clause in regard to life, liberty, etc., inserted in the Constitution?
17. What does the public good often require?
18. What is said about compensation for private property?

LESSON LIII.—PERSONAL RIGHTS, *Continued.*

The Constitution says, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

*IV. Criminal
Actions.
1. Accusation
(91).*

We have here an outline of the rights of a party on trial for a criminal offense. In the first place, he is to be informed of the nature and cause of the accusation

against him. This appears in the indictment, which is a written accusation made by the grand jury, on oath, at the suit of the government.

The indictment must charge the time, place, and nature and circumstances of the offense with clearness and certainty; giving the accused full and definite notice of the charge, so that he may make his defense with all reasonable knowledge, and to the best of his ability.

The trial is by jury. This is a *petit* jury, consisting of twelve good and lawful men, against whom, and each of whom, no valid and legal objection can be raised. This jury must be impartial; that is, it must be constituted of persons who have not already made up their minds on the guilt or innocence of the party accused.

The jury shall be selected from the State and district in which the crime shall have been committed; and the district shall have been previously ascertained, that is, determined by law. The selection of the jury from the State and district in which the crime is committed is supposed to secure fairness and impartiality on the trial.

By our Constitution, a man cannot be compelled to testify against himself; and this is in affirmance of a well-

3. Witnesses

(90) (91).

settled principle of common law. It is well known that in some countries criminals are not only compelled to give evidence against themselves, but are subjected to the rack or torture in order to procure a confession of guilt, presuming that innocence would vindicate itself by a stout resistance, or that guilt would make open confession.

The accused has the right to compulsory process for obtaining witnesses in his favor. This is to secure impartiality of trial, and to give a fair opportunity of defense. This shall be done, if need be, at the expense of the gov-

ernment itself, though carrying on the prosecution against him.

Not far back in English history, the prisoner at the bar was denied the privilege of calling witnesses to testify in his favor ; but our Constitution makes wise provision against the possibility of such gross injustice.

The accused shall also have the assistance of counsel for his defense. This means that he shall have a lawyer to assist him at the bar, to guard his rights, to defend him, to see that he has a fair trial, and to see also that no injustice is done him. *4. Counsel (91).*

If he is unable to employ counsel of his own selection, it is the duty of the court to appoint one or more for that purpose at the expense of the government: so careful is the law in this country of the rights of every American citizen.

Excessive bail shall not be required. Bail here means a bond of surety in a sum of money signed by some responsible person or persons, promising that the accused shall appear and stand his trial in court when called for, or, if he does not, that the sum of money named in the bond shall be paid. On furnishing such a bond, the person is at liberty to go at large until the day of trial. If no such bond be furnished, the accused will be shut up in jail, that his body may be held securely till the time of trial. *5. Bail (93).*

Except in cases where the accused is charged with crime punishable by death, and a few others, he has a right to be discharged from custody, on giving the bail required by the court.

This bail must not be excessive, but reasonable in amount. But for this humane provision in our Constitution, it might be required in a sum so large that a person of ordinary means would be unable to procure it. Should

a magistrate, under our Constitution, see fit to be thus cruel, the prisoner can obtain relief under the forms of law.

Excessive fines are forbidden. A fine is a pecuniary penalty imposed by a court upon a person for a criminal offense, or transgression of the law.

6. *Fines (93).*

Nor shall cruel and unusual punishments be inflicted. This needs no comment, except the remark that history shows that despots in the dark ages taxed their fiendish ingenuity to invent punishments the most horrid, cruel, and revolting; and this prohibition is for the purpose of avoiding all possibility of a repetition of such cruelties in this country.

7. *Punishments (93).*

QUESTIONS.

19. Will you recite the Sixth Article of Amendment?
20. Of what is this an outline?
21. What must the indictment charge?
22. What is a petit jury?
23. What is said about their being impartial?
24. Where is the jury to be selected?
25. What is required of witnesses in some countries?
26. To what has the accused a right?
27. What is the object of this?
28. Of what have prisoners in England been denied?
29. What is said about the assistance of counsel?
30. What is bail, and what is said about it?
31. In what cases may the prisoner give bail?
32. Why should not the bail be excessive?
33. What is said about fines?
34. What is a fine?
35. What is said about punishments?
36. What is the object of this provision of the Constitution?

LESSON LIV. — PERSONAL RIGHTS, *Continued.*

The Constitution says, "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact, tried by a jury, shall be otherwise reëxamined in any court of the United States than according to the rules of the common law."

V. Civil Actions.

Trial by jury has long been considered a sacred right even in civil controversies. In England this right was first recognized in the time of Alfred the Great, who established the proceeding in the ninth century. That noble ruler died in 901.

1. Jury Trial (92).

The above amendment to the Constitution was early adopted to allay the fears of some of its opposers that that instrument substantially abolished the right of jury in civil cases. These fears were grounded in the fact that this right was expressly secured therein in criminal cases.

The language of the amendment applies only to cases in the common-law courts, not to courts of admiralty and maritime jurisdiction, nor to cases of equity, in which the courts determine both the law and the fact.

If the matter in controversy be less than twenty dollars, a jury trial cannot be claimed, being a matter of too little importance to warrant the expense of a jury trial.

When a matter in controversy has once been judicially settled by a competent court, that adjudication is a bar to any further judicial examination or proceedings, except according to the forms and usages of the common law. There must be an end somewhere to human controversy, and that end must be determined by legal principles and usage.

2. Second Trial (92).

The rules of common law here spoken of, under which

matters of fact may be reëxamined, refer to a continuation of the investigation by a successful motion for a new trial, on cause shown, or by writ of error, or by an appeal to another and higher tribunal. The parties have the right to exhaust all legal remedies before the controversy is to be considered as judicially settled ; but these remedies must be pursued according to common-law usage.

QUESTIONS.

37. What is the Seventh Article of Amendment ?
38. How is trial by jury considered ?
39. By whom and when was jury trial established in England ?
40. Why was this amendment to our Constitution adopted ?
41. To what courts does it apply, and to what does it not ?
42. In what cases may jury trial be claimed ?
43. What is said about second trial ?
44. To what do the rules of common law refer ?

LESSON LV. — PERSONAL RIGHTS, *Continued.*

The Constitution says, "Treason against the United

VI. Treason. States shall consist only in levying war
 1. *What is it?* against them, or in adhering to their ene-
 (72) mies, giving them aid and comfort."

There are but two ways that treason can be committed against the United States, and these are defined with such precision as to leave no room for cavil or doubt. Levying war against the United States, or adhering to their enemies, giving them aid and comfort, is treason.

Very early in our history the Supreme Court of the United States had occasion to define what is to be understood by the phrase "levying war." On that occasion the court said, "However flagitious may be the crime of con-

spiring to subvert by force the government of our country, such conspiracy is not treason.”

To conspire to levy war, and actually to levy war, are distinct offenses. The second (levying war) must be brought into open action by the assemblage of men for a purpose treasonable in itself, or the fact of levying war cannot have been committed.

The Constitution says, “No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.”

2. Conviction for Treason (72).

The Constitution is humane to the accused in requiring the strictest proof for the establishment of his guilt. There must be two witnesses, at least, to the same overt act, unless the prisoner make confession in open court. Confessions out of court, though testified to by any number of witnesses, are not sufficient.

There must, as there should, be a concurrence of two witnesses to the same overt act, that is, *open* act of treason, who are above all reasonable exception.

QUESTIONS.

45. What is treason against the United States?
46. In how many ways can treason be committed?
47. What decision has the Supreme Court given on the subject of “levying war”?
48. What is necessary for a conviction of treason?

BLACKBOARD EXERCISE.

EXECUTIVE.

I. <i>In whom vested</i>	(55)
II. <i>Executive Term</i>	(55)
III. <i>Eligibility.</i>	
1. <i>Citizenship</i>	(59)
2. <i>Age</i>	(59)
3. <i>Residence</i>	(59)
IV. <i>How elected.</i>	
1. <i>Electors.</i>	
(a) <i>Appointment</i>	(56)
(b) <i>Number</i>	(56)
(c) <i>Proceedings.</i>	
1st, <i>Meeting</i>	(57)
2d, <i>Voting</i>	(57)
3d, <i>Making Lists</i>	(57)
4th, <i>Signing and certifying Lists</i>	(57)
5th, <i>Transmitting Lists</i>	(57)
6th, <i>Directing Lists</i>	(57)
(d) <i>In Congress.</i>	
1st, <i>Joint Meeting</i>	(57)
2d, <i>Opening Certificates</i>	(57)
3d, <i>Counting Votes</i>	(57)
2. <i>House of Representatives.</i>	
(a) <i>Quorum</i>	(57)
(b) <i>Eligibility</i>	(57)
(c) <i>Voting</i>	(57)
V. <i>Oath of Office</i>	(62)
VI. <i>How removable</i>	(67)
VII. <i>Salary</i>	(61)

VIII. *Powers and Duties.*1. *Military.*(a) *Army and Navy* (63)(b) *Militia* (63)2. *Civil.*(a) *Departments* (63)(b) *Reprieves and Pardons* (63)(c) *Treaties* (64)(d) *Appointments.*1st, *General.*(a) *Diplomatic* (64)(b) *Judicial* (64)(c) *Others* (64)2d, *Special* (65)(e) *Messages* (66)(f) *Congress.*1st, *Convocation* (66)2d, *Adjournment* (66)3d, *Veto* (24) (25)(g) *Reception* (66)(h) *Executor of the Laws* (66)(i) *Commissions* (66)

CHAPTER XIX.

LESSON LVI.—EXECUTIVE.

THE Constitution says, "The executive power shall be *I. In whom vested (55).* vested in a President of the United States of America."

Under the Confederation, there was no such officer as a President of the United States. There was an Executive Committee of thirteen, one from each State, having no power except during the recess of Congress. Congress possessed the executive power while in session.

Energy in the Executive is one indispensable characteristic in the definition of good government, for the duty of this department is to see that the laws are faithfully and promptly executed. A feeble Executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be a bad government in practice.

The convention that formed the Constitution deliberated some time on the question whether to place the executive power in the hands of one or of several individuals. It was believed by all that, in the hands of one, the executive power would be more prompt and energetic; and this view settled the question. It is supposed to give a stronger sense of personal responsibility.

The Constitution says, "He shall hold his office during the term of four years."

II. Executive Term (55).

In the Constitutional Convention the period for which the Executive should be elected was a subject on which there was much debate and difference of opinion.

The several periods of one, two, three, four, six, and ten years, each had its advocates; and some members were in favor of an Executive for life, or during good behavior. Four years, the term finally adopted, was the result of compromise.

The Executive term should not be so short as to give no opportunity to test the utility of its measures; nor, on the other hand, should it be so long as to allow a corrupt and obstinate Executive to afflict the country with permanent mischief and disaster.

The presidential term commences on the fourth day of March next after the President's election; and in case of his death, removal, or resignation during his term, the person who succeeds to the duties of the office serves the unexpired portion of the term only.

President Grant, at his second inauguration, entered on the twenty-second presidential term since the adoption of our Constitution.

The Constitution says, "No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."

III. Eligibility.

The Constitution requires that the President shall be a natural-born citizen of the United States, or a citizen at the time of the adoption of

1. Citizenship (59).

the Constitution. This is a necessary restriction, when we consider the sacredness of the trust committed to the charge of the Executive.

Several of the sovereigns of Great Britain were persons of foreign birth. This qualification destroys any hopes that any intriguing foreigner might indulge of becoming the chief Executive of our Republic.

But throughout the bloody struggle of the American revolution our fathers were greatly assisted by the aid of many citizens who were natives of other countries. It would have been ungenerous and ungrateful to have excluded this class of citizens from all possibility of attaining to any office, however exalted, under a government which they had sacrificed so much to establish.

But the clause giving eligibility to a citizen at the time of the adoption of our Constitution, though of foreign birth, has become practically obsolete by the lapse of time.

The Executive is eligible to reëlection without limitation; but thus far in our history no Executive has been elected to the office beyond the close of his second term.

The age required was regarded as necessary to give the candidate for this office sufficient time to demonstrate his character, and to enable his fellow-citizens to judge of his fitness for the high position of chief Executive of a great nation. The mental faculties are usually in full vigor at this age; and opportunities must have been afforded for long public service, and for varied and large experience in the public councils.

2. Age (59).

A residence of fourteen years within the United States is required. It might be presumed that long and continued

3. Residence (59).

residence abroad would create not only indifference for the country of one's birth, but a partiality for the institutions of other countries with which he has long been familiar.

This long residence in the United States is intended not only to give opportunity for an extensive acquaintance on the part of his fellow-citizens with the candidate for this office, but also to furnish *him* with the requisite knowledge of the wants and institutions of the country.

QUESTIONS.

1. In whom is the executive power vested ?
2. In whom was it vested under the Confederation ?
3. What does a feeble Executive imply ?
4. What does that imply ?
5. Give the views of the convention on the unity of the Executive.
6. How long is the Executive term ?
7. What variety of opinion was there on the Executive term ?
8. When does the term commence ?
9. What is the number of the present Executive term ?
10. What are the conditions of eligibility ?
11. Who might be President though foreign born ?
12. Why is the age named necessary ?
13. Why is so long a residence required ?

LESSON LVII. — EXECUTIVE, *Continued.*

There are but two ways of electing a chief magistrate of the United States. The first method is by electors appointed for that purpose ; and, if this method fails, the election devolves on the House of Representatives. We will consider the two methods.

IV. How elected.

In the convention that formed the Constitution, there were three methods proposed for electing a President. The first plan was by the two Houses of Congress on joint ballot. The second was by electors to be appointed by the several State Legislatures. The third was, and this prevails, to elect by electors appointed in such manner as the several State Legislatures

1. Electors.

might direct. The Constitution gives Congress the power to determine the time of choosing the electors. Congress has fixed by law that electors shall be chosen throughout the United States on the first Tuesday after the first Monday in the month of November of the year of the presidential election.

The electors in the several States are elected by the people, in the manner prescribed by the Legislatures of the respective States. No senator, representative, or other person holding a place of trust or profit under the United States, can be an elector of President and Vice-President. Thus the sense of the people more distinctly prevails than it would were the choice of President confided to persons holding other official positions.

The number of electors corresponds with the number of senators and representatives to which the States are respectively entitled in Congress. Thus each State has about the same influence in the election of President and Vice-President that it has in the national councils.

There are certain steps to be taken by the electors after their appointment, which are definitely specified by the Constitution.

The first step to be taken by the electors after their appointment is to meet in their respective States. By a law of Congress, the State Legislature is authorized to direct as to the place of meeting. This place is generally, perhaps in all cases, the capital of the State. The meeting of the electors, by law of Congress, takes place on the second Monday in January next after they are chosen. All the electors meet on the same day.

The meeting is a mere matter of form. They are expected to cast their votes for the candidates of the political

parties according to previous pledges. No discussion of the merits of the candidates takes place. The electors are chosen wholly with reference to particular persons who have been put in nomination at a convention called for that purpose. This, however, is a gross perversion of the intention of the authors of the Constitution. It is the result of modern political party management.

The votes must be given by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves. According to this provision, a State would lose its vote if given for candidates both of whom were citizens thereof. They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President.

2d, Voting (57).

The electors are required by the Constitution to make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each.

3d, Making Lists (57).

These lists are to be signed and certified by the electors.

4th, Signing and certifying Lists (57).

These lists are to be transmitted to the seat of the government of the United States.

5th, Transmitting Lists (57).

These certificates are to be directed to the president of the Senate.

6th, Directing Lists (57).

By law of Congress, the electors are to make and sign three certificates of all the votes given. They are to seal up these certificates, and to certify on each that a list of the votes of their States respectively for President and Vice-President is contained therein.

They shall appoint a person to take charge of and deliver one of these certificates to the president of the Senate at the seat of government before the fourth Monday of January then next ensuing.

Another of the certificates is to be forwarded forthwith by mail to the president of the Senate at the seat of government.

The third certificate is to be delivered to the judge of the district court in which the electors assemble.

It will be observed that the certificates are now in the hands of the president of the Senate, and
 (d) *In Congress.* the steps are to be taken for canvassing the votes certified therein.

A joint meeting of the two Houses of Congress is then
 1st, *Joint Meeting* called; and this takes place, by law of
 (57). Congress, the second Wednesday of February following the reception of the certificates. The meeting is in the Hall of Representatives.

“The president of the Senate shall, in presence of the
 2d, *Opening Certificates* Senate and House of Representatives, open
 (57). all the certificates.”

“The votes shall then be counted.” The counting of
 3d, *Counting Votes* the votes is done by tellers appointed for
 (57). that purpose by the House and the Senate.

On one occasion, in 1877, Congress by special law constituted an Electoral Commission consisting of five senators, five representatives, and five justices of the Supreme Court, who were authorized to count the votes and declare the result of the election.

The Constitution says, “The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed.”

But if no candidate shall receive a majority of the electors appointed, then, by the Constitution, the election of that officer devolves upon the House of Representatives.

This occurred in the year 1825, and may occur at any election when there are three or more candidates.

QUESTIONS.

14. How many methods of electing a President, and what are they?
15. How many and what plans were proposed?
16. How are electors appointed?
17. Who may not be appointed electors?
18. Why is this?
19. How many electors for each State?
20. What are the various steps required to be taken by the electors?
21. What restrictions on the voting?
22. How must the lists be transmitted?
23. What are the steps for canvassing the votes in Congress?
24. What is the result?

 LESSON LVIII. — EXECUTIVE, *Continued.*

When the people fail to elect the chief Executive, it seems proper to refer the matter for decision to the House of Representatives. This seems to be the *2. House of Representatives*, most appropriate body, as the members of *Representatives*, which it is constituted are chosen by the popular voice, and are the more immediate representatives of the people.

The Constitution says, "A quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all (a) *Quorum* (57). the States shall be necessary to a choice."

A majority can transact the ordinary business of legislation; but the election of a chief magistrate of the nation was regarded by the authors of the Constitution as a matter of such grave interest to the country, that they inserted this provision with unanimity.

When the election takes place in the House, the selection must be made from the persons already voted for by electoral vote. The House is not at liberty (b) *Eligibility* (57). to take up a new candidate; but their selection must be confined to those receiving the highest

numbers, not exceeding three, on the list of persons voted for as President. This provision is made for the purpose of excluding from the list all such persons as receive but a small number of the electoral votes.

In choosing the President by the House of Representatives, the Constitution requires that the votes shall be taken

(c) *Voting* (57). by States, the representation from each State having one vote. There is a greater chance

of an election, when there are three or more candidates, in this mode than by a mere representative vote according to numbers, as the same divisions would probably exist in the popular branch as in their respective States.

The vote must be taken by ballot.

As a majority of all the States is necessary to a choice, it might so happen that the House of Representatives would be unable to elect a President. For instance: were there three candidates before the House, one might receive the votes of fourteen States, and the other two the votes of twelve States each; in which case there would be no choice, as neither would have a majority of all the States. The House might continue to vote with the same, or nearly the same, result until the fourth day of the next March, at which time the House would lose jurisdiction of the subject, and could vote no longer.

The Constitution makes provision for precisely this condition of things. The following would be the result:—

“And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death, or other constitutional disability, of the President.”

It will be seen, in considering the election of the Vice-President, that no possible contingency can arise to prevent the election of that officer.

QUESTIONS.

25. What if no candidate is elected by this process?
26. What is a quorum for election in the House?
27. Why are so many required for a quorum?
28. To whom is the election in the House confined?
29. Why is this so?
30. How are the votes taken?
31. How many votes are necessary to a choice?
32. How long may the House continue to vote if they do not succeed in electing a President?
33. What if the House finally fail to elect?

 LESSON LIX. — EXECUTIVE, *Continued.*

Before the President enters on the execution of his office, he is required to solemnly swear or affirm that he will faithfully execute the duties thereof, and, *V. Oath of Office (62).* to the best of his ability, preserve, protect, and defend the Constitution of the United States.

Mr. Justice Story says, "This is a suitable pledge of his fidelity and responsibility to his country, and creates upon his conscience a deep sense of duty, by an appeal at once, in the presence of God and man, to the most sacred and solemn sanctions which can operate upon the human mind."

The Constitution says, "The President and Vice-President, and all civil officers of the United States, shall be removed from office on *VI. How removable (67).* impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

This subject has been noticed in treating of the Senate of the United States (see the author's larger work, *Analysis of Civil Government*).

The Constitution says, "The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during *VII. Salary (61).* the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them."

Without this clause, the Executive would be dependent for his support on the will of Congress. By securing their favor, his salary might be greatly enlarged; and, by incurring their displeasure, it might be greatly diminished. His salary cannot be changed during his term of office.

From the beginning of the Executive office under our government to the close of President Grant's first term, 1873, the salary was twenty-five thousand dollars a year. From the commencement of his second term, March 4, 1873, it has been fifty thousand, and will probably permanently remain at that sum. In addition to his salary, which is fixed by law of Congress, he has the use of the White House, as the presidential mansion is called. It is also furnished for him and taken care of, the grounds cultivated, his fuel and light provided, and many other things at the expense of the public treasury.

QUESTIONS.

34. What is the President's oath of office?
35. What does Judge Story say about this oath?
36. How is the President removable?
37. What is the constitutional provision about his salary?
38. What is the advantage of this provision?
39. What was the salary until President Grant's second term, and what is it now?
40. What is furnished him besides his money salary?

LESSON LX. — EXECUTIVE, *Continued.*

The Constitution says, "The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States."

VIII. Powers and Duties.

1. Military (63).

It is not to be inferred from this clause of the Constitution that the President is actually to take command in person in case of war. This is not the intention, though he has the power were he so disposed. It might be proper that the President should actually place himself at the head of an army in the field, were he known to be an experienced and skillful military commander.

He is the head of the army in the same sense that he is the head of the nation. He may control its general operations and movements. He directs the application of the military force in the execution of the laws, in maintaining peace at home, and in resisting foreign aggression. These duties are of an executive character, and are properly vested in the President, that unity of plan, promptitude, activity, and decision may be secured.

For the same reasons, the Executive is made commander-in-chief of the militia of the several States when called into the actual service of the United States. In order that there may be unity of action, uniformity of training and discipline, and concert of purpose, it is necessary that regulars and militia should be subordinate to a single head.

The Constitution says, "He may require the opinion in writing of the principal officer in each of the executive departments on any subject relating to the duties of their respective offices."

2. Civil.

(a) Departments (63).

The Constitution says, "He shall have power to grant (b) *Reprieves and Pardons* (63). reprieves and pardons for offenses against the United States, except in cases of impeachment."

A reprieve is the temporary suspension of the execution of sentence, especially the sentence of death. A pardon is the remission of a penalty, and a release of the offender from punishment. Reprieves may become necessary or expedient on account of doubts of guilt, arising from the discovery of new testimony after sentence and before execution; or considerations of public policy may require a like interference. The same reasons might justify the grant of a full pardon.

Discretionary power over such cases should be vested somewhere, "as the law cannot be framed on principles of compassion." The chief executive magistrate should be allowed to hold a court of equity in his own breast, to soften the rigor of the general law in such criminal cases as may merit an exemption from punishment, or as may properly plead for temporary delay of execution of sentence.

There is no power under our government to extend pardon to a person convicted on impeachment.

The Constitution says, "He shall have power, by and (c) *Treaties* (64). with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur."

The definition of treaty will be found in the chapter on the "Senate of the United States."

In forming treaties, the entire plan, with all its conditions and stipulations, is settled through the President on the part of the United States. He acts through ambassadors and foreign ministers duly accredited by our government, or commissioners specially appointed for the purpose.

The entire proposed treaty is submitted to the Senate by the President. The Senate discusses it in secret session. No treaty can be complete, on the part of our government, until ratified by the Senate.

QUESTIONS.

41. What is the President's military position ?
42. In what sense is he the head of the army ?
43. What may he require of department officers ?
44. What power has he over reprieves and pardons ?
45. What are they ?
46. When may they become necessary ?
47. What is said of pardon in cases of impeachment ?
48. What power has the President over treaties ?
49. What is a treaty ?
50. Who settles the plan of treaties on the part of government ?
51. Through whom does he act ?
52. What is necessary to the completion of a treaty ?

LESSON LXI. — EXECUTIVE, *Continued.*

The Constitution says, "He shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers, and *(d) Appoint-ments (64) (65).* consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

When nominations are made by the President, they are presented to the Senate in writing ; and this body acts upon them in secret session, and under the injunction that discussions on their merits or the qualifications of the nominees shall be kept secret. A majority of the Senate

decides the question of confirmation or rejection of the candidate nominated.

If the nominee is confirmed, or the nomination ratified, the President issues a commission accordingly, unless, in the mean time, he has concluded to decline it, which he is at liberty to do; in which case, he may make another nomination.

An ambassador is a minister of the highest rank, employed by government to represent it, and to manage its interests at the court or seat of government of some other power.

The word "minister," as used in the Constitution, has nearly the same signification as "ambassador," especially "minister plenipotentiary."

A consul is a person commissioned to reside in a foreign country, as an agent or representative of a government, to protect the rights, commerce, merchants, and seamen of the State, and to aid in any commercial, and sometimes in diplomatic, transactions with such foreign country.

The judges of the Federal courts are the judicial officers, and are the only ones under our government whose appointments are for life, or during good behavior.

The other officers include the heads of the several executive departments, and constitute what is called the President's cabinet. They are the secretary of state, secretary of the treasury, secretary of war, attorney-general, postmaster-general, secretary of the navy, secretary of the interior, and secretary of agriculture. They also include military officers.

The President is also authorized by the following clause of the Constitution to make special appointments to fill vacancies:—

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

The power of the President to revoke any appointments made on his nomination and confirmed by the Senate, is denied by law of Congress, though he has the power of suspension for a limited period (see the author's *Analysis of Civil Government* on this subject).

The Constitution says, "He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." (e) *Messages* (66).

Under this clause the practice originated, and has continued, of delivering formal messages, annual and special, to Congress. The President has means of information on all subjects, foreign and domestic, far superior to those belonging to any other branch of the government.

On account of his intimacy with the heads of departments, he may be presumed to be in possession of valuable information regarding the workings of the laws, the systems of trade, finance, and the operations of the judiciary, military, naval, and civil establishments of the Union. He is therefore qualified to communicate information on these subjects in the most practical form, and to recommend such measures as may be necessary for the correction of any defects which may have become apparent.

QUESTIONS.

53. What control has the President over appointments?
54. How does he present his nominations to the Senate?
55. How does the Senate act upon them?
56. What is an ambassador?
57. What is a minister?
58. What is a consul?
59. What is said of judges of the Supreme Court?
60. What are the other officers whom the President may nominate and appoint?
61. When may the President fill vacancies?

62. What is the constitutional provision about messages?
 63. What practice has grown out of this provision?
 64. What are the President's means of information on the state of the Union?

LESSON LXII. — EXECUTIVE, *Continued.*

The Constitution says, "He may, on extraordinary occasions, convene both Houses, or either of them; and, in case of disagreement between them with respect
 (f) *Congress.* to the time of adjournment, he may adjourn them to such time as he shall think proper."

Events may occur, entirely unforeseen by the Congress at its last session, imperiling the interests of the country,
 1st, *Convocation* and requiring the immediate convocation of
 (66). that body. An event of this kind transpired in the month of April, 1861, from the date of which hostilities became general between the North and the South. President Lincoln summoned Congress to meet the fourth day of the following July.

The power to call a meeting of Congress must be vested somewhere; and that it should be committed to the discretion of the Executive, all agree.

It might be barely possible that Congress should fail to agree on the time of adjournment; and, should such an
 2d, *Adjournment* exigency arise, the Executive seems the
 (66). most suitable third party to interfere for the peaceable termination of the controversy. In England the sovereign convenes and prorogues the Parliament.

When a bill passes both Houses of Congress, it is presented to the Executive for his signature. Should he approve it, he signs it; but if not, he returns
 3d, *Veto* (24) (25). it, with his objections, to the House in which it originated. These objections are called the President's veto.

But his veto is not absolute, only qualified: for, if it shall be repassed by a vote of two thirds of each House, it becomes a law notwithstanding the President's objections (see Paragraphs (24) and (25) of the Constitution).

The Constitution says, "He shall receive ambassadors and other public ministers."^(g) *Reception (66)*.

The reception of ambassadors and other public ministers is a recognition of the national character and standing of the countries which they represent. Their reception may therefore become a very nice and delicate question with the Executive.

The Executive is not obliged to receive an ambassador or public minister, even though he comes clothed with proper authority from a nation with whom we are at peace, and which is recognized among the great family of nations.

Although it requires the assent of the Senate, when that body is in session, to send an American minister to a foreign court, it does not require their assent to receive foreign ministers at our own capital. In such cases the President is the sole organ of recognition (see author's *Analysis of Civil Government*).

The Constitution says, "He shall take care that the laws be faithfully executed."

^(h) *Executor of*

the Laws (66).

This clause makes it the duty of the President faithfully to execute the laws of Congress. When a law has been passed by all the forms of legislation, he has no discretion. He must not only render obedience to the law himself, but must enforce its execution on all others. Were he to refuse, he would be guilty of a high misdemeanor, and might be removed from office by impeachment, and otherwise punished according to law.

He has ample power to execute the laws, as, for this purpose, the whole military force of the country is at his command, and under his control.

The Constitution says, "He shall commission all officers
(i) *Commissions* of the United States."

(66). A commission is a formal certificate of appointment issued by the proper authority. In this case, it is signed by the President of the United States, and sealed by the secretary of state with the great seal of the United States. The commission recites the powers conferred, with definite certainty; and it is usually delivered to the person whose appointment is made by it, though delivery is not necessary to the validity of the appointment.

QUESTIONS.

65. What does the Constitution say about the President adjourning and convening Congress?
66. Why should this power be vested in the President?
67. What is said of his veto power?
68. What is said about the reception of foreign ministers?
69. Why should this duty be assigned to the President?
70. What if the President should decline to execute the laws?
71. What power has he to execute them?
72. What is a commission?
73. Who commissions the officers of the United States?

BLACKBOARD EXERCISE.

VICE-PRESIDENT.

I. Eligibility	(57)
II. Election.	
1. In Congress	(57)
2. In Senate	(57)
III. Oath of Office	(84)
IV. Term	(55)
V. Powers and Duties.	
1. President of the Senate	(11)
2. Acting President of the United States (60)	(57)

CHAPTER XX.

LESSON LXIII.—VICE-PRESIDENT.

THE Constitution says, “No person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.”

I. Eligibility (57). If the Executive office becomes vacant, the Vice-President performs the duties thereof. He should therefore have the same qualifications as President. These are, that he must be a natural-born citizen, or a citizen of the United States at the adoption of the Constitution; that he must be thirty-five years of age; and that he must have been fourteen years a resident within the United States.

Four times in our history has a Vice-President been called to serve out an unexpired term of the presidential office. William Henry Harrison, President, died April 4, 1841: John Tyler, then Vice-President, succeeded to the duties of the Executive office. Zachary Taylor, President, died July 9, 1850: he was succeeded by Millard Fillmore, then Vice-President. Abraham Lincoln died April 15, 1865, having been assassinated: he was succeeded by the Vice-President, Andrew Johnson. President James A. Garfield died Sept. 19, 1881; and Vice-President Chester A. Arthur took the oath of office as President on the following day.

The Constitution says, “The person having the greatest

number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President: a quorum for the purpose shall consist of two thirds of the whole number of Senators; and a majority of the whole number shall be necessary to a choice."

II. Election.

The first part of this constitutional clause refers to the counting of votes and other proceedings in Congress. If no person receives a majority of the electoral votes as Vice-President, of course the people have failed to elect that officer. The election must now go to the Senate of the United States.

1. In Congress (57).

As just stated, if no person receives a majority of the electoral votes, the Senate is to choose the Vice-President from the two highest numbers on the list as candidates for that office. This renders it improbable that the Senate should fail to elect that officer.

2. In Senate (57).

As the Vice-President is the President of the Senate, it seems proper that the Senate should elect this officer in case of failure to elect by the electors.

The Senate has chosen but one Vice-President in our history. This was Richard M. Johnson, in 1837.

QUESTIONS.

1. To what office must the Vice-President be eligible?
2. Why should this be so?
3. What are the three conditions of eligibility?
4. How many times, and in what instances, has the Vice-President been called to the presidential office?
5. In what two ways may the Vice-President be elected?
6. To what candidates is the Senate confined in its choice?
7. Why is it proper that the Senate should elect this officer?
8. What Vice-President was elected by the Senate?

LESSON LXIV.—VICE-PRESIDENT, *Continued.*

The Vice-President is among the officers required to take the oath or affirmation, before entering on the duties of his office, to support the Constitution of the United States.

The official term is four years. The same reasons that governed in fixing the presidential term at four years apply with equal force to the term of the Vice-President.

The Constitution says, "The Vice-President of the United States shall be president of the Senate, but shall have no vote unless they be equally divided."

The duties of the Vice-President as president of the Senate are such as usually devolve on the presiding officer of legislative bodies. He is to preside over the deliberations of the Senate, enforce the rules of order, maintain due decorum among the members, and decide all questions of parliamentary practice.

The speaker of the House of Representatives has the appointment of standing committees; but the president of the Senate does not, as he is not a member of that body.

He submits all questions, duly made, to the Senate, puts to vote all questions brought forward for discussion and decision, and makes known the result.

The Constitution says, "In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President."

He is also to act as President, if the House of Representatives shall fail to elect that officer when the right of choice shall devolve on them.

When the Vice-President acts as President, which has been the case several times in our history, he has uniformly been recognized as President by both Houses of Congress (see *Analysis of Civil Government*, by the author).

QUESTIONS.

9. What is the nature of the Vice-President's oath of office?
10. How long is the term of the Vice-President, and why?
11. What are the powers and duties of the Vice-President?
12. Wherein do his duties differ from those of the speaker of the House?
13. In what cases do the duties of the Executive devolve on the Vice-President?
14. In such cases, what is his title of office?

BLACKBOARD EXERCISE.

JUDICIAL.

- I. *Where vested.*
 1. *Supreme Court* (68)
 2. *Inferior Courts* (68)
- II. *Judges.*
 1. *How appointed.*
 - (a) *President* (64)
 - (b) *Senate* (64)
 2. *Oath of Office* (84)
 3. *Tenure of Office* (68)
 4. *How removable* (67)
 5. *Salary.* (68)
- III. *Jurisdiction.*
 1. *Limitation* (69)
 2. *Original* (70)
 3. *Appellate* (70)

CHAPTER XXI.

LESSON LXV.—JUDICIARY.

To establish justice was one of the principal objects, as expressed in the Preamble, to be secured by the adoption of the present Constitution of the United States: hence it was necessary to create a *Necessity of a National Judiciary.* A government having no judiciary that commands the respect of the people is wanting in one of the essential elements of stability.

There was no national judiciary under the Confederation; and, of course, there were no national courts. The only courts were State tribunals. The State Legislatures often passed laws favoring their own respective localities, and State courts were too ready to disregard the decisions of coördinate tribunals of neighboring States.

Treaties formed between the Confederation and foreign nations were recklessly disregarded by the State Legislatures as well as by the State courts. In several instances this open disregard of the plighted faith of the nation threatened to involve the whole country in war.

Laws were passed by the State Legislatures, in many instances, in open defiance of the sacredness of private contracts between man and man. Remedies for the recovery of debts were suspended. Debtors were authorized to tender any sort of property, even though nearly worthless, in payment of debts that had been contracted to be paid in money.

Insolvent laws were enacted by some of the States, the effect of which, when applied to the relations of debtor and creditor, practically amounted to a complete discharge of indebtedness without consideration.

Laws were also passed making the most unjust and invidious distinctions in favor of the citizens of the States enacting them, and against foreigners and citizens of neighboring States. In fact, the American judiciary became a matter of contempt at home and of burlesque abroad.

There were other evils that called loudly for remedy. Some related to the welfare of our foreign commerce, some to the conflict of interests between citizens of different States, some to the relief of foreigners who had given credit to our citizens; others related to territorial disputes between different States, and still others to titles of lands under grants from different States.

So loose and reckless had the legislative and judicial administration of affairs become, that it was conceded by all parties, that, unless some effectual remedy were applied, our political institutions must crumble into ruins.

QUESTIONS.

1. What was one of the objects of the Constitution?
2. What necessity did this create?
3. What is said of a government having a feeble judiciary?
4. What kind of courts were under the Confederation?
5. What did the State Legislatures and State courts do?
6. What was the result?
7. What danger appeared?
8. What kind of State laws were passed?
9. How did these affect creditors?
10. What distinctions were made in some of the State laws?
11. What other evils existed, arising from a defective judiciary?
12. What was the opinion of all political parties of that day?

LESSON LXVI.—JUDICIAL.

The Constitution says, "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." *I. Where vested.*

The Supreme Court is a part, and only a part, of the national judiciary. It is established by the *1. Supreme Court Constitution*, but organized by Congress. (68).

The judges of the Supreme Court at present are one chief justice, and eight associate justices, any six of whom constitute a quorum.

Ever since this court was organized, September, 1789, it has had a chief justice; but the number of associate justices has been varied several times by acts of Congress. At first the number was fixed at five; March 3, 1837, at eight; March 3, 1863, at nine; April 10, 1869, at eight, the present number.

This court holds one term a year in the city of Washington, beginning on the second Monday in the month of October.

The establishment of inferior tribunals would seem to result necessarily from the establishment *2. Inferior Courts* of a Supreme Court. Recourse could not (68) be had to the Supreme Court in all cases which might properly be subjects of Federal adjudication.

It would be out of the power of any single court to dispose of the immense amount of business that would be sure to demand their attention. Without inferior tribunals easy of access, the sanctuary of justice would be closed to the great majority of American citizens.

Under the authority to establish inferior tribunals, each State or district can have a Federal court or courts compe-

tent to the adjudication of all matters of Federal jurisdiction within its limits.

The United States are divided, for judicial purposes, into nine circuits, and these circuits into districts. Each judge of the Supreme Court is allotted to a circuit, and is required to attend at least one term of the circuit allotted to him once in every two years. Two circuit and one or more district judges are appointed for each circuit and district respectively, wherein they hold circuit and district courts.

In each circuit there is also a circuit court of appeals, consisting of three judges, of whom two constitute a quorum. There are no judges appointed specially for this court. The justice of the Supreme Court, and the circuit and the district judges, can sit in it.

These three kinds of courts, with the supreme court in the District of Columbia, which has a chief justice and three associate justices, are, in the constitutional sense, inferior courts.

Thus there are five classes of Federal courts:—

1. The Supreme Court of the United States, established by the Constitution, but organized by Congress.
2. The circuit courts of appeal, established and organized by Congress.
3. The circuit courts of the United States, established and organized by Congress.
4. The district courts of the United States, established and organized by Congress.
5. The supreme court of the District of Columbia, also established and organized by Congress.

QUESTIONS.

1. Where is the judicial power vested ?
2. What is the Supreme Court ?
3. How established and organized ?
4. How many judges of the Supreme Court ?
5. When and what have been the changes as to justices ?
6. When and where does the court hold its term ?
7. What is the necessity of inferior courts ?
8. How is the United States divided for judicial purposes ?
9. Who presides over circuit courts ?
10. What are the inferior courts ?
11. What court in the District of Columbia, and what judges thereof ?
12. How many and what classes of Federal courts ?

 LESSON LXVII.—JUDICIAL, *Continued.*

The mode of appointing the judges has been noticed in treating of the Executive powers. The power is expressly given to the President in the Constitution, *II. Judges.* by and with the advice and consent of *1. How appointed* the Senate, to appoint the judges of the *(64).* Supreme Court ; but nothing is said therein about the method of appointing the judges of the inferior courts. As the judges of circuit have concurrent powers with the justices of the Supreme Court in their circuits, there is no question with regard to them.

But whether the judges of the district courts, and the supreme court of the District of Columbia, are inferior officers in the constitutional sense, so that Congress may provide for their appointment, has never been settled by adjudication. . But thus far the uniform practice has been to regard them *not* as inferior officers ; but their appointments have been made by the President, with the concur-

rence of the Senate, the same as judges of the Supreme Court.

The oath of office of all Federal judicial officers is the same as that of officers of the other departments of government ; that is, that they will support the
2. Oath of Office Constitution of the United States, and, to
 (84). the best of their ability, perform the duties of their respective offices.

For reasons well known to the experienced lawyer and jurist, the tenure of office of the judges
3. Tenure of Office (68). should be made permanent and secure, depending only on their good behavior.

When the Constitution was before the people for their consideration, one of the most gifted statesmen of that day gave his views on this subject in the following language : —

“ 1st, That they may be independent and fearless in the discharge of their responsible duties, it is necessary that they should hold by the will of no man, or set of men. They must feel dependent on no earthly power for their continuance in office. After appointment, were they in any manner dependent on executive, legislative, or popular favor, the scales of justice might be doubtfully balanced, and confidence in the judiciary would be seriously disturbed.

“ 2d, This independence could hardly be expected from judges who hold their offices by a temporary tenure. Periodical appointments, however regulated, or by whomsoever made, would be fatal to their necessary independence.

“ 3d, If the power of making them were committed either to the Executive or Legislature, there would be danger of an improper complaisance to the branch which possessed it ; if to both, there would be an unwillingness to hazard the displeasure of either ; if to the people, there would be

too great a disposition to consult popularity, to justify a reliance that nothing would be consulted but the Constitution and the laws."

The subject of removal of Federal officers by impeachment has been fully considered in other *4. How removable (67)* places in this work. The judges of the Supreme and inferior courts are subject to removal for impeachable offenses.

Provision is wisely made, that, as the judge's salary is at the time he enters on the duties of his office, so it shall continue to be throughout his official existence, unless Congress shall see fit to *5. Salary (68)* increase it: in other words, it cannot be diminished. To allow the legislative authority to diminish the salaries of the judges would be to give that authority control over their support; and to control their support is to control their will.

The salary of the chief justice is ten thousand five hundred dollars a year; that of the associate justices, ten thousand dollars each.

The Constitutional provision in reference to this subject is as follows: —

"The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior; and shall at stated times receive for their services a compensation, which shall not be diminished during their continuance in office."

QUESTIONS.

13. By whom are the judges of the Supreme Court appointed?
14. By whom are the judges of the other courts appointed?
15. What is their oath of office?
16. What is their tenure of office?
17. What reasons are given by an eminent statesman for this?

18. How are the judges removable?
19. What is said about the salaries of the judges?
20. What is the amount of each?

LESSON LXVIII.—JUDICIAL, *Continued.*

The Constitution says, “The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority.”

III. Jurisdiction.
1. Limitation
 (69).

This clause defines the entire jurisdiction of the judiciary of the United States, so far as it relates to subject-matter. By judicial power, as here used, we are to understand the power of the national courts in the administration of justice. The word “power” refers to jurisdiction, or the authority of the court.

The subject-matter of a cause in court is the thing or question to be decided: the parties are the persons or corporations legally interested in the decision of the court on the subject-matter.

“The word ‘law’ is generally understood, as defined by law-writers, to be the supreme power of the State, through its Legislatures, commanding what is right and prohibiting what is wrong.

“The word ‘equity,’ as applied to judicial proceedings, does not mean contrary to law, but it reaches cases to which the law cannot be applied by reason of its universality.

“The object of equity jurisprudence is to supply the deficiencies of the courts of law, and to render the administration of justice more complete, by affording relief where the courts of law, in consequence of imperfections of their machinery, or of their too rigid adherence to

peculiar forms, are incompetent to give it, or to give it with effect.”

Jurisdiction is of two kinds, — original and appellate.

Original jurisdiction is jurisdiction of a cause from its beginning. If a party can begin his suit in the Supreme Court, for instance, we say the Supreme Court has original jurisdiction in the case. If he cannot bring his case into that court until it has been first tried in some lower court, then we say the Supreme Court has appellate jurisdiction.

Some kinds of causes can be commenced in either of two different courts. Such courts, in such cases, are said to be courts of *concurrent* jurisdiction; that is, either court has jurisdiction of such a cause. If there is but one court in which a case can be brought, that court is said to have exclusive jurisdiction.

The Supreme Court of the United States has original or appellate jurisdiction in all cases arising under the Constitution and laws of the United States, and under treaties, as aforesaid.

QUESTIONS.

21. What is the extent of the judicial power?
22. What is meant by judicial power as here used?
23. What is the subject-matter?
24. What is the meaning of the word “law”?
25. What is the meaning of “equity”?
26. What is the object of equity jurisprudence?
27. How many kinds of jurisdiction, and what is each?
28. What is concurrent jurisdiction?
29. When is a court said to have exclusive jurisdiction?

LESSON LXIX. — JUDICIAL, *Continued.*

By constitutional provision the Supreme Court has original jurisdiction in the following cases:—

2. Original Jurisdiction (70). 1. In all cases affecting ambassadors, other public ministers, and consuls.

2. Those in which a State shall be a party.

The last include controversies,—

1st, Between two or more States ;

2d, Between a State and the citizens of another State ;
and,

3d, Between a State or the citizens thereof, and foreign states, citizens, or subjects.

In all the foregoing classes of cases, suits may be commenced in the Supreme Court.

But by the Eleventh Article of Amendment to the Constitution,

“The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.”

How is a person to obtain relief, then, in case he has a claim against a State? In the first place, it is presumed that no wise government will withhold justice from its citizens. The citizen to whom the State may be indebted can petition the Legislature direct for redress, unless some other means have been instituted by the State.

Again, in some of the States, courts of claims have been established for the same purpose, into which the citizen can bring his claim, by petition or otherwise, for adjudication ; and, if he shows the State to be indebted to him, the Legislature will make provision for payment.

In 1855 a court of claims was established, by act of

Congress, to hear and determine claims against the United States. The demand is presented to the court by petition, setting forth specifically its origin and nature; and the party is allowed to prove it by the same rules of evidence as are usually adopted in courts of justice. If a claim is established, Congress makes provision for its payment. An attorney, called the solicitor of the United States, appears in behalf of the government before this court.

QUESTIONS.

30. In what cases has the Supreme Court original jurisdiction?
31. What restrictions are included in the Eleventh Article of Amendment?
32. How is relief to be obtained against a State?
33. When, and for what purpose, was a court of claims established?

LESSON LXX. — JUDICIAL, *Continued.*

By the Constitution the Supreme Court has appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as Congress shall make,

**3. Appellate
Jurisdiction
(70).**

- 1st, In all cases of admiralty and maritime jurisdiction.
- 2d, In controversies to which the United States shall be a party.
- 3d, Between citizens of different States.
- 4th, Between citizens of the same State claiming lands under grants of different States.

What is meant by appellate jurisdiction has already been explained. By cases of admiralty and maritime jurisdiction, reference is had to the power to try and determine, on appeal, all causes originating on the high seas, or on rivers, ports, or harbors communicating with the sea, and out of the reach of ordinary courts of justice.

Admiralty causes must arise wholly on the sea or on waters immediately communicating with the sea, and not within the jurisdiction of any country. On the high seas, all nations claim a common right and a common jurisdiction; and therefore causes originating there should come exclusively under the jurisdiction of the national courts.

They cannot be brought, however, in the first instance, into the Supreme Court of the United States, but may be appealed into that court after having been commenced and tried by a lower court of the United States, which, by a law of Congress, is an admiralty court.

The subjects for adjudication which properly come into courts of admiralty are, captures in war made on the high seas, captures in foreign ports and harbors, captures made on land by naval forces, and captures made in the rivers, ports, and harbors of the captor's own country.

If an American, commissioned with letters of marque and reprisal, shall make captures as aforesaid, it is his duty to bring them into the court for adjudication. If the court shall decide that the things in controversy were lawfully captured, and according to the usages of war and law of nations, they are awarded to the captors. If the decision is that they were unlawfully seized, they will be awarded by the court to the owners, with damages for detention.

The ordinary admiralty and maritime jurisdiction also embraces all civil and criminal cases of a maritime nature. The district courts of the United States, however, as courts of admiralty and maritime jurisdiction, are limited to the trial of crimes and offenses for which but moderate punishment is inflicted. The graver and higher crimes are referred to the circuit courts as courts of admiralty.

Controversies in which the United States shall be a party are to be adjudicated in the Federal courts. Cases

in which the whole people are interested should not be left to the decision of a State court. The United States must bring suit, however, in the first instance, in the inferior courts, — that is, in the district or circuit courts, — and cannot reach the Supreme Court except by appeal.

“Unless this power were given to the United States, the enforcement of all their rights, powers, contracts, and privileges, in their sovereign capacity, would be at the mercy of the States. They must be enforced, if at all, in the State tribunals. Not only would there be no compulsory power over those courts to perform such functions, but there would be no means of producing uniformity in their decision.”

By act of Congress a citizen of one State may bring suit against a citizen of another in the circuit court of the United States in civil matters, provided the matter in controversy exceeds five hundred dollars exclusive of costs. An alien may sue or be sued in this court also for the same amount; and these courts have original jurisdiction also in matters relating to the United States revenue and to copyrights, being cases that arise under the laws of the United States. In all these cases the Supreme Court has appellate jurisdiction only.

Controversies between citizens of the same State claiming lands under grants of different States must be adjudicated in the United States courts. State courts cannot be supposed to be unbiased in cases of this nature. Claims to lands under grants of different States, founded on adverse pretensions of boundary, would almost forbid the possibility of judicial fairness, candor, and impartiality on the part of the State courts of either granting State.

With the expansion of the country and the increase of its population, the cases brought before the Supreme Court on appeal became so numerous that their decision was

often delayed for several years. To relieve this pressure of business, Congress, in the exercise of its constitutional prerogative to regulate the appellate jurisdiction of the Supreme Court, created, in 1891, the circuit court of appeals. This court has appellate jurisdiction only. Certain cases which formerly were appealed directly to the Supreme Court must now be appealed to the circuit court of appeals. Under certain restrictions and limitations, an appeal may be taken from this court to the Supreme Court.

QUESTIONS.

34. In what cases does the Supreme Court have appellate jurisdiction?
35. By what power may this jurisdiction be restricted?
36. To what do cases of admiralty and maritime jurisdiction refer?
37. Where must admiralty causes arise?
38. Why should these causes be confined to the national courts?
39. What are the subjects for admiralty courts?
40. What is the duty of an American who makes captures under letters of marque and reprisal?
41. What is the result of trial in such cases?
42. What crimes may be tried in the district courts?
43. Where are the higher crimes tried?
44. Where are controversies to be tried to which the United States is a party, and why?
45. In what cases may a citizen of one State sue a citizen of another State in the circuit courts?
46. In what cases has the circuit court original jurisdiction?
47. Why should controversies relating to lands claimed under grants of different States be referred to the Federal courts?
48. What is said about the circuit court of appeals?

BLACKBOARD EXERCISE.

STATE GOVERNMENT OF WISCONSIN.

I. THE STATE.

1. *Historical.*
2. *Personal Rights.*
3. *Boundaries of the State.*
4. *The Legislative Power.*
 - a. *The Senate.*
 - b. *The Assembly.*

Election and Terms of Office.

Salary.

Qualifications.

Privileges and Powers.

Prohibitions.
5. *The Executive Power.*

Governor. His Duties and Powers.

Lieutenant-Governor.

Administrative Officers.

Secretary of State.

Treasurer.

Attorney-General.

State Superintendent.

Railroad Commissioner.

Commissioner of Insurance.

Officers appointed by the Governor.

6. *The Judicial Power.*

Supreme Court. Jurisdiction and Powers.

Circuit Courts. Jurisdiction and Powers.

Juries : Petit and Grand.

II. THE COUNTY.

1. *Organization of County.*2. *The Legislative Power.*

Board of Supervisors.

Duties ; powers ; compensation.

3. *The Executive Power.*

Sheriff.

Coroner.

Administrative Officers.

Clerk.

Treasurer.

District Attorney.

Register of Deeds.

Surveyor.

County Superintendent.

4. *The Judicial Power.*

Circuit Court.

County Court.

Court Commissioners.

Inferior Courts.

CHAPTER XXII.

LESSON LXXI.—HISTORICAL SKETCH OF WISCONSIN.

JEAN NICOLET was probably the first white man to set foot in what is now the State of Wisconsin. In 1634 he sailed up Green Bay, and, following the course of the lower Fox River, he paddled through Lake Winnebago and as far up the Fox as the site of the present city of Berlin, where he stopped in one of the Mascoutin villages. He returned to Quebec by passing southward through the country of the Illinois and then eastward through Michigan. Though other French discoverers visited parts of Wisconsin soon after this, and may have seen the Mississippi, Joliet and Marquette, in 1673, were the first to ascend the Fox, cross the portage, and sail down the Wisconsin to the Mississippi.

Discovery.

They went down the river as far as the mouth of the Arkansas, and returned to Green Bay by way of the Illinois River and Lake Michigan.

About 1670, the Sieur Saint Luson, at Sault Ste. Marie, took formal possession of the Northwest in the name of the French king. From that time until the end of the French and Indian War, nearly a hundred years, Wisconsin was a part of the vast territory called New France, and was nominally under French rule. By the treaty of Paris, in February, 1763, the entire region became a possession of Great

Britain, and so remained for about twenty years. During this period of British domination the first permanent trading-posts and the first white settlements were established within the present limits of the State. Of the latter the earliest was that made by Charles de Langlade at Green Bay about 1766. After the close of the Revolutionary War, Wisconsin was included in the territory formally granted by Great Britain to the United States by the treaty of peace signed in 1783; but it was not until after a special treaty, in 1796, that the British forts were finally abandoned and the United States assumed undisputed possession of the region. In the meanwhile the Continental Congress, by the famous Ordinance of 1787, had organized a settled form of government for all that portion of the country bounded by the Ohio, the Mississippi, and the Great Lakes. By the terms of that Ordinance the region now Wisconsin became a part of the Territory Northwest of the River Ohio, and so remained until 1800, when it was assigned to the newly established Territory of Indiana. In 1809 the Territory of Illinois was organized, and Wisconsin was included within its limits. Later, in 1818, when Illinois was admitted into the Union as a State, Wisconsin became a county of Michigan, and so remained until it was organized as a separate Territory in 1836. The original Territory of Wisconsin embraced all the land now within the States of Wisconsin, Iowa, and Minnesota, and also that part of the Dakotas lying east of the Missouri and White Earth rivers. In 1838 Iowa Territory was set up, and the boundary of Wisconsin on the west was fixed at the Mississippi River and a line drawn due north from the sources of that river to the British possessions. In 1846 an enabling act for the admission of Wisconsin as a State was passed by Congress; and in the following year a territorial convention, sitting at Madison, framed a State constitution. This constitution was approved

by Congress, but on account of some objectionable provisions regarding banks, it was rejected by the people. A second convention met at Madison in December, 1847, and after a prolonged session of several weeks produced the present Constitution. It was ratified by the people on March 2, and the State, with its present boundaries, was admitted into the Union by act of Congress, May 29, 1848. In 1849 that part of the old Territory of Wisconsin lying between the Mississippi River and the northwestern boundary of the State became a part of the newly formed Territory of Minnesota. With the exception of several amendments to various articles, the original Constitution of the State remains still in force.

Wisconsin entered the Union with the motto, "Forward," and to that motto she has been grandly true. In her loyalty to the Union she sent nearly a hundred thousand of her sons to fight on Southern battle-fields; and, after the close of the war, with a debt of nearly eleven million dollars, and a burden of sorrow in every village and hamlet, she went nobly to work in the conquests of peace, and with such success that now there is no State with a brighter future.

LESSON LXXII.—PERSONAL RIGHTS.

The first Article of the Constitution of Wisconsin embodies a Declaration of Rights. Read this article, page 286.

It will be observed that there are twenty *Various Rights.* rights specifically mentioned, and that they may be classified as follows: relating to personal liberty, four; relating to personal remedies, one; relating to personal security, ten; relating to equality of rights, one; relating to property, four. By far the greater number of the rights guaranteed to the people of the State in this article are

identical with those specified in the Constitution of the United States, and have already been discussed in Chapter XVII. (see pp. 188-199). Among these are the right of trial by jury; the right to petition for a redress of grievances; the right of security against unlawful searches and seizures, and against the imposition of excessive fines, or excessive bail; the privileges of the writ of *habeas corpus*; the prohibition of bills of attainder, *ex post facto* laws, etc.

The property of no person can be taken for public use without just compensation. There are also certain kinds of property that cannot be taken without the owner's consent—such as the grounds of educational and charitable institutions, gardens, orchards, and cemeteries.

Poor Debtors. The privileges of poor debtors are amply recognized in the provisions which have been made for the exemption of a reasonable amount of property from seizure or sale for the payment of debt. Among the principal exemptions are the following: A farm of not more than forty acres, or a dwelling-house in a city or village on land not exceeding one quarter of an acre; wearing-apparel and ordinary household furniture, two cows, ten swine, one yoke of oxen, one horse or mule, or, in lieu of one yoke of oxen and a horse or mule, two horses or two mules, and ten sheep; various agricultural implements, and provisions and fuel for one year. It can thus be seen that the poor man is guarded by wise and generous laws. In former times and in other countries it was not uncommon for all property, even necessary food and clothing, to be taken away on an execution for debt.

Section 14, prohibiting feudal tenures and declaring all lands to be allodial, is intended for the encouragement and protection of small landholders. Lands are said to be allodial when their owner holds them by absolute proprietorship free from restrictions

or conditions imposed by a superior. Under feudal tenures, such as still exist to some extent in European countries, small holdings are subject to a lord proprietor, without whose consent they cannot be sold or otherwise disposed of. Read Article IX. of the State Constitution.

Foreigners, in Wisconsin, have equal rights with citizens in the possession and enjoyment of property, and the same laws determine its descent to their heirs.

QUESTIONS.

1. Make a classification, by sections, of the rights specified in Art. I., under the following heads: Personal liberty, personal security, personal remedy, equality of rights and property.
2. What are "Absolute rights"? *Ans.* Personal liberty, personal security, and the right of property.
3. Which of the rights guaranteed in Art. I. are civil rights? Which are political?
4. Which of the sections are based wholly, or in part, on the Constitution of the United States?
5. Define treason, *habeas corpus*, and bill of attainder (see pp. 154, 158, 159).

LESSON LXXIII.—THE LEGISLATIVE POWER.

The legislative power of the State is vested in a Senate and Assembly, which meet on the second Wednesday in January, biennially, in the odd numbered years, 1895, 1897, etc. There are thirty-three senators and one hundred members of the Assembly. The senators are elected for four years, and are chosen alternately from the odd and even numbered senatorial districts *The Legislature.* at each biennial State election. The members of the Assembly are chosen at each biennial election, and serve two years. Read Article IV. of the State Constitution.

The salary of a senator or member of the Assembly is five hundred dollars for each regular session, and he is allowed ten cents mileage for every mile traveled in going to or returning from the capital by the most usual route. In case of an extra session he receives no additional compensation, but only the mileage.

No person can be elected to the Legislature who has not resided one year in the State and is at the time of his election a qualified voter in the district which he is chosen to represent. With respect to the age of a senator or member of the Assembly no other qualification is required.

Each House chooses its own officers, except that the lieutenant-governor is the president of the Senate. The Senate elects one of its own members as
Powers. temporary president, to serve when the lieutenant-governor is absent or is acting as governor.

Each House is the judge of the election and qualifications of its own members; and no person can become or remain a member of the Legislature while at the same time holding any military or civil office under the United States or being a member or member-elect of the Federal Congress.

Members of the Legislature are exempt from arrest, except for treason, felony, and breach of the peace; and for
Privileges. fifteen days before and fifteen days after each session they are not obliged to answer any civil process. They are not liable in any civil action or criminal prosecution for words spoken in debate at any session of the Legislature.

Not only members of the Legislature, but all the principal officers of the State, executive and judicial, are required to make oath or affirmation that they will support the Constitution of the State and of the United States and will faithfully discharge the duties of their respective offices.

Any bill may originate in either House, and the yeas and

nays on any question shall be entered on the journal, when it is so requested by one sixth of the members present. The method of passing bills is essentially the same as in the Congress of the United States (see pp. 149-152).

The Legislature is prohibited from authorizing any lottery or granting any divorce; nor can it pass any special or private laws in the following cases: 1st. For changing the names of persons or constituting one person the heir-at-law of another. 2d. For laying out, opening, or altering highways, except in cases of State roads extending into more than one county, and military roads to aid in the construction of which lands may be granted by Congress. 3d. For authorizing persons to keep ferries across streams, at points wholly within the State. 4th. For authorizing the sale or mortgage of real or personal property of minors or others under disability. 5th. For locating or changing any county seat. 6th. For assessment or collection of taxes, or for extending the time for collection thereof. 7th. For granting corporate powers or privileges, except to cities. 8th. For authorizing the apportionment of any part of the school fund. 9th. For incorporating any town or village, or to amend the charter thereof.

Prohibitions.

Committees.

A good deal of the business of the two Houses is performed by the aid of standing committees, of which the Senate has eighteen and the Assembly twenty-four. Among some of the more important of these committees are the committee on finance, the committee on banks and insurance, the committee on public lands, the committee on legislative expenditure, the committee on engrossed bills, etc.

LESSON LXXIV.—THE EXECUTIVE AND ADMINISTRATIVE OFFICERS.

The executive power of the State is vested in a governor, who, together with a lieutenant-governor, is elected for a term of two years. The governor receives a salary of \$5000, the lieutenant-governor, \$1000. The lieutenant-governor, as we have already seen, is *ex-officio* president of the Senate, and acts as governor in the absence or disability of the chief executive. His duties are analogous to those of the vice-president of the United States. To be eligible to the office of either governor or lieutenant-governor, a person must be a citizen of the United States and a qualified elector of the State of Wisconsin.

It is the duty of the governor to see that the laws enacted by the Legislature are promptly and faithfully executed; to recommend such legislation as he may deem necessary or advisable; and to transact all business between the State and the civil and military officers of the Government. He has the power, under certain restrictions, to veto any act of the Legislature; to grant reprieves, commutations, or pardons; and, in the case of conviction for treason, to suspend the execution of the sentence until the matter shall have been passed upon by the Legislature. He may convene the Legislature in extra session when necessity demands; but no business can be transacted at such session except such as relates to the special purpose for which it was convened. He is required to report to the Legislature each case of reprieve, commutation, or pardon, together with all necessary particulars relating to the same. He is commander-in-chief of the military and naval forces of the State.

Read Articles V. and VI. of the State Constitution.

The administrative officers of the State are the secretary of state, State treasurer, and attorney-general, each of whom holds his office for two years.

The secretary of state keeps the great seal of the State, and has the custody of all books, bonds, parchments, maps, and papers belonging to the State. As auditor he supervises the fiscal matters of the State, and keeps a full account of all money received or held by the State. *Secretary of State.*

The State treasurer receives and has charge of all money paid into the State treasury, and pays out the same as directed by law. *Treasurer.*

The attorney-general represents the State in all civil and criminal actions; he consults with and advises district-attorneys when requested by them, and, when required, gives his opinion, in writing, on all questions submitted to him by either branch of the Legislature or by any of the State officers. *Attorney-General.*

In addition to the officers mentioned above, the following State officers are elected: State superintendent, railroad commissioner, and commissioner of insurance.

The State superintendent has the general supervision of the common schools of the State.

The commissioner of railroads examines into the condition and management of the various railroads of the State, and sees that the laws relative to the same are enforced. *Other State Officers.*

The commissioner of insurance reports on the standing and methods of the various insurance companies of the State, and sees that the laws regulating such companies are enforced.

Other State officers are appointed by the governor. They are: (1) The commissioners of the labor census and industrial statistics. (2) The adjutant-general, who is at the

head of the volunteer forces of the State, and whose department has jurisdiction in matters pertaining to war records and pensions. (3) The quartermaster-general, who is at the head of the department for purchasing the clothing and supplies for the Wisconsin National Guard, and has charge of all the military property of the State. (4) The State supervisor of inspectors of illuminating oils.

The affairs of State are further administered by various boards and commissions, usually appointed by the governor,

State Boards. chief of which are: (1) The Fisheries Commission, consisting of seven members, appointed for a term of six years. (2) The State Board of Health, of seven members, appointed for seven years. (3) The Board of Regents of the University, consisting of one member from each congressional district and two at large, appointed by the governor for a term of three years. (4) The Board of Regents of Normal Schools, consisting of nine regents, appointed for a term of three years. (5) The Department of Public Lands, consisting of the secretary of state, State treasurer, and attorney-general, and having under its charge the sale and disposal of public and school lands. (6) The State Board of Control, consisting of six members, appointed for a term of five years. The duties of this last-named board are very important. They have charge of the seven State institutions — the Insane Hospitals, the State Prison, the State School, the Industrial School, the School for the Deaf, and the School for the Blind. In addition, they inspect the various county asylums, jails, poor-houses, lockups, and private benevolent institutions.

LESSON LXXV.—THE JUDICIAL POWER.

The judicial power of the State is vested in a Supreme Court, circuit courts, courts of probate, justices' courts, municipal courts, and police courts.

The Supreme Court is composed of a chief justice and four associate justices, elected for a term of ten years. It meets annually at Madison, and has the power to hear and determine cases appealed to it from the lower courts. It also has a supervisory control over all inferior courts, and has original power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and injunction, and to hear and determine the same. *Supreme Court.*

The circuit courts of the State are seventeen in number, each presided over by a circuit judge elected for a term of six years. The circuit courts have original jurisdiction in all civil and criminal matters within the State, and appellate jurisdiction from all inferior courts and a supervisory control of the same. Each circuit judge has the appointment of circuit commissioners in each county of his circuit, who may legally take testimony, certify to the accuracy of deeds or other writings, and perform such minor duties as would otherwise be performed by the circuit judge. *Circuit Courts.*

The circuit courts meet at least twice annually in each county.

In each county there is a county court or court of probate, presided over by a judge who holds office for four years. The jurisdiction of this court extends to the settlement of the estates of deceased persons, and to such other kindred matters as are prescribed by law.

In some of the more populous counties, county courts are granted somewhat larger jurisdiction.

The jurisdiction of the justices' courts extends to minor

civil and criminal matters in the county. The term of office of justices of the peace is two years, and each township elects four; each village, two; and each ward of a city, one.

In various cities and villages there are police courts which have in general the civil and criminal jurisdiction of justices' courts, besides exclusive jurisdiction in all offenses against the ordinances of the city or village.

Other Courts.

In many of the cities and counties of the State other courts have been organized which are called municipal courts. Generally they have been given the civil and criminal jurisdiction of either county or circuit courts.

In all cases at law, no matter what the amount in controversy, the right of trial by jury is guaranteed. A petit jury is one composed of not more than twelve men called to hear cases in the various courts. The method of calling juries for the circuit courts is as follows: The town supervisors, village trustees, and city aldermen make lists of from ten to twenty persons liable to serve, and submit them to their respective boards of supervisors. The county boards then select from these lists one hundred and forty persons whose names are sent to the clerk of the county. The county clerk then writes the names on separate slips of paper, puts them in a box, and in the presence of the sheriff and a justice of the peace draws usually a list of thirty-six persons from among whom are selected the petit jurors who serve at the ensuing term of court.

Juries.

Grand juries are drawn and summoned essentially in the same way as petit juries. The number of names selected by the county board is seventy-five, and the number drawn by the county clerk, seventeen. Grand juries may be summoned to attend each term of the circuit court. In secret session they inquire into the action of persons supposed to

be guilty of crimes and misdemeanors, and if in their judgment there is reasonable supposition that such persons are guilty, they return true *bills of presentment* or *indictment* against them. The persons indicted are then held for trial by the usual legal processes.

The following persons are exempt from serving on juries: In general, all United States, State, and county officers; ministers, teachers, and lawyers; certain head employees in drug-stores, mills, and factories; criminals, and persons of unsound mind; men over sixty years of age; and persons enlisted in the volunteer military service of the State.

Minor civil and criminal cases, as has already been stated, are under the jurisdiction of the justices' courts. When any crime has been committed, the accused may be brought before the justice of the peace, and if the offense is such that its punishment may be more than *Criminal Cases.* six months in the county jail, or one hundred dollars fine, the accused is bound over for trial in the circuit court. If, however, the offense is such that a justice's court may pass judgment upon it, the justice proceeds to try the case, and, if he finds the accused to be guilty, to impose sentence upon him. In the arrest and trial of a person charged with crime the following steps are usually taken:

(1) A sworn complaint before the justice. (2) The issue of the warrant. (3) The arrest. (4) Bail, if the offense is bailable. (5) Pleading to the charge — whether guilty or not. (6) Trial with or without jury. (7) Verdict. (8) Judgment. (9) Appeal — which may be had to a higher court.

In civil matters the jurisdiction of justices' courts is limited generally to those matters wherein the amount at issue is not more than two hundred dollars. Otherwise the case is begun in a circuit court. *Civil Cases.*

Let the pupil here read United States Constitution, Art.

III., Section 2, Clause 3; Art. V., VI., and VII., Amendments. Also, State Constitution, Art. I., Sec. 5.

QUESTIONS.

1. Describe the organization of the several State courts. What is the jurisdiction of each?
2. Define appellate and original jurisdiction (see p. 235).
3. Define the word "jeopardy," and quote the clause in the State Constitution in which the word occurs.
4. What is the difference between a civil and a criminal case?
5. Suppose our State Constitution did not guarantee us a trial by jury, could we, in ordinary matters, demand such trial because the right is given us in the Constitution of the United States?

LESSON LXXVI.—THE COUNTY GOVERNMENT.

The legislative power of each county is vested in a county board of supervisors, composed of the chairmen of the various towns, and of the supervisors of the various wards and incorporated villages. These members of the county board are elected by the people for one year, except in counties containing a population of 100,000 or more, and there they are elected for two years. While performing their duties as county supervisors, they receive \$3 per day and six cents mileage.

The county board of supervisors meets annually, in November, and its chief duties and powers are as follows: (1) To build and keep in repair county buildings. (2) To levy taxes. (3) To prescribe the form and manner of keeping county records. (4) To organize and change the town boundaries. (5) To change the names of towns, villages, or persons. (6) To fix the salaries of county officers, unless otherwise provided by law.

The executive power of the county is vested in the sheriff, who has charge of the jails and those therein confined, and, with his under-sheriffs and deputies, keeps peace within the county. He is required to give a bond of from \$5000 to \$20,000, and is compensated by fees collected in the performance of his duty. He is ineligible to office for two years next succeeding the term for which he was elected.

Executive Power.

There is also in each county a coroner, whose duty is to hold inquests over the bodies of those who have come to their death by violence or accident. He is compensated by fees, and gives a bond for the faithful performance of his duty.

The administrative officers of the county are the clerk, treasurer, clerk of the circuit court, district-attorney, register of deeds, surveyor, and superintendent of county schools. The county clerk keeps a full account of the transactions of the board of supervisors, and transmits to the State superintendent all proceedings of the board relative to the raising of money for school purposes; he assists in various duties relative to the assessment and collection of taxes and the canvass and returns of votes. The county treasurer receives all money due the county, and pays out the same on demand of the proper person.

County Officers.

The clerk of the circuit court keeps a record of all business connected with the circuit court, transmits to the secretary of state a list of the justices of the peace in the county, and keeps a record of the names of persons admitted to citizenship.

The district-attorney prosecutes or defends all cases in the circuit court in which the county or State is a party, and, when requested to do so, advises county officers in regard to their duties and powers. The register of deeds keeps a record of all marriages, deaths, and births. He records all deeds, mortgages, maps, and writs authorized by law, and delivers

to any person, on demand and payment of legal fees, a copy of the same. The county surveyor makes a record of the plat and field notes of the various surveys, and on payment of fees furnishes copies of the same to any one desiring them. The administrative officers are compensated in some cases by fees; in other cases by salaries.

The judicial power of the county is vested in the circuit and county judges and court commissioners, whose duties and jurisdiction have been already described.

Judicial Power.

It should be noticed that the circuit judge, while representing to a certain extent the judicial power of the county, is not properly a county officer, but is elected by the people of the judicial circuit of which the county is a part.

QUESTIONS.

1. Wherein does the legislative power of a county differ from that of the State?
2. Wherein does the executive power of a county differ from that of the State?
3. What is meant by compensation by fees?
4. Wherein does the court of probate differ from the circuit court?
5. Why is the sheriff required to give bonds?
6. How many counties are there in Wisconsin?
7. Make a list of all the county officers.
8. How are the county officers compensated?
9. By whom are the salaries of county officers fixed?
10. Why is the circuit judge not a county officer?

BLACKBOARD EXERCISE.

THE TOWN, THE VILLAGE, AND THE CITY.

I. THE TOWN.

1. *The Legislative Power.*
Electors assembled in Town Meeting.
2. *The Executive Power.*
Town Board of Supervisors. Constables.
Officers of the Board.
Town Clerk. Treasurer.
Overseer of Highways. Librarian.
3. *The Judicial Power.*
Justices' Courts.

II. THE VILLAGE.

1. *The Legislative Power.*
The Village Board.
2. *The Executive Power.*
President of the Village Board. Constables.
Administrative Officers:
Village Supervisor. Clerk. Treasurer.
3. *The Judicial Power.*
Justices' Courts. Police Courts.

III. THE CITY.

1. *The Legislative Power.*
The Common Council.
2. *The Executive Power.*
Mayor. Marshal. Constables. Policemen.
Administrative Boards.
3. *The Judicial Power.*
Justices' Courts.
Police Courts.
Municipal Court.

CHAPTER XXIII.

LESSON LXXVII.—THE GOVERNMENT OF THE TOWN.

In Wisconsin the legislative power of the town is vested in the qualified electors assembled in the town meeting on the first Tuesday in April in each year. At these meetings taxes for local expenses are voted, rules for the government of the town are passed, officers are elected, and vacancies filled. The town meeting is said to be the “staff of an enduring democracy.”

The executive power of the town is vested in not more than three constables, who are the ministerial officers of the justice of the peace. The constable’s duties are, “To serve within his county any written process, notice, or order, and to cause to be prosecuted all violations of law of which he has knowledge or information.”

Further executive powers are possessed by the town board, consisting of three supervisors, who have charge of all the affairs of the town not by law committed to other officers. They draw orders on the treasurer for the disbursement of money to pay town expenses, and for all other purposes except the support of schools; and they have charge of all actions to which the town is a party. Another important duty of the board is the laying out and altering of the school districts in the town. It will also be remembered

that the chairman of each town board is a member of the county board of supervisors.

The town clerk is clerk of the town board and of the town meeting. He transmits to the county clerk the names of the town officers, and to the clerk of the circuit court the names of the constables *Town Officers.* and justices of the peace; he is required to post notices of all town laws, he assists in taking the State census, has charge of the town library, and files and preserves private papers relative to mortgages, articles of organization, marks or brands, etc. The town treasurer collects the town taxes, and keeps and pays out, on proper warrant, the moneys that come into his hands. The overseer of highways collects the highway taxes and sees that the roads in his district are kept in good condition. There are as many overseers of highways as there are road districts, and the town is divided into road districts by the town board.

In those towns which have adopted the township system of schools, a librarian may be elected, but unless some one is especially elected, the care of the library devolves upon the town clerk.

Town officers are elected at the town meeting for one year, except justices of the peace, who are elected for two years. Only qualified electors are allowed to hold office, and each officer is required to file with the town clerk a legal oath to support the Constitution of the United States, and the Constitution of the State of Wisconsin, and faithfully to discharge the duties of the office to which he is elected. Town officers are compensated by the day or by fees. The town treasurer receives from one to two per cent. for collecting taxes and five per cent. on all delinquent taxes collected by him.

LESSON LXXVIII.—VILLAGES AND CITIES.

The laws of the State of Wisconsin provide that any territory in any county not less than one half mile square, containing a resident population of three hundred, or any territory in two or more counties not less than one mile square, may become incorporated as a village. When a portion of a town, or towns, desires to become an incorporated village, application by petition is made to the circuit court by at least five electors of the district to be incorporated. If all matters as to surveys and descriptions have been properly done, the court appoints three inspectors, and the matter is submitted to the qualified electors of the district. The forms of the ballot are "Yes" and "No."

The legislative power of a village is vested in a village board consisting of the president of the village and six trustees. In villages containing a population of over 2900, the village board is granted some additional powers incident to the requirements of large villages. It may be said that the village board bears the same relation to the village that the legislature does to the State, the board of supervisors to the county, the town meeting to the town, or the common council to the city.

*Legislative
Power.*

The executive power is vested in a president of the village, who presides at the meetings of the board; in constables, who have powers identical with those of town constables; and in a marshal, whose duty it is "to obey all lawful written orders of the village board; to arrest with or without process and with reasonable diligence to take before the police justice every person found in such village in a state of intoxication, or engaged in any disturbance of the peace, or violating any law of the State or ordinance of such village."

*Executive
Power.*

Other village officers are the supervisor, clerk, and treasurer, who in general have the same relation to the village that the like-named officers in a town have to the town. It will be noticed that in the village there is no board which corresponds to the town board. It is therefore the duty of the supervisor from the village to represent his district in the county board of supervisors.

Village Officers.

The judicial power of the village is vested in justices' and police courts, whose powers and jurisdiction have already been described.

Judicial Power.

In case a village containing a population of not less than 2000 desires to become incorporated as a city, the following course of procedure is necessary: A petition by 100 or more electors is made to the village board for a special election; the village board then orders the election, and the ballots are in the form of, "For a city charter," "Against a city charter." If the vote is in favor of a city charter, city officers are elected within ten days after such incorporation.

The cities of the State are divided into three classes. Those containing a population of over 40,000 belong to the first class; those containing a population of less than 40,000, but more than 10,000, belong to the second class; and those containing a population of less than 10,000 belong to the third class. The number of officers elected in a city depends upon the class to which it belongs, while like-named officers in different classes have, in some cases, fuller powers than in others. Cities of the second and third classes have the following officers: mayor, two aldermen from each ward, treasurer, clerk, comptroller, attorney, assessor, surveyor, marshal, justice of the peace, one constable from each ward, city physician, street commissioner, harbor master, sealer of

City Officers.

weights and measures, chief of the fire department, a board of public works, a board of school commissioners, one or more policemen, and such other officers as the common council may deem necessary. In cities of the first class there are also a city engineer, a tax collector, assessors in each ward, a board of commissioners of the public debt, a board of health, and a chief of police.

The legislative power of the city is vested in the common council, which consists of two aldermen from each ward. The mayor is president of the common council.

Legislative Power.

The executive and administrative powers of a city are vested in the mayor, marshal, constables, and policemen, and in several important boards, chief among which are: a board of public works, a board of education, a board of commissioners of the public debt, and a board of health. The duties of mayor, clerk, attorney, treasurer, marshal, and assessors are similar to the duties of the corresponding officers in the village or the county. The general powers of other officers and boards can be inferred from their titles, and a particular knowledge of them can be gained from the study of some city charter.

Executive Power.

The judicial power of a city is vested in the justices', police, and municipal courts, the powers and jurisdiction of which have been already described.

QUESTIONS.

1. Name two important duties of the board of supervisors; of the town board; of the city board of education.
2. Compare the duties of the county clerk with those of the town and village clerks.
3. Define jurisdiction, criminal action, civil action.
4. State the different steps that would be taken in bringing an offender to trial.

5. In what is the judicial power of the State, the county, and the city vested?
6. On what matters might you go to consult a clerk of the circuit court? A county judge? A circuit court commissioner? A chief of police? A justice of the peace? A town clerk? A county treasurer? A supervisor?
7. What is the name of the mayor of your city; of the chairman of your town board; or of the supervisor of your village?
8. In whom is the executive power of the United States vested? of the State? of the county? of the village?

Comparative view of the forms of government in the State:

	<i>Legislative Power.</i>	<i>Chief Executive Power.</i>	<i>Judicial Power.</i>	<i>Boards.</i>
State.	Legislature.	Governor.	Supreme and Circuit Courts.	Several Boards.
County.	Board of Supervisors.	Sheriff.	County Courts.	County Board of Supervisors.
Town.	Town Meeting.	Constable.	Justices' Courts.	Town Board.
Village.	Village Board.	President of Board.	Justices' and Police Courts.	Village Board of Trustees.
City.	Common Council.	Mayor.	Justices', Police, and Municipal Courts.	Four important boards.

BLACKBOARD EXERCISE.

SUFFRAGE, TAXATION, AND EDUCATION.

I. SUFFRAGE AND ELECTIONS.

1. *Qualifications of Voters.*
2. *Registration.*
3. *Election processes. The Ballot.*
4. *Canvassing the Votes.*

II. TAXATION.

1. *Assessment.*
2. *Board of Review.*
3. *Equalization of Taxes.*
4. *Apportionment of Taxes.*
5. *Collection of Taxes.*

III. EDUCATION.

1. *In the State.*
 - Sources of Revenue.*
 - State Superintendent.*
 - University. Normal Schools. Free High Schools.*
 - Other State Institutions.*
2. *In the County.*
 - County Superintendent. County Tax.*
3. *In the Town.*
 - The Township System. Board of Directors.*
4. *In the District.*
 - District Meeting. District Board. District Tax.*
5. *In the City.*
 - Board of Education. Superintendent of Schools.*

CHAPTER XXIV.

LESSON LXXIX.—SUFFRAGE AND ELECTIONS.

Read Article III. of the State Constitution.

The laws of the State of Wisconsin require that an elector shall have resided ten days in the election district where he offers to vote. Women of the age of twenty-one years who are citizens of the State, and who have resided in the State one year, and in the election district ten days, are entitled to vote on school matters in the various districts. The statutes prohibit any one from voting who has been convicted of bribery, or who is interested directly or indirectly in any wager on the result of the election.

Previous to the day appointed by law for the election of State officers the secretary of state notifies the county clerk of the officers to be elected, and he adds to the list of State officers such county officers as are to be elected and transmits the entire list to the village and town clerks, and to an election inspector in each ward of the cities, who are required to post notices of the approaching election in five conspicuous places in their respective districts.

Before a person can vote he must be known to be legally qualified. To that end poll-lists are made out which contain the names of such persons as are known by the board of registration to be residents of the district. Persons whose names are not enrolled may appear before the board and

after proving their right to be registered, their names will be entered on the poll-list. When any one, on account of absence or sickness, has been unable to register at or before the required time, he may swear in his vote on election day.

In cities and villages there are three inspectors of election, appointed by the common councils and village boards respectively. In towns, the supervisors are the inspectors. Inspectors are assisted by two election and two ballot clerks. A voter upon entering the polling-place, and giving his name and residence, will receive a ballot from a ballot clerk, which must have indorsed thereon the names or initials of both ballot clerks. No other can be used. Upon receiving this ballot the voter must retire alone to a booth or compartment and prepare the same for voting.

After the votes have been deposited in the ballot-box they are counted by the inspectors, who deliver one statement of the result to the clerk of the town, city, or village, and another to the clerk of the county. The county clerk then selects two associate canvassers from among the county officers, which persons constitute the county board of canvassers. This board makes out a detailed statement of the vote, a copy of which is filed in the office of the county clerk, while the vote for State officers is made out in triplicate and sent to the governor, the secretary of state, and the State treasurer respectively. In case the vote was for Senate or Assembly officers, the returns are canvassed by a joint board from the counties, and the results are sent to the clerk of the county in which the meeting is held. The secretary of state, the State treasurer, and the attorney-general constitute the State board of canvassers. This board canvasses the returns from the various counties, and files the results in the office of the secretary of state, who issues to each person elected a certificate of election.

ELECTIONS.

<i>Persons Elected.</i>	<i>Time.</i>	<i>Qualifications of Voters.</i>	<i>Qualifications of Officers.</i>
1. U. S. Representative.	"The General Election" first Tues. after first Mon. in Nov.	See Art. III. State Cons.	See Art. I., Sec. 2, U. S. Constitution.
2. State Officers.	Same as 1.	Same as 1.	Citizens of the U. S. and voters.
3. County Officers.	Same as 1.	Same as 1.	None as to residence or citizenship.
4. Town Officers.	First Tues. in April.	Same as 1, with one year's residence immediately previous to election.	Must be electors of the town.
5. Village Officers.	First Tues. in May.	Must be qualified electors and residents.	None as to residence or citizenship.
6. City Officers.	Same as 4.	Resident electors	Citizens of the U. S. and resident electors.
7. Officers of the School District.	First Mon. in July.	Men must be residents and general electors. Women must be twenty-one years of age, and residents.	Residents.
8. Judicial Officers.	Same as 4.	Same as 1.	Twenty-five years of age, a qualified elector, and a citizen of the U. S.

On the two pages which follow we give a facsimile of an official ballot used at the state election in Wisconsin in 1892.

State Treasurer	John Hunner	Alfred Manhemer	John C. Martin	Atley Peterson
Attorney-General	James L. O'Connor	Martin W. Stevens	Frances A. Watkins	James O'Neill
State Superintendent	Oliver E. Wells	Sarah Potter	L. Westly Underwood	Willard H. Chandler
Railroad Commissioner	Thomas Thompson	Charles Hatch	John E. Clayton	John D. Bullock
Commissioner of Insurance	Wilbur M. Root	Eugene Low	Ole A. Ritan	James E. Heg
CONGRESSIONAL — Member of Congress — 6, District	Owen A. Wells	Peter A. Griffiths	Charles H. Forward	Emil Baensch
LEGISLATURE — Member of Assembly	James W. Parkinson	George A. Cressy		Nicklaus Frank
COUNTY — County Clerk	John Leahy	Bert Ware		Joseph M. Radloff
Treasurer	Peter Thill	Edwin Fenton		Frank J. Winkler
Sheriff	Anton Kersten	John Schumisch		Frank Fox
Coroner	Joseph Grassold	Evan Davis		Otto Reinboldt
Clerk of the Circuit Court	Sam. Vincent	John Fitzgerald		Edwin G. Hart
District Attorney	James Kirwan			
Register of Deeds	Edward J. Mooney	Riley Bishop		
Surveyor	Jacob Severin	Merritt Blanchard		
Superintendent of Schools	Henry Severin	Mary Blanchard		

*For the Amendment to Subdivision 9, of Section 31, of Article IV,
of the Constitution*
*Against the Amendment to Subdivision 9, of Section 31, of Article
IV., of the Constitution*

LESSON LXXX.—TAXATION.

Read Article VIII. of the State Constitution.

The legislature has provided that "taxes shall be levied upon all property in this State except such as is exempted therefrom." The following are among the

Exemptions. principal exemptions: In general, all property belonging to the United States, the State, county, town, city, village, and school district. The property of religious, scientific, literary, benevolent, and agricultural societies, public art galleries, and the real and personal property of all Turner societies, used exclusively for educational purposes. The personal property of insurance companies, telegraph companies, and the property of railroad companies. Cemeteries, armories, and the property of fire companies. "Wearing apparel, family portraits, libraries, kitchen furniture, and other household furniture not exceeding in value the sum of \$200, and also growing crops," besides "provision and fuel provided by the head of a family to sustain its members for six months."

It should be noticed that although the property of insurance, railroad, and telegraph companies is in general exempt from taxation, all these different companies are, in fact, taxed, as they pay license to do business in the State. Railroad companies pay from two to four per cent. on their gross earnings; fire insurance companies two per cent. of their gross income; and telegraph companies pay a license of one dollar per mile for the first wire, fifty cents for the second wire, twenty-five cents for the third, and twenty cents a mile for each additional wire.

In explaining the practical method of levying and collecting taxes in the State, we shall first consider the assessment of property by the city, village, or town assessor. The assessor is supposed to know the value of the real and

personal property of his district. Each person owning stocks, bonds, or mortgages is required to give the amount thereof under oath, and should the assessor be in doubt as to the value of other personal property he may require the owner to certify as to the amount and value under oath. In addition to the tax on property, male residents between twenty-one and fifty years of age are, in the various towns, required to pay a poll tax of one and a half dollars. This tax goes for the improvement of the public highway, and if more money is required for the highway tax, it is levied on the property of the road district in which the highway runs. The assessments are begun on the first of May and are finished as soon thereafter as possible.

Assessment.

After the amount and value of each person's taxable property is placed upon the assessment rolls, the lists are brought before a board of review, which meets the last Monday in June, and consists, in towns, of the supervisors, clerks, and assessors; in each city, of the mayor, clerk, and assessors; and in each village, of the president, clerk, and assessors. This board carefully reviews the tax roll, and corrects any errors or omissions, and hears the statement of any person who may judge himself unduly taxed, and if the complaint is found just, corrects the mistake.

Review of Assessments.

The assessor then corrects the roll as ordered by the board of review, and turns it over to the county, city, or village clerk, who carefully reexamines it, and notifies the assessor if he discovers any further mistakes. These are corrected, and the roll is said to be complete.

The reports of the assessors, as reviewed and corrected, are now in the hands of the county clerk, and it might seem as if each individual assessment was settled, but such is not the case, for the town, city,

Equalization.

and village assessments now come before the board of county equalization.

This is composed of the county board of supervisors. The county clerk transmits to the county board the reports which he has received from the assessors, together with such other data relative to population and the like as are deemed necessary. The county board now equalizes the assessments among the various towns, cities, and villages. Thus it may be found that in certain towns property has been rated lower than in others. When such is the case, the assessments are raised to make them uniform. To illustrate, we give below the result of some of the assessments in Winnebago county for 1892. In the first column are the original ratings by the assessors; in the second are the assessments as equalized by the board of supervisors:

Town of Algoma,	\$ 540,829	\$ 427,500
“ “ Clayton,	523,475	536,000
Neenah City,	1,585,527	1,814,000
Oshkosh City,	8,346,754	6,333,000

The assessed value in the county as reported by the assessors was \$17,995,001; as equalized by the board of supervisors, \$15,624,000.

In spite, however, of all the safeguards already imposed, it is possible that some of the towns or cities may be unjustly rated, or some error may have crept in which would result in substantial injustice. When such is thought to be the case, the town, city, or village so aggrieved may, within one year of the assessment, apply to the circuit judge to appoint three commissioners, not property holders, to examine into the matter. The valuation of property determined on by this commission is final, and those towns or cities which have paid too much are credited with the

amount on the next tax roll, and those which have paid too little have the amount added to the next tax roll.

The secretary of state is now in possession of data which enable him to know the assessed valuation of the various counties of the State. For the assessors have personally inspected the taxable property and have reported to the town clerks, the town clerks have reported to the county clerks, and the county clerks have reported to the secretary of state.

The various data of population and valuation of property are now laid before the State board of assessment, which consists of the secretary of state, the State treasurer, and the attorney-general. This *Apportionment.* board carefully examines such statistics, and from all the sources of information accessible to it determines and assesses the relative value of all property subject to taxation in each county. If the board makes a mistake in the valuation or assessment of property in any county, it is corrected in the next annual levy.

The annual State tax is determined by the Legislature. The secretary of state knows the assessed value of the property of each county, and when the amount of State tax is known he levies upon each county a share of the tax in proportion to the value of its taxable property. Thus, suppose that the valuation of the whole State is \$700,000,000, and that the tax to be raised is \$2,000,000; a county whose assessed value is \$19,000,000 will pay $\frac{19}{700}$ of the entire tax, or about \$54,200. This amount is certified to the county clerk by the secretary of state.

The amount of county tax to be raised is determined by the board of supervisors. The county clerk now adds this tax to the State tax, and certifies the proportionate amounts to the various towns, cities, and villages in the county. The town meeting, the village board, and the common council determine the amount of

Collection.

town, village, and city taxes. The clerk already has the amount of State and county taxes from the county clerk, and to these he adds the amount of the local town, city, or village tax, and apportions the total amount among the various property owners, in proportion to the assessed value of their property.

School taxes for country districts are voted at a district meeting and certified to the town clerk by the district clerk, and are assessed and collected at the same time and in the same way as other taxes. They are, however, entered separately on the roll as "school taxes." A similar rule applies to school taxes collected in a city or in a town under the township system.

Taxes are usually collected by the various town, city, and village treasurers.

The following is a sample page from the tax roll, and shows under what heads the various taxes are arranged:

<i>State, County, School, and Town Taxes</i>	<i>School District Tax.</i>	<i>Road District Tax.</i>	<i>Special Tax Under Sec. 1186, R. S.</i>	<i>Five Per Cent. Collec- tion Fee.</i>	<i>Total Amount of Tax.</i>
.....
.....
.....
.....

The pupil should now reread Chapter XXVI., pages 110-112.

QUESTIONS.

1. Define tax, indirect and direct taxes.
2. What kind of taxes are United States taxes? What, State taxes?

3. Define real and personal property.
4. Name three things that are exempt from seizure on sale or execution.
5. Name three things that are exempt from taxation.
6. Mention two prohibitions on the State in financial matters.
7. How does the State borrow money?
8. For what purposes may the State borrow money?
9. Why should the State not be a party to works of internal improvement?

LESSON LXXXI.—EDUCATION.

Read Article X. of the State Constitution.

The school fund may be regarded as having two sources, the United States and the State. The moneys derived from the United States are the proceeds from the sales of lands granted to the State for educational purposes, and the moneys derived from the State come from fines, escheats, and exemptions.

In addition to moneys derived from the school fund, the common schools are supported by the three great taxes: (1) The county tax. (2) The school district tax. (3) The one-mill tax.

*Sources of
Revenue.*

The amount expended annually in the State for the support of the common schools is between \$4,000,000 and \$5,000,000. Of this the largest amount comes from the district tax, the next largest from the county tax, the next from the one-mill tax, and the least from the interest on the common school funds.

The State.—The educational officer of the State is the State superintendent, who apportions the school fund among the various counties, and has general supervisory control of all educational insti-

*State Officer and
Institutions.*

tutions. The educational institutions of the State are the State University, located at Madison, and the normal schools located respectively at Platteville, Whitewater, Oshkosh, River Falls, Milwaukee, and Stevens Point.

In addition to the University and the normal schools, the free high schools may be regarded as State institutions, since they are inspected by the State authorities and derive a part of their support from the State. Other State institutions are: The Veterans' Home, near Waupaca; the State Public School for dependent and neglected children, located at Sparta; the Industrial School for Boys, near the village of Waukesha; the School for the Deaf at Delavan; the School for the Blind at Janesville; the State Prison at Wau-pun; and the Hospitals for the Insane at Oshkosh and Mendota.

The County.—The county board of supervisors levies the county school taxes upon the various towns, which must be in amount equal to the sum received by the town from the common school fund. The educational interests of the county are under the general charge of the county superintendent, who is elected by the people and holds his office for two years. He may receive a per diem compensation or an annual salary, which in districts containing a population of between five thousand and ten thousand, is not less than

County five hundred dollars. In districts having a
Superintendent. population of more than ten thousand the salary may be as high as fifteen hundred dollars. When the superintendent receives a salary of eight hundred dollars or more, he is not allowed to engage in teaching or in any other profession during the time in which he holds the office. Counties having a population of more than fifteen thousand may be divided into two districts, each electing a superintendent. Cities having a board of education, a superintendent of schools, or a board of officers vested with power

to examine and license teachers, are not under the jurisdiction of the county superintendent.

The county superintendent divides his county into inspection districts and holds in each district at least two examinations annually for the certification of teachers. He receives various data from the district clerks and he himself makes annual reports to the State department of education. He visits and examines each school at least once every year. He advises and counsels with district boards concerning the construction of schoolhouses. He may order repairs, and with the chairman of the town board he may declare any building unfit for use. He conducts an annual teachers' institute for his county and takes general cognizance of all questions connected with the operation of the school laws in his district.

The Town.—When the people of a town desire to organize a township system of schools they so vote at a regular town meeting or at a meeting specially called for that purpose. The governing board of such a system is the board of directors, which is composed of the clerks of the various sub-districts, and which meets twice annually, on the second Monday in July and the third Monday in April. The officers of this board are a president, vice-president, and secretary. In general the board of directors has the same relation to the educational interests of the towns as the district board has to the district. Teachers are employed by the board acting through its executive committee, which is composed of the three officers.

The active supervision of the educational interests of the town, however, devolve on the secretary, whose relations to the town are closely analogous to those which the county superintendent bears toward the county. He is required by law to make full reports to the county superintendent of the statistics and condition of the county schools.

*Board of
Directors.*

Through the township system it is attempted to make both school advantages and taxation more uniform throughout the county, but the system is not yet generally adopted in the State.

The District.—The school district is a subdivision of the town and its boundaries are determined by the town board. It must not contain more than thirty-six square miles, and may include within its jurisdiction incorporated villages. The district meeting is held on the first Monday in July,

District Meeting. and, in general, all men who are resident electors and women who are resident citizens are allowed to vote. At such meeting the voters are empowered to vote taxes for school purposes; but in no case shall the sum total of such taxes exceed five per cent. of the assessed valuation of the district. They also determine the length of the school year, they vote on the question of furnishing free text-books to the pupils of the district, they determine whether the school shall be taught by a man or a woman; and they elect district school officers.

The officers so elected are called the District Board, and are three in number — the director, treasurer, and clerk. They serve for a term of three years. Their duties are many and important: they purchase, build, and repair schoolhouses and equip the same; they may levy the school tax if before the third Monday in November the district meeting has not done so; they make needful rules for the government of the schools of the district, and determine what text-books shall be used in the various branches; and they hire duly qualified teachers.

When any text-books have been adopted by the district board they shall remain in use for three years, unless a change is authorized by a majority vote of the legal voters of the district at a regular meeting.

*Text-books and
Studies.*

The following subjects are required to be taught in every school district: orthography, orthoëpy, reading, writing, grammar, geography, arithmetic, and the Constitutions of the United States and the State of Wisconsin. In all schools instruction is required to be given in physiology and hygiene, with special reference to the effects of stimulants and narcotics on the human system. All instruction is given in the English language, though boards in incorporated villages may authorize the teaching of a foreign language for not more than one hour a day.

Contracts with teachers, in order to be valid, must be signed by two members of the board at a legal meeting, and must specify the wages per week, month, or year. "Twenty days of teaching constitute a school month, unless otherwise specified in the contract, and all legal holidays occurring on school days shall be counted, though no school shall be taught; but school taught on a legal holiday shall not be counted for two school days, and no Saturdays shall be counted." Teachers are required by law, under penalty of forfeiture of wages, to keep a school register, giving the names, ages, and studies of all scholars attending school, together with a record of attendance and absence and such other facts as the State or county superintendent may require.

Each member of the district board has special duties to perform. The clerk furnishes and preserves the school registers, keeps a record of all orders drawn for money, and is the secretary of the district meeting. The director countersigns orders drawn by the clerk on the treasurer, and is the legal representative of the district. The treasurer collects from the town treasurer the money due the district from the various State funds, and keeps a record of all moneys received or paid.

In cities incorporated under the general law, the manage-

ment of educational matters is vested in a board consisting of a commissioner from each ward, and three commissioners at large, appointed by the mayor for a term of three years. This board elects a superintendent of schools, employs teachers, and has the general management of the schools. Cities which, before the adoption of the general charter for cities, elected their boards of education, are given the privilege of continuing such elections, unless a change is determined upon by a vote of three fourths of the common council.

By the laws of 1891 every person having control of a child between the ages of seven and thirteen years is required to send such child to some public or private school for at least twelve weeks in every year, unless such child is being otherwise instructed in the elementary branches, or has already acquired such knowledge. Parents who fail to give their children the required amount of instruction, shall, upon conviction, be fined any sum from three to twenty dollars for each offense. Upon written information as to the violation of the law, the director of the district, or, in cities, the president of the board of education, is required, under penalty, to prosecute the person guilty of such violation.

Libraries may be established by districts, or by townships. In townships, books for the use of the various schools may be secured as follows:

Libraries. The treasurer of each town is authorized to withhold from the school fund income ten cents for each person of school age in the town. Books are selected from lists published by the State superintendent, and it becomes the duty of the town clerk to keep a record of the books purchased, and to distribute them among the various school districts.

In 1893 there were about 300 town libraries, containing

more than 54,000 volumes, and 6200 district libraries, containing about 28,000 volumes.

REVIEW QUESTIONS.

(Selected from questions used at State and county examinations.)

1. In case of the removal or disability of both governor and lieutenant-governor, who would act as governor?
2. How are vacancies in the following offices filled: (*a*) governor; (*b*) superintendent of schools; (*c*) supervisor of town; (*d*) school district clerk; (*e*) sheriff?
3. Mention three provisions in the State Constitution that are similar to provisions found in the amendments to the Constitution of the United States.
4. What is the provision in the declaration of rights with regard to the writ of *habeas corpus*?
5. What State officers must be citizens of the United States? State three ways in which a bill may become a law.
6. What is the constitutional provision regarding the number of members in each house? How many legislative districts are there in the State? By whom and how often are senate and assembly districts reformed?
7. Compare the methods of amending the State and United States Constitutions.
8. What are the constitutional restrictions as to State debt? As to municipal debts?
9. State the number, the time of election, the salary, and the term of members of each branch of the legislature.
10. Can women vote in this State? Can foreigners? If so, under what conditions?
11. What rights are guaranteed to every person accused of crime in this State?
12. Name four personal rights guaranteed by the State Constitution.
13. What is the title of the presiding officer of the assembly? Of the senate? How are these officers chosen?
14. Name one officer in each of the three departments of government in a county.

15. Define treason against the State. What requirement is made in the Constitution for the conviction of a person accused of treason? •
16. When is our State election held? What officers are then elected?
17. What is a jury? When may trials by jury be had?
18. Explain the meaning of the following words and phrases as used in the Constitution: *ex post facto* law, allodial, jeopardy of punishment, reprieve, appellate jurisdiction, commutation, sectarian instruction, common law, corruption of blood, impeachment.
19. Compare the legislative branch of this State with that of the United States, noting their points of resemblance and points of difference.
20. Treat the judicial branch of this State and that of the United States in the same manner.
21. Describe fully the requirements for citizenship of this State and the United States.
22. What is the difference in the manner of choosing the judges of the courts of this State, and of choosing those of the United States courts?
23. What are capital crimes? How are they punished?
24. What State officers are charged with the following duties: (a) management of the State finances? (b) prosecution of criminals in behalf of the State? (c) granting pardons to criminals convicted of crime?
25. Mention some of the duties of the following State officers: treasurer, attorney-general, secretary of state, lieutenant-governor.
26. By what authorities are new counties formed? New towns? New school districts?
27. In what way does the manner of securing revenue to meet the expenses of the State differ from the manner adopted by the Federal Government for like purposes?
28. Name the different courts in Wisconsin, and give a brief outline of the chief work of each.
29. Explain the meaning of the following expressions as used in the Constitution: appellate jurisdiction, *viva voce* vote, vote by yeas and nays, qualified elector.

30. Name all the political subdivisions of the State and mention a function of each.
31. What classes are not qualified voters in Wisconsin?
32. How are district schools supported?
33. Upon what conditions is the income of the school fund annually apportioned?
34. Name the sources of the school fund in Wisconsin.
35. Name three duties of school district officers.
36. How much school money is each town or city required to raise?
37. Name the political divisions that compose your assembly district.
38. How and by whom are assembly districts determined?
39. What business is performed at the town meeting?
40. By what authority are villages incorporated? How are their powers determined?
41. What distinction is there in the power vested in the Legislature to incorporate cities and the power to incorporate villages?
42. Name the different kinds of districts into which the State is divided.
43. Explain the following clause of the State Constitution: "The people of the State, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State."
44. Explain the following clause: "All lands within the State are declared to be allodial, and feudal tenures are prohibited."
45. A United States Senator is to be elected in Wisconsin this winter; state in detail how it will be done. Is the manner of the election prescribed by law or by constitutional provision?
46. Explain how property is assessed in the State of Wisconsin, noticing especially the care that is taken that no injustice be done to any individual, town, or county.
47. By whom are the various taxes levied? By whom apportioned?
48. What is an assessment roll? A tax roll?
49. For what are highway taxes levied? By whom are they paid?
50. In general, which one of all the taxes is greatest?

WISCONSIN STATE CONSTITUTION OF 1848, AS AMENDED.

PREAMBLE.

We, the people of Wisconsin, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquillity, and promote the general welfare, do establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SECTION 2. There shall be neither slavery nor involuntary servitude in this State otherwise than for the punishment for crime whereof the party shall have been duly convicted.

SECTION 3. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the facts.

SECTION 4. The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

SECTION 5. The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in con-

troversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

SECTION 6. Excessive bail shall not be required, nor shall excessive fines be imposed, nor cruel and unusual punishment be inflicted.

SECTION 7. In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and, in prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district wherein the offense shall have been committed; which county or district shall have been previously ascertained by law.

SECTION 8 (*as amended Nov. 8, 1870*). No person shall be held to answer for a criminal offense, without due process of law; and no person, for the same offense, shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SECTION 9. Every person is entitled to a certain remedy in the laws, for all injuries or wrongs he may receive in his person, property, or character; he ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

SECTION 10. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SECTION 11. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

SECTION 12. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

SECTION 13. The property of no person shall be taken for public use without just compensation therefor.

SECTION 14. All lands within the State are declared to be allodial,

and feudal tenures are prohibited. Leases and grants of agricultural land for a longer term than fifteen years, in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation, reserved in any grant of land hereafter made, are declared to be void.

SECTION 15. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment, or descent of property.

SECTION 16. No person shall be imprisoned for debt arising out of, or founded on, a contract, expressed or implied.

SECTION 17. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted.

SECTION 18. The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent. Nor shall any control of, or interference with, the rights of conscience, be permitted, or any preference be given by law to any religious establishments or mode of worship. Nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

SECTION 19. No religious tests shall ever be required as a qualification for any office or public trust under the State, and no person shall be rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion.

SECTION 20. The military shall be in strict subordination to the civil power.

SECTION 21. Writs of error shall never be prohibited by law.

SECTION 22. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

ARTICLE II.

BOUNDARIES.

SECTION I. It is hereby ordained and declared that the State of Wisconsin doth consent and accept of the boundaries prescribed in the act of Congress entitled "An Act to enable the people of Wisconsin Territory to form a Constitution and State Government, and for the admission of such State into the Union," approved August sixth, one thousand eight hundred and forty-six, to wit: beginning at the northeast corner

of the State of Illinois, that is to say, at a point in the center of Lake Michigan where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence, running with the boundary of the State of Michigan, through Lake Michigan, Green Bay, to the mouth of the Menomonee river; thence up the channel of the said river to the Brule river; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule, in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the head waters of the Montreal river, as marked upon the survey made by Captain Cram; thence down the main channel of the Montreal river to the middle of Lake Superior; thence through the center of Lake Superior to the mouth of the St. Louis river; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the river St. Croix; thence down the main channel of said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois, to the place of beginning, as established by "An Act to enable the people of the Illinois Territory to form a Constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States," approved April 18, 1818. [* *Provided, however,* That the following alteration of the aforesaid boundary be, and hereby is, proposed to the Congress of the United States as the preference of the State of Wisconsin, and if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory on the State of Wisconsin, viz.: leaving the aforesaid boundary line at the foot of the rapids of the St. Louis river; thence, in a direct line bearing southwesterly, to the mouth of the Iskodewabo or Rum river, where the same empties into the Mississippi river, thence down the main channel of the said Mississippi river, as prescribed in the aforesaid boundary.]

SECTION 2. The propositions contained in the act of Congress are hereby accepted, ratified, and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposition of the soil within the same, by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to *bona fide* purchasers thereof; and no tax shall be imposed on land the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. *Provided,* That nothing in this Consti-

* Not assented to by Congress.

tution, or in the act of Congress aforesaid, shall in any manner prejudice or affect the right of the State of Wisconsin to five hundred thousand acres of land granted to said State, and to be hereafter selected and located, by and under the act of Congress entitled "An Act to appropriate the proceeds of sales of the public lands, and grant preëmption rights," approved September fourth, one thousand eight hundred and forty-one.

ARTICLE III.

SUFFRAGE.

SECTION I (*as amended Nov. 7, 1882*). Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided within the State for one year next preceding any election, and in the election district where he offers to vote such time as may be prescribed by the Legislature, not exceeding thirty days, shall be deemed a qualified elector at such election: —

1. Citizens of the United States.

2. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

3. Persons of Indian blood who have once been declared by law of Congress to be citizens of the United States, any subsequent law of Congress to the contrary notwithstanding.

4. Civilized persons of Indian descent not members of any tribe. *Provided*, That the Legislature may at any time extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the people at a general election, and approved by a majority of all the votes cast at such election; *and provided further*, That in incorporated cities and villages, the Legislature may provide for the registration of electors, and prescribe proper rules and regulations therefor.

SECTION 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election; nor shall any person convicted of treason or felony be qualified to vote at any election, unless restored to civil rights.

SECTION 3. All votes shall be given by ballot, except for such township officers as may by law be directed or allowed to be otherwise chosen.

SECTION 4. No person shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State.

SECTION 5. No soldier, seaman, or marine, in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed within the same.

SECTION 6. Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery or larceny, or of any infamous crime, and depriving every person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election, from the right to vote at such election.

ARTICLE IV.

LEGISLATIVE.

SECTION 1. The legislative power shall be vested in a Senate and Assembly.

SECTION 2. The number of the members of the Assembly shall never be less than fifty-four, nor more than one hundred. The Senate shall consist of a number not more than one third, nor less than one fourth, of the number of the members of the Assembly.

SECTION 3. The Legislature shall provide by law for an enumeration of the inhabitants of the State, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and at their first session after such enumeration, and also for each enumeration made by the authority of the United States, the Legislature shall apportion and district anew the members of the Senate and Assembly, according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States army and navy.

SECTION 4 (*as amended Nov. 8, 1881*). The members of the Assembly shall be chosen biennially by single districts on the Tuesday succeeding the first Monday of November after the adoption of this amendment, by the qualified electors of the several districts; such districts to be bounded by county, precinct, town, or ward lines, to consist of contiguous territory, and be in as compact form as practicable.

SECTION 5 (*as amended Nov. 8, 1881*). The senators shall be elected by single districts of convenient contiguous territory, at the same time and in the same manner as members of the Assembly are required to be chosen, and no Assembly District shall be divided in the formation of a Senate District. The Senate Districts shall be numbered in the regular series, and the senators shall be chosen alternately from the odd and even numbered districts. The senators elected or holding over at the time of the adoption of this amendment, shall continue in office till their

successors are duly elected and qualified; and after the adoption of this amendment, all senators shall be chosen for the term of four years.

SECTION 6. No person shall be eligible to the Legislature who shall not have resided one year within the State, and be a qualified elector in the district which he may be chosen to represent.

SECTION 7. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each House may provide.

SECTION 8. Each House may determine the rules of its own proceedings, punish for contempt and disorderly behavior, and, with the concurrence of two thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

SECTION 9. Each House shall choose its own officers, and the Senate shall choose a temporary president, when the lieutenant governor shall not attend as president, or shall act as governor.

SECTION 10. Each House shall keep a journal of its proceedings, and publish the same, except such parts as require secrecy. The doors of each House shall be kept open except when the public welfare shall require secrecy. Neither House shall, without the consent of the other, adjourn for more than three days.

SECTION 11 (*as amended Nov. 8, 1881*). The Legislature shall meet at the seat of government, at such time as shall be provided by law, once in two years and no oftener, unless convened by the governor in special session; and when so convened no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.

SECTION 12. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

SECTION 13. No person being a member of Congress, or holding any military or civil office under the United States, shall be eligible to a seat in the Legislature; and if any person shall, after his election as a member of the Legislature, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SECTION 14. The governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature.

SECTION 15. Members of the Legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest; nor

shall they be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

SECTION 16. No member of the Legislature shall be liable in any civil action or criminal prosecution whatever, for words spoken in debate.

SECTION 17. The style of the laws of the State shall be, "The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

SECTION 18. No private or local bill which may be passed by the Legislature shall embrace more than one subject, and that shall be expressed in the title.

SECTION 19. Any bill may originate in either House of the Legislature, and a bill passed by one House may be amended by the other.

SECTION 20. The yeas and nays of the members of either House, on any question, shall, at the request of one sixth of those present, be entered on the journal.

SECTION 21 (*as amended Nov. 8, 1881*). Each member of the Legislature shall receive for his services, for and during a regular session, the sum of five hundred dollars, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the Legislature, on the most usual route. In case of an extra session of the Legislature, no additional compensation shall be allowed to any member thereof, either directly or indirectly, except for mileage, to be computed at the same rate as for a regular session. No stationery, newspapers, postage, or other perquisite, except the salary and mileage above provided, shall be received from the State by any member of the Legislature for his services, or in any other manner as such member.

SECTION 22. The Legislature may confer upon the boards of supervisors of the several counties of the State, such powers, of a local, legislative, and administrative character, as they shall from time to time prescribe.

SECTION 23. The Legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable.

SECTION 24. The Legislature shall never authorize any lottery, or grant any divorce.

SECTION 25. The Legislature shall provide by law that all stationery required for the use of the State, and all printing authorized and required by them to be done for their use, or for the State, shall be let by contract to the lowest bidder; but the Legislature may establish a maximum price. No member of the Legislature, or other State officer, shall be interested, either directly or indirectly, in any such contract.

SECTION 26. The Legislature shall never grant any extra compensation to any public officer, agent, servant, or contractor, after the service

shall have been rendered, or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

SECTION 27. The Legislature shall direct by law in what manner and in what court suit may be brought against the State.

SECTION 28. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe an oath or affirmation to support the Constitution of the United States and the Constitution of the State of Wisconsin, and faithfully to discharge the duties of their respective offices to the best of their ability.

SECTION 29. The Legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same, in such manner as shall be prescribed by law.

SECTION 30. In all elections to be made by the Legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

SECTION 31 (*added to the Constitution Nov. 7, 1871*). The Legislature is prohibited from enacting any special or private laws in the following cases: 1st. For changing the name of persons, or constituting one person the heir at law of another. 2d. For laying out, opening, or altering highways, except in cases of State roads extending into more than one county, and military roads, to aid in the construction of which, lands may be granted by Congress. 3d. For authorizing persons to keep ferries across streams at points wholly within this State. 4th. For authorizing the sale or mortgage of real or personal property of minors or others under disability. 5th. For locating or changing any county seat. 6th. For assessment or collection of taxes or for extending the time for collection thereof. 7th. For granting corporate powers or privileges, except to cities. 8th. For authorizing the apportionment of any part of the school fund. 9th. For incorporating any town or village or to amend the charter thereof.

SECTION 32 (*added to the Constitution Nov. 7, 1871*). The Legislature shall provide general laws for the transaction of any business that may be prohibited by section thirty-one of this article, and all such laws shall be uniform in their operations throughout the State.

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive power shall be vested in a governor, who shall hold his office for two years. A lieutenant governor shall be elected at the same time and for the same term.

SECTION 2. No person, except a citizen of the United States and a qualified elector of the State, shall be eligible to the office of governor or lieutenant governor.

SECTION 3. The governor and lieutenant governor shall be elected by the qualified electors of the State at the times and places of choosing members of the Legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected. But in case two or more shall have an equal and the highest number of votes for governor or lieutenant governor, the two Houses of the Legislature, at its next annual session, shall forthwith, by joint ballot, choose one of the persons so having an equal and the highest number of votes for governor or lieutenant governor. The returns of election for governor and lieutenant governor shall be made in such manner as shall be provided by law.

SECTION 4. The governor shall be commander in chief of the military and naval forces of the State. He shall have the power to convene the Legislature on extraordinary occasions; and in case of invasion, or danger from the prevalence of contagious disease at the seat of the government, he may convene them at any other suitable place within the State. He shall communicate to the Legislature, at every session, the condition of the State, and recommend such matter to them for their consideration as he may deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws be faithfully executed.

SECTION 5 (*as amended Nov. 2, 1869*). The governor shall receive during his continuance in office an annual compensation of five thousand dollars, which shall be in full for all traveling or other expenses incident to his duties.

SECTION 6. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature, at its next meeting; when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation, or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon, or reprieve, with his reasons for granting the same.

SECTION 7. In case of the impeachment of the governor, or his removal from office, death, inability from mental or physical disease, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor, absent or impeached, shall have returned, or the disability shall cease. But when the governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of the military force thereof, he shall continue commander in chief of the military force of the State.

SECTION 8. The lieutenant governor shall be president of the Senate, but shall have only a casting vote therein. If, during a vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign, die, or from mental or physical disease become incapable of performing the duties of his office, or be absent from the State, the secretary of state shall act as governor until the vacancy shall be filled, or the disability shall cease.

SECTION 9 (*as amended Nov. 2, 1869*). The lieutenant governor shall receive during his continuance in office an annual compensation of one thousand dollars.

SECTION 10. Every bill which shall have passed the Legislature shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large upon the journal, and proceed to reconsider it. If, after such reconsideration, two thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of the members present, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

ARTICLE VI.

ADMINISTRATIVE.

SECTION 1. There shall be chosen by the qualified electors of the State, at the times and places of choosing the members of the Legisla-

ture, a secretary of state, treasurer, and attorney general, who shall severally hold their offices for the term of two years.

SECTION 2. The secretary of state shall keep a fair record of the official acts of the Legislature and Executive Department of the State, and shall, when required, lay the same and all matters relative thereto before either branch of the Legislature. He shall be *ex officio* auditor, and shall perform such other duties as shall be assigned him by law. He shall receive as a compensation for his services, yearly, such sum as shall be provided by law, and shall keep his office at the seat of government.

SECTION 3. The powers, duties, and compensation of the treasurer and attorney general, shall be prescribed by law.

SECTION 4 (*as amended Nov. 7, 1882*). Sheriffs, coroners, registers of deeds, district attorneys, and all other county officers, except judicial officers, shall be chosen by the electors of the respective counties once in every two years. Sheriffs shall hold no other office, and be ineligible for two years next succeeding the termination of their offices. They may be required by law to renew their security from time to time; and in default of giving such new security their office shall be deemed vacant; but the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer in this section mentioned, giving to such a copy of the charges against him and an opportunity of being heard in his defense. All vacancies shall be filled by appointment, and the person appointed to fill a vacancy shall hold only for the unexpired portion of the term to which he shall be appointed and until his successor shall be elected and qualified.

ARTICLE VII.

JUDICIARY.

SECTION 1. The court for the trial of impeachments shall be composed of the Senate. The House of Representatives shall have the power of impeaching all civil officers of this State, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise his office, after he shall have been impeached, until his acquittal. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to evidence; and no person shall be convicted without the concurrence of two thirds of the members present. Judgment in cases of impeach-

ment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit, or trust, under the State; but the party impeached shall be liable to indictment, trial, and punishment according to law.

SECTION 2. The judicial power of this State, both as to matters of law and equity, shall be vested in a Supreme Court, circuit courts, courts of probate, and in justices of the peace. The Legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts, and shall have power to establish inferior courts in the several counties, with limited civil and criminal jurisdiction. *Provided*, That the jurisdiction which may be vested in municipal courts shall not exceed in their respective municipalities that of circuit courts in their respective circuits, as prescribed in this Constitution; and that the Legislature shall provide as well for the election of judges of the municipal courts as of the judges of inferior courts, by the qualified electors of the respective jurisdictions. The term of office of the judges of the said municipal and inferior courts shall not be longer than that of the judges of the circuit courts.

SECTION 3. The Supreme Court, except in cases otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be coextensive with the State; but in no case removed to the Supreme Court shall a trial by jury be allowed. The Supreme Court shall have a general superintending control over all inferior courts; it shall have power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, and other original and remedial writs, and to hear and determine the same.

SECTION 4 (*as amended April 2, 1889*). The chief justice and associate justices of the supreme court shall be severally known as justices of said court, with the same terms of office respectively as now provided. The supreme court shall consist of five justices (any three of whom shall be a quorum), to be elected as now provided. The justice having been longest a continuous member of the court (or in case of two or more of such senior justices having served for the same length of time, then the one whose commission first expires) shall be *ex officio* the chief justice.

SECTION 5. (Specifies the boundaries of the five judicial circuits into which the State was originally divided.)

SECTION 6. The Legislature may alter the limits, or increase the number of circuits, making them as compact and convenient as practicable, and bounding them by county lines; but no such alteration or increase shall have the effect to remove a judge from office. In case of an increase of circuits, the judge or judges shall be elected as provided in

this Constitution, and receive a salary not less than that herein provided for judges of the circuit court.

SECTION 7. For each circuit there shall be a judge chosen by the qualified electors therein, who shall hold his office as is provided in this Constitution, and until his successor shall be chosen and qualified; and after he shall have been elected, he shall reside in the circuit for which he was elected. One of said judges shall be designated as chief justice, in such manner as the Legislature shall provide. And the Legislature shall, at its first session, provide by law, as well for the election of as for classifying the judges of the circuit court, to be elected under this Constitution, in such a manner that one of said judges shall go out of office in two years, one in three years, one in four years, one in five years, and one in six years; and thereafter the judge elected to fill the office shall hold the same for six years.

SECTION 8. The circuit courts shall have original jurisdiction in all matters, civil and criminal, within this State, not excepted in this Constitution and not hereafter prohibited by law, and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control over the same. They shall also have the power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs necessary to carry into effect their orders, judgments, and decrees, and give them a general control over inferior courts and jurisdictions.

SECTION 9. When a vacancy shall happen in the office of judge of the Supreme or circuit courts, such vacancy shall be filled by an appointment of the governor, which shall continue until a successor is elected and qualified; and when elected, such successor shall hold his office the residue of the unexpired term. There shall be no election for a judge or judges at any general election for State or county officers, nor within thirty days either before or after such election.

SECTION 10. Each of the judges of the Supreme and circuit courts, shall receive a salary, payable quarterly, of not less than one thousand five hundred dollars annually; they shall receive no fees of office, or other compensation than their salaries; they shall hold no office of public trust, except a judicial office, during the term for which they are respectively elected; and all votes for either of them, for any office except a judicial office given by the Legislature or the people, shall be void. No person shall be eligible to the office of judge, who shall not, at the time of his election, be a citizen of the United States, and have attained the age of twenty-five years, and be a qualified elector within the jurisdiction for which he may be chosen.

SECTION 11. The Supreme Court shall hold at least one term annually, at the seat of government of the State, at such time as shall be pro-

vided by law ; and the Legislature may provide for holding other terms, and at other places, when they may deem it necessary. A circuit court shall be held at least twice in each year, in each county of this State, organized for judicial purposes. The judges of the circuit court may hold courts for each other, and shall do so when required by law.

SECTION 12 (*as amended Nov. 7, 1882*). There shall be a clerk of the circuit court, chosen in each county organized for judicial purposes by the qualified electors thereof, who shall hold his office for two years, subject to removal, as shall be provided by law. In case of a vacancy, the judge of the circuit court shall have power to appoint a clerk until the vacancy shall be filled by an election. The clerk thus elected or appointed shall give such security as the Legislature may require. The supreme court shall appoint its own clerk, and a clerk of the circuit court may be appointed a clerk of the supreme court.

SECTION 13. Any judge of the Supreme or circuit court may be removed from office by address of both Houses of the Legislature, if two thirds of all the members elect to each House concur therein ; but no removal shall be made by virtue of this section, unless the judge complained of shall have been served with a copy of the charges against him as the ground of address, and shall have had an opportunity of being heard in his defense. On the question of removal, the ayes and noes shall be entered on the journals.

SECTION 14. There shall be chosen in each county, by the qualified electors thereof, a judge of probate, who shall hold his office for two years and until his successor shall be elected and qualified, and whose jurisdiction, powers, and duties shall be prescribed by law. *Provided, however,* That the Legislature shall have power to abolish the office of judge of probate in any county, and to confer probate powers upon such inferior courts as may be established in said county.

SECTION 15. The electors of the several towns at their annual town meetings, and the electors of cities and villages at their charter elections, shall, in such manner as the Legislature may direct, elect justices of the peace, whose term of office shall be for two years and until their successors in office shall be elected and qualified. In case of an election to fill a vacancy occurring before the expiration of a full term, the justice elected shall hold for the residue of the unexpired term. Their number and classifications shall be regulated by law. And the tenure of two years shall in no wise interfere with the classification in the first instance. The justices thus elected shall have such civil and criminal jurisdiction as shall be prescribed by law.

SECTION 16. The Legislature shall pass laws for the regulation of tribunals of conciliation, defining their powers and duties. Such tribu-

nals may be established in and for any township, and shall have power to render judgment, to be obligatory on the parties, when they shall voluntarily submit their matter in difference to arbitration, and agree to abide the judgment, or assent thereto in writing.

SECTION 17. The style of all writs and process shall be, "The State of Wisconsin." All criminal prosecutions shall be carried on in the name and by the authority of the same; and all indictments shall conclude against the peace and dignity of the State.

SECTION 18. The Legislature shall impose a tax on all civil suits commenced or prosecuted in the municipal, inferior, or circuit courts; which shall constitute a fund to be applied toward the payment of the salary of the judges.

SECTION 19. The testimony in causes in equity shall be taken in like manner as in cases at law; and the office of master in chancery is hereby prohibited.

SECTION 20. Any suitor in any court in this State shall have the right to prosecute or defend his suit either in his own proper person or by an attorney or agent of his choice.

SECTION 21. The Legislature shall provide by law for the speedy publication of all statute laws, and of such judicial decisions made within the State, as may be deemed expedient. And no general law shall be in force until published.

SECTION 22. The Legislature, at its first session after the adoption of this Constitution, shall provide for the appointment of three commissioners, whose duty it shall be to inquire into, revise, and simplify the rules of practice, pleadings, forms, and proceedings, and arrange a system adapted to the courts of record of this State, and report the same to the Legislature, subject to their modification and adoption; and such commission shall terminate upon the rendering of the report, unless otherwise provided by law.

SECTION 23. The Legislature may provide for the appointment of one or more persons in each organized county, and may vest in such persons such judicial powers as shall be prescribed by law. *Provided*, That said power shall not exceed that of a judge of the circuit court at chambers.

ARTICLE VIII.

FINANCE.

SECTION 1. The rule of taxation shall be uniform, and taxes shall be levied upon such property as the Legislature shall prescribe.

SECTION 2 (*as amended Nov. 6, 1877*). No money shall be paid out

of the treasury except in pursuance of an appropriation by law. No appropriation shall be made for the payment of any claim against the State, except claims of the United States, and judgments, unless filed within six years after the claim accrued.

SECTION 3. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SECTION 4. The State shall never contract any public debt, except in the cases and manner herein provided.

SECTION 5. The Legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year; and whenever the expenses of any year shall exceed the income, the Legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses of such ensuing year.

SECTION 6. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never, in the aggregate, exceed one hundred thousand dollars. Every such debt shall be authorized by law, for some purpose or purposes to be distinctly specified therein; and the vote of a majority of all the members elected to each House, to be taken by yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal within five years from the passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished, until the principal and interest of such debt shall have been wholly paid.

SECTION 7. The Legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized or to the repayment of the debt thereby created.

SECTION 8. On the passage, in either House of the Legislature, of any law which imposes, continues, or renews a tax, or creates a debt or charge, or makes, continues, or renews an appropriation of public or trust money, or releases, discharges, or commutes a claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered on the journal; and three fifths of all the members elected to such House shall in all such cases be required to constitute a quorum therein.

SECTION 9. No script, certificate, or other evidence of State debt whatsoever, shall be issued, except for such debts as are authorized by the sixth and seventh sections of this article.

SECTION 10. The State shall never contract any debt for works of internal improvement, or be a party in carrying on such works; but whenever grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvement, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

ARTICLE IX.

EMINENT DOMAIN AND PROPERTY OF THE STATE.

SECTION 1. The State shall have concurrent jurisdiction on all rivers and lakes bordering on this State, so far as such rivers or lakes shall form a common boundary to the State, and any other State or Territory now or hereafter to be formed and bounded by the same. And the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the State as to the citizens of the United States, without any tax, impost, or duty therefor.

SECTION 2. The title of all lands and other property which have accrued to the Territory of Wisconsin, by grant, gift, purchase, forfeiture, escheat, or otherwise, shall vest in the State of Wisconsin.

SECTION 3. The people of the State, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail from a defect of heirs shall revert or escheat to the people.

ARTICLE X.

EDUCATION.

SECTION 1. The supervision of public instruction shall be vested in a State superintendent, and such other officers as the Legislature shall direct. The State superintendent shall be chosen by the qualified electors of the State in such manner as the Legislature shall provide; his powers, duties, and compensation shall be prescribed by law. *Provided*, That his compensation shall not exceed the sum of twelve hundred dollars annually.

SECTION 2. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for educational purposes (except the lands heretofore granted for the purposes of a Uni-

versity), and all moneys, and the clear proceeds of all property that may accrue to the State by forfeiture or escheat, and all moneys which may be paid as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys arising from any grant to the State where the purposes of such grant are not specified, and the five hundred thousand acres of land to which the State is entitled by the provisions of an act of Congress entitled "An Act to appropriate the proceeds of the sale of public lands, and to grant preëmption rights," approved the fourth day of September, one thousand eight hundred and forty-one, and also the five *per centum* of the net proceeds of the public lands to which the State shall become entitled on her admission into the Union (if Congress shall consent to such appropriation of the two grants last mentioned), shall be set apart as a separate fund, to be called the "School Fund," the interest of which, and all other revenues derived from the school lands, shall be exclusively applied to the following objects, to wit:—

1. To the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor.

2. The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor.

SECTION 3. The Legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable, and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years, and no sectarian instruction shall be allowed therein.

SECTION 4. Each town and city shall be required to raise by tax, annually, for the support of common schools therein, a sum not less than one half the amount received by such town or city respectively for school purposes, from the income of the school fund.

SECTION 5. Provision shall be made by law for the distribution of the income of the school fund among the several towns and cities of the State, for the support of common schools therein, in some just proportion to the number of children and youth resident therein, between the ages of four and twenty years; and no appropriation shall be made from the school fund to any city or town for the year in which said city or town shall fail to raise such tax, nor to any school district for the year in which a school shall not be maintained at least three months.

SECTION 6. Provision shall be made by law for the establishment of a State University at or near the seat of State Government, and for connecting with the same from time to time such colleges in different parts

of the State, as the interests of education may require. The proceeds of all lands that have been, or may hereafter be, granted by the United States to the State for the support of a University, shall be and remain a perpetual fund to be called the "University Fund," the interest of which shall be appropriated to the support of the State University, and no sectarian instruction shall be allowed in such University.

SECTION 7. The secretary of state, treasurer, and attorney general shall constitute a board of commissioners for the sale of the school and University lands and for the investment of the funds arising therefrom. Any two of said commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

SECTION 8. Provision shall be made by law for the sale of all school and University lands, after they shall have been appraised; and when any portion of such lands shall be sold, and the purchase money shall not be paid at the time of the sale, the commissioners shall take security, by mortgage upon the land sold, for the sum remaining unpaid, with seven per cent. interest thereon, payable annually at the office of the treasurer. The commissioners shall be authorized to execute a good and sufficient conveyance to all purchasers of such lands, and to discharge any mortgages taken as security, when the sum due thereon shall have been paid. The commissioners shall have power to withhold from sale any portion of such lands when they shall deem it expedient, and shall invest all moneys arising from the sale of such lands, as well as all other University and school funds, in such manner as the Legislature shall provide, and shall give such security for the faithful performance of their duties as may be required by law.

ARTICLE XI.

CORPORATIONS.

SECTION 1. Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the Legislature at any time after their passage.

SECTION 2. No municipal corporation shall take private property for public use against the consent of the owner, without the necessity thereof being first established by the verdict of a jury.

SECTION 3 (*as amended Nov. 3, 1874*). It shall be the duty of the Legislature, and they are hereby empowered, to provide for the organi-

zation of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and taxation, and in contracting debts by such municipal corporations. No county, city, town, village, school district, or other municipal corporation, shall be allowed to become indebted in any manner or for any purpose, to any amount, including existing indebtedness, in the aggregate exceeding five *per centum* on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness. Any county, city, town, village, school district, or other municipal corporation incurring any indebtedness as aforesaid, shall before or at the time of doing so provide for the collection of a direct annual tax sufficient to pay the interest on said debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same.

SECTION 4. The Legislature shall not have power to create, authorize, or incorporate, by any general or special law, any bank or banking power or privilege, or any institution or corporation having any banking power or privilege whatever, except as provided in this article.

SECTION 5. The Legislature may submit to the voters at any general election, the question of "bank or no bank;" and if at any such election a number of votes equal to a majority of all the votes cast at such election on that subject shall be in favor of banks, then the Legislature shall have power to grant bank charters, or to pass a general banking law, with such restrictions and under such regulations as they may deem expedient and proper for the security of the bill holders. *Provided*, That no such grant or law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State at some general election, and been approved by a majority of the votes cast on that subject at such election.

ARTICLE XII.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either House of the Legislature; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published for three months previous to the time of holding such election. And if, in the Legislature so next chosen, such proposed amendment or

amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the Constitution. *Provided*, That if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

SECTION 2. If at any time a majority of the Senate and Assembly shall deem it necessary to call a convention to revise or change this Constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the Legislature; and if it shall appear that a majority of the electors voting thereon have voted for a convention, the Legislature shall at its next session provide for calling such convention.

ARTICLE XIII.

MISCELLANEOUS PROVISIONS.

SECTION 1 (*as amended Nov. 7, 1882*). The political year for the State of Wisconsin shall commence on the first Monday in January in each year, and the general elections shall be holden on the Tuesday next succeeding the first Monday in November. The first general election for all State and county officers, except judicial officers, after the adoption of this amendment, shall be holden in the year A.D. 1884, and thereafter the general election shall be held biennially. All State, county, or other officers elected at the General Election in the year 1881, and whose term of office would otherwise expire on the first Monday of January in the year 1884, shall hold and continue in such office respectively until the first Monday in January in the year 1885.

SECTION 2. Any inhabitant of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory, shall forever be disqualified as an elector and from holding any office under the Constitution and laws of this State, and may be punished in such other manner as shall be prescribed by law.

SECTION 3. No member of Congress, nor any person holding any office of profit or trust under the United States (postmasters excepted) or under any foreign power; no person convicted of any infamous crime in any court within the United States; and no person being a defaulter to the United States, or to this State, or to any county or town therein, or to any State or Territory within the United States, shall be eligible to any office of trust, profit, or honor in this State.

SECTION 4. It shall be the duty of the Legislature to provide a great seal for the State, which shall be kept by the secretary of state; and all official acts of the governor, his approbation of the laws excepted, shall be thereby authenticated.

SECTION 5. All persons residing upon Indian lands within any county of the State, and qualified to exercise the right of suffrage under this Constitution, shall be entitled to vote at the polls which may be held nearest their residence for State, United States, or county officers. *Provided*, That no person shall vote for county officers out of the county in which he resides.

SECTION 6. The elective officers of the Legislature, other than the presiding officers, shall be a chief clerk and a sergeant-at-arms, to be elected by each House.

SECTION 7. No county with an area of nine hundred square miles, or less, shall be divided or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SECTION 8. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county voting on the question shall have voted in favor of its removal to such point.

SECTION 9. All county officers whose election or appointment is not provided for by this Constitution shall be elected by the electors of the respective counties, or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town, and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns, and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the Legislature may direct.

SECTION 10. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy where no provision is made for that purpose in this Constitution.

ARTICLE XIV.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a Territorial to a permanent State government, it is declared that

all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place, and all process which may be issued under the authority of the Territory of Wisconsin previous to its admission into the Union of the United States, shall be as valid as if issued in the name of the State.

SECTION 2. All laws now in force in the Territory of Wisconsin, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the Legislature.

SECTION 3. All fines, penalties, or forfeitures accruing to the Territory of Wisconsin, shall inure to the use of the State.

SECTION 4. All recognizances heretofore taken, or which may be taken before the change from a Territorial to a permanent State government, shall remain valid, and shall pass to, and may be prosecuted in the name of, the State, and all bonds executed to the governor of the Territory, or to any other officer or court, in his or their official capacity, shall pass to the governor or State authority, and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate or property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims or debts of whatever description, of the Territory of Wisconsin, shall inure to and vest in the State of Wisconsin, and may be sued for and recovered in the same manner and to the same extent, by the State of Wisconsin, as the same could have been by the Territory of Wisconsin. All criminal prosecutions and penal actions which may have arisen, or which may arise before the change from a Territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the Territory of Wisconsin, before the change from a Territorial to a State government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Wisconsin, with like effect as though such change had not taken place; and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law, and suits in equity, which may be pending in any of the courts of the Territory of Wisconsin at the time of the change from a Territorial to a State government, may be continued and transferred to any court of the State which shall have jurisdiction of the subject matter thereof.

SECTION 5. All officers, civil and military, now holding their offices under the authority of the United States, or of the Territory of Wiscon-

sin, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SECTION 6. The first session of the Legislature of the State of Wisconsin shall commence on the first Monday in June next, and shall be held at the village of Madison, which shall be and remain the seat of government until otherwise provided by law.

SECTION 7. All county, precinct, and township officers shall continue to hold their respective offices, unless removed by the competent authority, until the Legislature shall, in conformity with the provisions of this Constitution, provide for the holding of elections to fill such offices respectively.

SECTION 8. The president of this Convention shall, immediately after its adjournment, cause a fair copy of this Constitution, together with a copy of the act of the Legislature of this Territory, entitled "An Act in relation to the formation of a State government in Wisconsin, and to change the time of holding the annual session of the Legislature," approved October 27, 1847, providing for the calling of this Convention, and also a copy of so much of the last census of the Territory as exhibits the number of its inhabitants, to be forwarded to the President of the United States, to be laid before the Congress of the United States at its present session.

SECTION 9. This Constitution shall be submitted at an election to be held on the second Monday in March next, for ratification or rejection, to all white male persons of the age of twenty-one years or upwards, who shall then be residents of this Territory and citizens of the United States, or shall have declared their intention to become such in conformity with the laws of Congress on the subject of naturalization; and all persons having such qualifications shall be entitled to vote for or against the adoption of this Constitution and for all officers first elected under it. And if the Constitution be ratified by said electors, it shall become the Constitution of the State of Wisconsin. On such of the ballots as are for the Constitution, shall be written or printed the word, "yes;" and on such as are against the Constitution, the word "no." The election shall be conducted in the manner now prescribed by law, and the returns made by the clerks of the boards of supervisors or county commissioners (as the case may be) to the governor of the Territory, at any time before the tenth of April next. And in the event of the ratification of this Constitution by a majority of all the votes given, it shall be the duty of the governor of this Territory to make proclamation of the same, and to transmit a digest of the returns to the Senate and Assembly of the State, on the first day of their session. An election shall be held for governor and lieutenant governor, treasurer,

attorney general, members of the State Legislature, and members of Congress, on the second Monday of May next, and no other or further notice of such election shall be required.

SECTION 10. Two members of Congress shall also be elected on the second Monday of May next; and until otherwise provided by law, the counties of Milwaukee, Waukesha, Jefferson, Racine, Walworth, Rock, and Green, shall constitute the First Congressional District, and elect one member; and the counties of Washington, Sheboygan, Manitowoc, Calumet, Brown, Winnebago, Fond du Lac, Marquette, Sauk, Portage, Columbia, Dodge, Dane, Iowa, La Fayette, Grant, Richland, Crawford, Chippewa, St. Croix, and La Pointe, shall constitute the Second Congressional District, and shall elect one member.

SECTION 11. The several elections provided for in this article shall be conducted according to the existing laws of the Territory. *Provided*, That no elector shall be entitled to vote, except in the town, ward, or precinct where he resides. The returns of election, for senators and members of Assembly, shall be transmitted to the clerk of the board of supervisors, or county commissioners, as the case may be, and the votes shall be canvassed, and certificates of election issued, as now provided by law. In the First Senatorial District, the returns of the election for senator shall be made to the proper officer in the county of Brown; in the Second Senatorial District, to the proper officer in the county of Columbia; in the Third Senatorial District, to the proper officer in the county of Crawford; in the Fourth Senatorial District, to the proper officer in the county of Fond du Lac; and in the Fifth Senatorial District, to the proper officer in the county of Iowa. The returns of election for State officers and members of Congress shall be certified, and transmitted to the speaker of the Assembly, at the seat of government, in the same manner as the votes for delegate to Congress are required to be certified and returned, by the laws of the Territory of Wisconsin, to the secretary of said Territory, and in such time that they may be received on the first Monday in June next; and as soon as the Legislature shall be organized, the speaker of the Assembly and the president of the Senate shall, in the presence of both Houses, examine the returns, and declare who are duly elected to fill the several offices hereinbefore mentioned, and give to each of the persons elected a certificate of his election.

SECTION 12. (Specifies the boundaries of the nineteen Senate Districts and the sixty-six Assembly Districts into which the State was originally divided.)

SECTION 13. Such parts of the common law as are now in force in the Territory of Wisconsin, not inconsistent with this Constitution

shall be and continue part of the law of this State until altered or suspended by the Legislature.

SECTION 14. The senators first elected in the even-numbered Senate Districts, the governor, lieutenant governor, and other State officers first elected under this Constitution, shall enter upon the duties of their respective offices on the first Monday of June next, and shall continue in office for one year from the first Monday of January next. The senators first elected in the odd numbered Senate Districts, and the members of the Assembly first elected, shall enter upon their duties respectively on the first Monday of June next, and shall continue in office until the first Monday in January next.

SECTION 15. The oath of office may be administered by any judge or justice of the peace, until the Legislature shall otherwise direct.

RESOLUTIONS.

Resolved, That the Congress of the United States be, and is hereby, requested, upon the application of Wisconsin for admission into the Union, so to alter the provisions of an act of Congress entitled "An Act to grant a quantity of land to the Territory of Wisconsin, for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock River," approved June eighteenth, eighteen hundred and thirty-eight, and so to alter the terms and conditions of the grant made therein, that the odd numbered sections thereby granted, and remaining unsold, may be held and disposed of by the State of Wisconsin as part of the five hundred thousand acres of land to which said State is entitled by the provisions of an act of Congress entitled "An Act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights," approved the fourth day of September, eighteen hundred and forty-one; and further, that the even numbered sections reserved by Congress may be offered for sale by the United States for the same minimum price, and subject to the same rights of preëmption, as other public lands of the United States.

Resolved, That Congress be further requested to pass an act whereby the excess price over and above one dollar and twenty-five cents per acre, which may have been paid by the purchasers of said even numbered sections which shall have been sold by the United States, be refunded to the present owners thereof, or they be allowed to enter any of the public lands of the United States, to an amount equal in value to the excess so paid.

Resolved, That in case the odd numbered sections shall be ceded to the State as aforesaid, the same shall be sold by the State in the same

manner as other school lands. *Provided*, That the same rights of pre-emption as are now granted by the laws of the United States shall be secured to persons who may be actually settled upon such lands at the time of the adoption of this Constitution: *And provided further*, That the excess price over and above one dollar and twenty-five cents per acre, absolutely or conditionally contracted to be paid by the purchasers of any part of said sections which shall have been sold by the Territory of Wisconsin, shall be remitted to such purchasers, their representatives, or assigns.

Resolved, That Congress be requested, upon the application of Wisconsin for admission into the Union, to pass an act whereby the grant of five hundred thousand acres of land, to which the State of Wisconsin is entitled by the provisions of an act of Congress entitled "An Act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved the fourth day of September, eighteen hundred and forty-one, and also the five *per centum* of the net proceeds of the public lands lying within the State, to which it shall become entitled on its admission into the Union, by the provisions of an act of Congress entitled "An Act to enable the people of Wisconsin Territory to form a Constitution and State government, and for the admission of such State into the Union," approved the sixth day of August, eighteen hundred and forty-six, shall be granted to the State of Wisconsin for the use of schools, instead of the purposes mentioned in said acts of Congress respectively.

Resolved, That the Congress of the United States be, and hereby is, requested, upon the admission of this State into the Union, so to alter the provisions of the act of Congress entitled "An Act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by a canal in the Territory of Wisconsin," that the price of the lands reserved to the United States shall be reduced to the minimum price of the public lands.

Resolved, That the Legislature of this State shall make provision by law for the sale of the lands granted to the State in aid of said improvements, subject to the same rights of pre-emption to the settlers thereon as are now allowed by law to the settlers on the public lands.

Resolved, That the foregoing resolutions be appended to and signed with the Constitution of Wisconsin, and submitted therewith to the people of this Territory and to the Congress of the United States.

We the undersigned, members of the Convention to form a Constitution for the State of Wisconsin, to be submitted to the people thereof for their ratification or rejection, do hereby certify that the foregoing is the Constitution adopted by the Convention.

In testimony whereof, we have hereunto set our hands, at Madison, the first day of February, A. D. eighteen hundred and forty-eight.

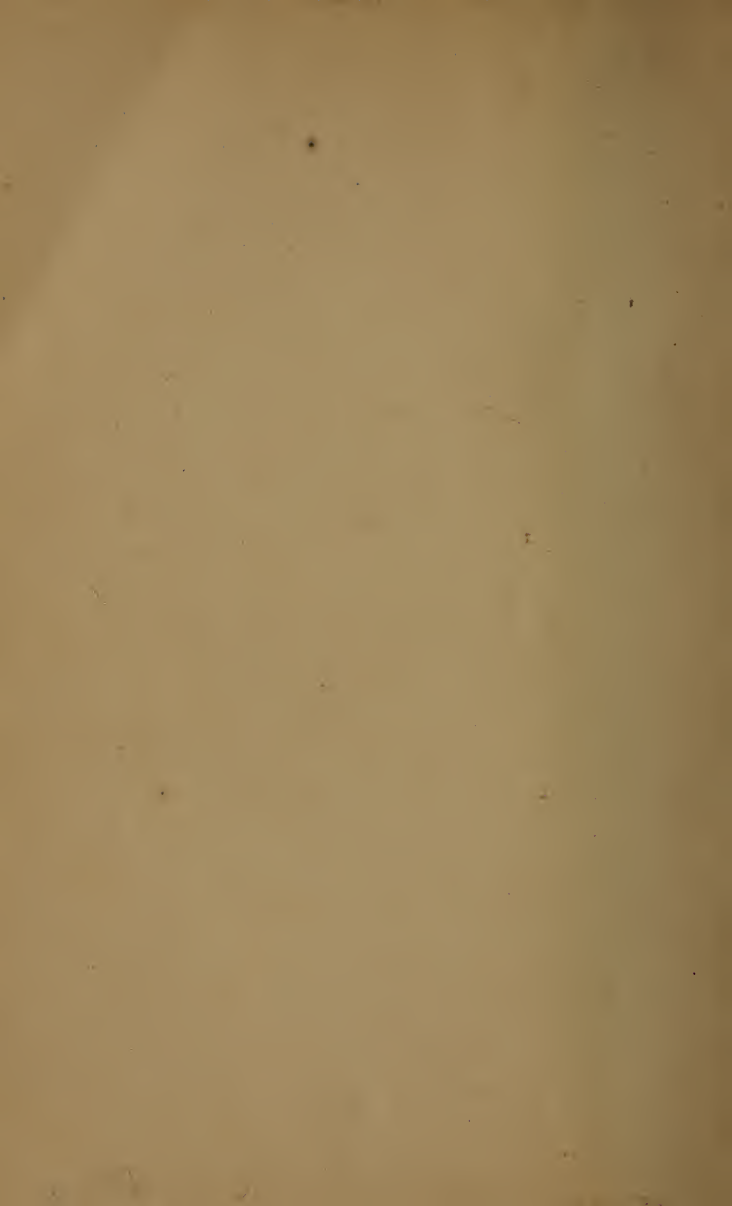
MORGAN L. MARTIN,

President of the Convention, and Delegate from Brown County.

THOS. MCHUGH, *Secretary.*

(Signed also by the sixty-five other members of the Convention.)







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