



EDWIN STANTON FICKES

— HIS BOOK —



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AMERICA,

ITS REALITIES AND RESOURCES:

COMPRISING

IMPORTANT DETAILS

CONNECTED WITH THE

PRESENT SOCIAL, POLITICAL, AGRICULTURAL, COMMERCIAL,
AND FINANCIAL STATE OF THE COUNTRY,

ITS

LAWS AND CUSTOMS,

TOGETHER WITH

A REVIEW OF THE POLICY OF THE UNITED STATES THAT LED TO
THE WAR OF 1812, AND PEACE OF 1814—THE "RIGHT OF SEARCH,"

THE TEXAS AND OREGON QUESTIONS,

ETC. ETC.

BY

FRANCIS WYSE, ESQ.

"Amicus Plato, amicus Socrates, sed magis amica veritas."

VOL. I.

LONDON:

T. C. NEWBY, 72, MORTIMER STREET,

CAVENDISH SQUARE.

1846.

AMERICAN

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P R E F A C E.

NOTWITHSTANDING the variety of works of travel, the journals of tourists, and published narratives

ERRATA.—VOL. I.

- Page 73, l. 11, *for* "democratic learning" *read* "democratic leaning."
- Page 82, l. 4, *for* "ingredients to their republican form of government," *read* "in their republican form of government."
- Page 362, l. 17, *for* "comparative trifling," *read* "comparatively trifling."
- Page 366, l. 12, *for* "the 1842," *read* "the year 1842."
- Page 386, l. 18, *for* "weighty aid," *read* "mighty aid."
- Page 460, l. 6, from the bottom, *for* "whenever any of these institutions," *read* "wherever any of these institutions."

with a people, who are ever apprehensive of a discovery of their individual and national character, with the imperfections, and many eccentricities by which they are distinguished.

To supply the void that thus exists—to present the British public with some correct data on which to ground its opinions, and to furnish the emigrant of all grades, and professions, with every useful instruction to assist and guide him in his hazardous undertaking, are the objects which the author contemplates in the present work. The real character of the Americans of the United States—their habits,

MEMORANDUM

To: [Illegible]

Subject: [Illegible]

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P R E F A C E.

NOTWITHSTANDING the variety of works of travel, the journals of tourists, and published narratives of the numerous other parties who have visited the United States, assuming to present a correct delineation of the American character, the habits and customs of the American people—but little has transpired, amidst these various records, to convey to the discriminating and impartial reader, much less to the British emigrant, any real, solid, or useful information, or beyond the mere detail of the varied incidents in which their respective authors may have been themselves engaged, or the observations resulting from an imperfect or hurried intercourse with a people, who are ever apprehensive of a discovery of their individual and national character, with the imperfections, and many eccentricities by which they are distinguished.

To supply the void that thus exists—to present the British public with some correct data on which to ground its opinions, and to furnish the emigrant of all grades, and professions, with every useful instruction to assist and guide him in his hazardous undertaking, are the objects which the author contemplates in the present work. The real character of the Americans of the United States—their habits,

and social organization, as well their political influence and power, he believes to be but imperfectly known or understood in this country; much less the complex nature of their laws—their uncertain influence, with the slender protection that they afford to either property or human life.

The experience acquired by a considerable sojourn in the country, improved by observation and inquiry, has enabled the author to cast some additional light upon these matters,—to explain more fully the peculiar working of the Government and institutions of the country, and to present the citizens of these States to the British public, not, perhaps, in the outward clothing in which they would themselves wish to be represented, but in that plain and intelligible garb, that a scrupulous adherence to truth and fact, and a regard for strict impartiality, has demanded at his hands.

FRANCIS WYSE.

*Rathcullin, Waterford,
March 28th, 1846.*

A M E R I C A.

CHAPTER I.

Facilities of communication and of transport to America—Advantages of Steam navigation—New York and Philadelphia packet ships—The several Liners leaving Liverpool, London, &c.—Transient vessels to America and British Provinces—Instructions in the choice of a vessel, and other preliminary arrangements before going on board—Monotony of a life on ship board—Particulars of our voyage across the Atlantic—Clearing the river Mersey—British Channel—Western Islands—Mother Carey's Chickens—A calm, its distressing consequences—Northern and Southern passage—Great Bank of Newfoundland—Gulf stream—Strange sail—Icebergs—Entanglement amongst them—Extreme danger—Soundings—The land—Anchor at Staten Island—Arrival at New York.

THE facilities of communication with the continent of North America, are now so frequent, and afford such varied accommodation, that the emigrant, or traveller, can at all times consult his personal convenience, as well as his pecuniary means, in selecting such description of vessel, as also such port in England as he would wish to sail from. The great and extraordinary improvements in steam navigation, that have marked the last three or four eventful years, in the naval history of the world, have determined, within this period, the long doubted question of the practicability of navigating the Atlantic by this

means : what was, but a short time ago, only attainable by the laborious and patient exertion of many weeks, and frequently of months, is now reduced by this extraordinary effort of man's genius, to the certainty of a comparatively few days. Nations, heretofore distant in their geographical position, have been brought into close affinity to each other, and a rapid and increased interchange of mind, as of merchandise, amongst the first of its beneficial consequences. Steam ships of the first class, with accommodations of a very superior order, now sail at stated periods, under the British flag, from the ports of Liverpool and Bristol, making the outward passage to New York in about sixteen or eighteen days ; the return voyage in about thirteen or fourteen. Besides these opportunities, the emigrant, or traveller will find at Liverpool, regularly appointed sailing packets, clearing for New York, every six or eight days in succession, throughout the year, including the winter, as the summer months ; the outward passage averaging from thirty, to thirty-five days ; with several other vessels of a large class, increasing the opportunity to almost a vessel daily. Packets also leave this port for the city of Philadelphia, on the eighth and twentieth of every month ; besides various traders, British, as well as American, to the ports of Boston, Baltimore, Charleston, New Orleans, as also in the summer season, to Quebec, and other parts of the British American possessions. Regular, and equally efficient, and well appointed packet ships, leave the port of London at stated periods for New

York, touching at Portsmouth, from whence they usually make their departure, on the third day of their appointed sailing from London. There is also a regular succession of first class vessels sailing from Bristol and Hull in England; Greenock in Scotland; and Belfast and Londonderry in Ireland. These latter are mostly intended for steerage passengers, while the cabin accommodation, though not equal to the steam packets, or regular New York liners, is nevertheless good.

But the competition is now between the steamers, and the old established sailing packets; the former presenting inducements beyond all others to the merchant, or man of business, to whom the saving of time is essential above every other consideration. The line lately started by Mr. Cunard, and chartered by the British Government to convey the North American and United States mail, from Liverpool to Boston, calling at Halifax, Nova Scotia, to land and take up passengers, both going and coming, and for which this enterprising individual is paid fifty-five thousand pounds sterling per annum, are certainly very superior vessels, evidencing the superiority of British skill and workmanship in the construction of steam machinery, beyond any other nation in the world. The accommodations in both description of vessels are unquestionably of the highest order. Their cabins are fitted up with exceeding taste, and almost without reference to their original cost. The stores, and general living provided on board, is always of the best that can be had, and may be said to equal the

accommodation of a first-rate English hotel. Were we, however, left to our own judgment to make choice of the description or class of vessel we should sail in, without control or limit as to time, we should unquestionably select the American liner or packet ship, above all others; though in this we speak against British enterprise, and the interest of our countrymen, who have lately and largely embarked in steam undertaking. We should certainly feel more satisfaction on board of one of these vessels, as appearing to our judgment by far the safest, and most sea-worthy, and from their construction and peculiar build, far better calculated to contend with the severe and boisterous weather generally met with, no matter at what season of the year, in a voyage across the Atlantic. Independent of the casualties incidental to machinery, however perfect its construction, or the dread contingency of fire, that on board ship will seldom admit of escape; superadded to this, the disagreeable tremulous motion, occasioned by the monotonous and ceaseless action of the engine—the offensive and nauseating smell of the steam, inducing sea-sickness in the stoutest heart, even with the fullest predetermination to resist its influence; added to which, the generally murky and sooty condition of all on board, occasioned by the smoke, and other escape from the funnel, that with a head-wind, or without any wind, dispenses its favours on all around, precluding the enjoyment of the least satisfactory recreation on deck, or that necessary exercise, so essential to the preservation of

health on shipboard. For these reasons, and notwithstanding the numerous other vessels offered to the emigrant, or traveller to select from, we would unhesitatingly recommend the New York packet ship, if suited to his means, as by far the most eligible; and to take shipping from the port of Liverpool, rather than from any other in the United Kingdom. Here it is impossible that he can ever meet with disappointment, or the least difficulty in securing such accommodation as will answer his convenience, or that his pecuniary resources will admit of; without the risk of being detained by frequent postponements, beyond the usual or appointed day for sailing, except that the weather should chance to be so boisterous as to make it imprudent to venture out to sea. The principal line-of-packets that leave this port for New York are:—

First, The Old, or Blackball line; which consists of eight first-class ships, and distinguished at sea by a large black ball painted on their fore-top-sails.

Second, or the Star line; composed of four superior vessels, and known at sea by a large star painted on their fore-top-sail.

Third, or the Swallowtail line; also composed of four first-class vessels—distinguished by the swallow-tailed shape of the flag, which they usually carry at their mast-head.

Fourth, or Dramatic, has only been a very short while established, numbering four of the finest first-class ships that leave the port of New York.

These vessels, which are unequalled by the mer-

chant ships of any other nation in the world, are nearly of the same class, admeasuring from five to eight, and eleven hundred tons register. They are all American build, coppered and copper fastened; and sail under the American flag, although a large amount of British capital is said to be invested in them. They are mostly new ships, built for this express trade; sail remarkably fast, and are commanded by able and experienced seamen. The cabin fare from Liverpool to New York, for every accommodation, including wines, &c. has lately been reduced, and is now generally set down at thirty guineas. The steamers charging thirty-eight guineas without wine, and five guineas less, on the return voyage to Liverpool; in consequence of the less time that a vessel usually takes, from the generally prevailing winds, in crossing the Atlantic from the westward. This sum is paid at the time of agreeing for the passage. The accommodation also comprises a separate cabin, or sitting-room for ladies, with neatly furnished state-rooms attached, apart from the other passengers; with a communication opening into the general saloon or dining-room. The entire arrangement is exceedingly convenient, neat and well fitted up, as well displaying good taste, as very superior workmanship. There is also, belonging to the cabin, a neat selected library, of modern English, and French standard works; and which seldom fails to beguile many a tedious hour on the passage. Steerage passengers are also well provided at reasonable rates in these vessels, but are compelled to find them-

selves in everything of sea store, except water and fuel; taking with them six weeks provisions before they are allowed on board. Their passage money must also be paid before they are permitted to embark.

The packets to Philadelphia, also those from London to New York, will be found fully equal in their general accommodation to those sailing from Liverpool to the latter port. The passage money to Philadelphia is generally less by five pounds than to New York. Still we should hesitate to recommend this route, even to those intending on their arrival in the United States to travel south: as in the first place, the voyage from Liverpool to Philadelphia is so much longer and tedious, than to New York. The passage up the Delaware, after rounding Capé May, a distance of about one hundred miles, is frequently a ten days' or fortnight's work, of the most disagreeable kind; the scenery is exceedingly flat, of one continued sameness, and by no means interesting.

Independent of these several opportunities, there are frequent others of securing passage to New York and other ports of the Union, by means of transient vessels, and certainly at much less cost than by the regular liners. Many of this class were originally in the packet service, and having run out their usual time, from seven to ten years, were then withdrawn to make way for some new ship. They are usually continued in the Liverpool trade, and though their cabin accommodations are necessarily curtailed, to

enable them to carry larger freights, are nevertheless exceedingly comfortable and eligible vessels, particularly for a family wishing to husband their means, and prevent a useless expenditure in this first outlay. Their charge for cabin passage, providing every accommodation and requisite on board, except wines and spirits, varies from fifteen to twenty-five pounds each. But a family, particularly where there are many children, may, by a special agreement with the captain, secure their transport for a much less sum.

There are also other opportunities of British ships sailing for Quebec and other ports in the British provinces, the passage money varying according to the extent or limit of the vessel's accommodation, which is usually much lower than by American vessels to any port in the United States. But we should by no means advise the emigrant, intending to locate himself in any part of the Republic, to take this route, with the hope of an ultimate saving of expense. The ships employed are generally bad, and ill suited for this service; the way is circuitous, and sometimes dangerous, particularly in the later part of the season, and in the months of April, May, and June, after the ice has broken up in the Saint Lawrence, and more northern latitudes, and which is frequently met floating to the southward, at this season of the year. The delays too, after that the emigrant has landed, the long and tedious land and water carriage, and consequent outlay to which he will have to submit, before reaching his destination, should at all

times deter him from choosing this route, or mode of conveyance; besides, the general unsoundness of many of the vessels employed in this trade from British ports, the want of skill with which they are often navigated, with the frequent and lamentable sacrifice of human life, which is the consequence, should urge him to consult his own safety, rather than attempt the experiment. By the Custom-house returns, it will appear, that the number of vessels in the British North American trade, lost or missing in the year 1836, was 74; in 1837—51; and in 1838—101; of the whole number that cleared out in these several years, amounting in 1836, to 1,942; in 1837—1,815; and in 1838—1,670.*

Assuming, then, that the emigrant or traveller has selected Liverpool as his port of embarkation, his first duty on arrival will be to ascertain those vessels entered for such port in the United States, as he intends going to; this he can very easily learn, either by application at the Exchange, or other public rooms—from “Gore’s list,” in which they are usually advertised, or by visiting the Saint George’s Docks, where he can possess the further advantage of seeing, and examining each ship for himself. The steerage passenger will particularly require to observe caution in his conduct, and will

* See Appendix, letter A, for an exceedingly interesting report of the Select Committee, appointed by Parliament, 1839, to inquire into Shipwrecks of Timber Ships, and the loss of life attendant thereon, and to report to the House whether any, or what means can be adopted to reduce the amount thereof in future.

consult his interest in carefully avoiding all intercourse, or other communication with the various agents who swarm the wharfs, and public places, and who are always ready to tender their services, professing to secure passages at a much less rate than at what the emigrant himself may be able to provide one. A little reflection must satisfy him, that these men who may be said to act as so many crimps, to deceive and entrap the unwary, cannot live by the mere tender of gratuitous services, but must derive support from some known source. They are usually paid by their employer, some stipulated sum for every passenger whom they thus secure, and from whom they seldom fail to levy further contributions. This sum is, of course, to be added to the passage money that the emigrant will have to pay, and which he may just as well save, by doing his own work, and judging for himself.

Having ascertained what vessels are first for sea, the emigrant, or traveller, should next proceed on board, to make such selection, and determine in what ship he will take passage. In doing this, we would advise his choosing a roomy, airy vessel, as the most eligible. A close crowded cabin, independent of health, is seldom the most agreeable. He will also learn on going on board all such information as may direct his future movements, the time he should embark, &c. from the captain, who is always ready to attend to every inquiry he may make. This class of men are generally very intelligent, and though their address and manners are

rather tinged with the characteristic bluntness of their profession, are nevertheless of gentlemanly deportment, and are seldom wanting in their exertions to please, and accommodate themselves, whenever consistent with their duty, to the wishes, and frequently to the whims and caprices of their passengers. There are, however, some few exceptions in the list, some "hard cases" amongst them; and these we would earnestly advise the emigrant and traveller by every possible means to avoid. Much of the comfort or unpleasantness of his passage will depend upon the man with whom he may sail. We speak advisedly, from having had the ill fortune in our outward voyage to fall in with one of this class—of illiterate, untutored "Down-easters,"* the very extreme of incivility and coarseness. The consequence was made apparent in the very limited number of his cabin passengers, who were restricted to five only.

Having made such choice, if a cabin passenger, we should recommend his selecting as the most eligible state room, or sleeping cabin, the one furthest removed from the general gangway, or passage, but as near midships, or the middle of the vessel as possible. So should we recommend the steerage passenger, as the motion or heaving of the

* The familiar designation by which the vessels, or captains of ships belonging to, or trading from the North-eastern ports in the United States are always known, who are generally more homespun and made up of harder materials, than from other parts of the Union.

ship is less felt in the centre than at the bow or stern, or indeed in any other part of the vessel: an early application on board for this purpose will be necessary, in order to prevent disappointment, particularly by the steerage passenger, if a married man, who from thus making an early choice, may secure such accommodation for his wife and family as the nature of the circumstances will admit of. Whenever many families embark in the same vessel, they will materially consult their comforts, by being as near as possible together. The necessity of such application is the more obvious from the laws of the United States of the 2nd March, 1819, in force for the better regulating the number of passengers in all such cases.*

Having selected a proper vessel—marked his berth, and paid his passage money, for which the emigrant or traveller should be particular in taking a receipt, the next matter he has to consider, if a steerage passenger, is, the choice of a sea stock. He may expect that for the first few days he will suffer from the influence and effects of sea-sickness, as also his wife and children, should he have any on board, rendering him unequal to much exertion. It may be well to provide against this most distressing period of the entire voyage, with a small supply of

* As the proper observance of this Act will very materially conduce to both the comfort and health of the passengers on board, and as its provisions are too frequently broken through—its objects sacrificed to the avarice and cupidity of the owners, or charter party, we give a copy thereof in the Appendix (letter B) which it were well that every emigrant should understand.

cold meat, and fresh bread, which he will find a useful auxiliary to what should be his usual sea store, of tea, coffee, biscuits, two or three small hams, with potatoes; and should he have children on board, some oatmeal, and molasses, or treacle; as also soap and candles. The quantity to be provided must altogether depend on the number of his family—their respective ages, as also the port to which he intends sailing; allowing, in the usual emigrant vessels, six weeks as the average passage to New York—seven weeks to Philadelphia, and eight weeks to Baltimore.

Cleanliness, so very essential to health, is above all things recommended. But this is always insisted on by the captain, especially on board of American vessels. A responsible part of the first mate's duty is to see that all "tween decks," is kept in a wholesome and healthy state, and properly fumigated, at least once in each week, particularly in the warm and summer season. Windsails are always provided, which create a free circulation of air "fore and aft," and materially add to the health and comfort on board.

We should be unwilling to advise the emigrant, embarking for the United States, encumbering himself with any quantity of household furniture. This, he will find on arrival, can not only be purchased much cheaper, but of equally good materials and workmanship; and if particular in such matters, of the latest London and Parisian fashions: besides, should he take any with him, he will run conside-

rable risk in its being damaged on ship-board, which is sometimes difficult to prevent, even with the greatest care and attention to packing, and stowing away. But this recommendation does not extend to wearing apparel, particularly woollens, and the finer cotton fabrics, as well as various articles of household economy, that may be purchased cheaper in England, than in America; and with which the emigrant would do well to provide himself before going on board. We shall endeavour in its proper place to give such a detail of prices of most articles of general use, as will enable him to determine on such as it will be his interest to bring with him.

In taking out money to the States, the emigrant, or traveller, will find it his interest, instead of encumbering himself with specie, on which it were probable he would sustain a loss on arrival, to retain such sum only as he might require for his immediate necessary expenses, either in Spanish dollars or sovereigns, and invest his remaining funds with some respectable house or mercantile firm in Liverpool, with connections, or a branch establishment in New York, on which he will receive duplicate orders for whatever sum he may so lodge, to be paid to him on presenting such order, with a premium, according to the then rate of exchange, without charge for brokerage or otherwise. Here there is no risk, provided that but common precaution is used in the selection of the house; no difficulty, or inconvenience, whilst every

accident is carefully guarded against, by leaving the duplicate bill in the hands of some friend in England, who will be enabled to recover the amount thereof, in the event of shipwreck, capture, or other casualty.

Bills of exchange on America, bearing interest, may also be had both in London, and Liverpool. But we should feel some reluctance in recommending to the emigrant, for the trifling consideration of a few days interest, somewhat lessened by the deduction of brokerage fees from the amount, to appropriate his money after this mode; we should rather caution him against the allurements offered to him by the assurance of foreign money brokers, mostly Jews, who are always ready to represent the great advantages he will derive by adopting this course, or taking out specie with him, instead of investing his money in the manner we have pointed out.

With these remarks and general instructions, the emigrant, or traveller, may now very safely proceed on board, and peaceably reconcile himself to the many little inconveniences that a life on ship board generally brings with it. If never before at sea, he will very possibly find sufficient in the voyage both to gratify and instruct, and will have ample opportunity, before reaching the shores of the New World, to consider and lay down such plans as may be necessary to regulate and guide his future proceedings.

It is a true, as well as an oft repeated observa-

tion, "that there is room for every one in America." Yet the emigrant, who supposes from this that he has only to reach its shores to cease from all labour, and future exertion, and that he will grow rich without industry and attentive management upon his part to secure a livelihood, will find himself woefully disappointed. The avenues to wealth, are no doubt numerous; but riches, or independence, are not to be arrived at without a steady and patient effort to attain them. "America is the best country in the world," observes the eminent Franklin, "for those who will labour; they can earn more than any where else. The Government is frugal; they demand few taxes, so that the labour of the poor man enriches himself, and is not expended on kings and courtiers. The husbandman and mechanic are in honour here, because their employments are useful. The only encouragements held out to strangers, are a good climate, a good soil, and wholesome air and water; plenty of provisions, good pay for labour, kind neighbours, a free Government, and a hearty welcome; the rest depends on their own industry and economy." As we mean to give these subjects a separate consideration, and shall revert to them in their proper place, we will content ourselves, for the present, in accompanying the emigrant on board his vessel, to superintend his movements, and to direct him in the best course for his future adoption.

There is at all times a sameness and monotony in a seaman's life on ship board, divesting it of any

peculiar interest, that under ordinary circumstances would induce us to pass over the incidents likely to occur on the outward voyage to New York, and to at once land the emigrant, or traveller, free from bile, ill-humour, and sea-sickness, upon the shores of the Western world. But as he is now about to commit himself to an element to which he is probably a stranger, and in seeking to arrive at the same destination, yield himself to the same inconvenience, to which we have already some five or six times submitted, that we are reluctant to abandon him in this, it may be his first journey across the Atlantic, and leave him to mere surmise, as to the difficulties and troubles he is about to encounter. For this reason we submit a short account of our last voyage, and any remarkable incident by which it was distinguished.

Having arrived at Liverpool, we determined to embark in the first regular packet leaving that port for New York. We lost no time in hurrying through the necessary preliminaries of securing a passage—selecting a berth—providing letters of introduction—exchanging the surplus English money in our possession; and on the—— day of—— went on board the—— advertised to sail on the following morning. The day was propitious, and unusually fine. We quitted our anchorage at 10 o'clock, and left the Mersey amidst all the happy confusion of a vessel preparing for a long voyage, and were towed beyond the floating light in the entrance of the river, by one of the steamers usually employed for this

purpose. A breeze soon after springing up from the north-west, enabled us before dusk to reach "abreast of the Head,"—and on the following day, to pass the Tuscar and Hook lighthouses, the first off the Wexford coast, the other at the entrance of the Waterford harbour. On the following morning we had run far out of sight of all land, and had cleared the dangerous and uncertain navigation of the Irish Channel.

For the next three days we had to contend with light and variable winds, with frequent calms, which prevented our making during this time any very considerable progress; we had, however, run down the English Channel, and succeeded in opening a way into the broad Atlantic. The weather was beautifully serene and exhilarating, whilst the many vessels in the offing, chequered and diversified the scene, and gave buoyancy to our spirits. 'Tis true that many amongst us were turning their backs on all former friends, and early associations—severing those ties which heretofore bound them to country and to home, and seeking, with that inherent restlessness of our common nature, to escape from those ills that lay in their way, to "fly to others they knew not of."

Our party consisted of five only in the cabin, and but few in the stercage; we soon became acquainted with each other, and from the exertion that each in the outset made to please, gave an early assurance, as far as other circumstances would admit, of a pleasant and agreeable passage.

The ship in which we sailed measured about six

hundred tons—was American built—considered a good sailor, and excellent “sea-boat,” with a crew composed of all nations, amounting to eighteen hands, independent of the captain, two mates, the cook, who is a most important personage in these vessels, and two stewards, to attend the cabin, both men of colour: she was only four years off the stocks, was well found in all respects, and admirably fitted for the packet service.

Our captain was a very young man, only two years in charge of a ship, and though an excellent navigator, and probably a good seaman, was most unsuited, as our fate would have it, to the command of a vessel of this kind. He was sullen, and uncouth, morose, and remarkably taciturn; and certainly afforded no very pleasing specimen of the American character: we knew him but at meals, whilst even then, no exertion could seduce him into good humour, or beguile him into conversation: he lived to himself, and for himself—smoking and consuming his hours away, with a cigar for ever in his mouth; and as, we verily believe, forming an exception to the general character of men usually placed in his situation.

We made a third of our voyage, the entire distance being about 3500 miles, within the first week or eight days, though the weather was exceedingly moderate, and winds variable. The time, after a while, began to hang heavily and wearisome on our hands, as we had neither the usual resources of a cabin library to resort to, or the other opportunities of dispelling *ennui* by an occasional game of chess,

backgammon, &c.—for the cabin books, from the most culpable neglect, were either lost or mislaid; the chess men had shared the same fate; as also the backgammon board, that at one time had constituted a necessary part of the cabin furniture. All this might be considered of little importance if on shore; but the dearth of occupation, or rational employment on board ship, (for anticipating we should receive the usual accommodations in all such vessels, we had neglected to have had near at hand any books or other sources of amusement) is always severely felt. As we advanced on our voyage, our stock of anecdote became somewhat exhausted; most of our stories had been twice and oft repeated; every contrary wind added to our weariness and discontent, each day seeming an interminable length in our existence. But such our fate, was attributable to the want of care, or consideration of our captain; for all these *et ceteras*, so necessary to our comfort on ship board, had been carefully provided in the first instance, by the owners, who only require them to be subsequently looked after, and taken care of; and who usually allocate to the captain for this purpose, and the providing the cabin sea store, one half of each passenger's passage money. The emigrant, or traveller, will learn from this, how very much of his comforts on the voyage, will depend upon the man he may chance to sail with, which should cause him to make inquiry before engaging his passage in any vessel.

We had now reached the latitude of the Western

Islands, and heretofore escaped meeting with any very severe or blowing weather; nothing, as yet, to test the capabilities of our gallant ship, or excite the apprehensions of the most timid landsman on board; but of this we had not long to congratulate ourselves. The *Procellaria pelagica*, the Stormy Petrel, or as they are more familiarly called, the "Mother Carey Chicken," yet why so named, no one could inform us, were unusually numerous and active, skimming to and fro in the ship's wake, for the purpose of picking up any garbage that might perchance fall overboard. The appearance of these birds is considered by seamen most portentous, denoting to the mariner, the near approach of some coming storm, and are generally regarded by them with a kind of superstitious awe, or reverence, as embodying, in their belief, the soul, or spirit of some shipwrecked friend, or departed messmate. They are almost always on the wing, have never been observed to near the land, generally exchanging to an outward from an homeward bound vessel; whilst the place in which they breed, or bring forth their young, has never, we believe, been satisfactorily ascertained.* Their ap-

* The Petrel has been lately described, in the fifth volume of the Nautical Magazine, as of a rusty brown colour, with some white markings; it has a very peculiar way of holding its head, the bill being kept in nearly a vertical position, probably that the eyes may be better able to survey the surface of the water below it, where the bird derives its food. Although in shape not unlike the Swallow, it has not the Swallow tail—the wings are very long, and the feet, except when the bird descends to the surface, are

pearance in such unusual and continued numbers on this occasion, was certainly followed by a severe

placed in a horizontal line with the tail, which is spread out, the lower feathers of the back and upper part of the tail are white.

The popular name of Stormy, as a distinguishing prejunct to this bird, has no doubt been given to it on account of its being seen during gales of wind; but it is certainly erroneous to consider that its appearance denotes a tempest; with equal propriety may the opinion be fixed upon the gull tribe, for they are as often observed in stormy weather as the other. The Poetasters of all degrees have seized upon this idea, and we find them accordingly introducing the bird as a sort of *genie* of the tempest; one specimen is sufficient :

“ For I never saw his active fleeting form
Sweeping with dusky wing the wave,
But I marked the tempest’s rising storm
And thought of the seaman’s wat’ry grave!”

In the calmest weather, in fact in all weather, “ blow high or blow low,” the Petrel may be seen disporting

“ O’er the glad waters of the dark blue sea.”

From pole to pole it is, *par excellence*, the “ bird of the deep.” It has no local “ *habitat*,” but its tribe is spread over the whole aqueous portion of the globe, and it is probable, though the fact has never been ascertained, that it frequents the rocky and uninhabited isles, to lay its eggs and rear its young. There are several varieties of the Petrel, some much larger than others, but whether they are migrant or confine themselves to certain latitudes, has not yet been satisfactorily ascertained. Sailors have strange notions that this bird, in the fashion of the marsupial quadrupeds, has a sort of pouch or bag under the wing wherein she deposits her eggs; and considering that she never alights on land, but is constantly, in the strictest sense, an inhabitant of the air, they imagine that the young are there hatched and matured.”

This supposition has been lately contended against by Lieut. Williams, R. N., in a communication to the editor of the Nautical Magazine, noticing the foregoing, in which he has endeavoured

and heavy gale of wind, which shortly after set in with considerable force from the south-west, and continued with unabated violence for near twenty-four hours in succession. Our only casualty on board was a foretopsail, in an attempt to close reef it to the yard; and beside the severe rolling, and other heavy motion of the vessel, with an occasional sea that washed our decks, suffered no other inconvenience. The gale, as is sometimes usual, was succeeded by a calm, and variable weather, which, much to our annoyance, and general discomfort,

to explain what has heretofore remained in incertitude and doubt. The following are the gallant Lieutenant's own words :

“ MOTHER CAREY'S CHICKENS.

“ Sir, — At page 330 of your April number (of 1836) an allusion is made to these extraordinary birds, and the writer says that although the fact has never been ascertained, they are supposed to frequent rocky and uninhabited isles to lay their eggs and rear their young. I am happy to be able to bear testimony to the fact, that they do frequent such isles for the above purpose.

“ While employed on the coast of Newfoundland, in the year 1827, we had occasion to moor a small vessel I was in charge of, off Wadham Cove. The island which forms it is very small and rocky, with here and there a little soil, on which there is generally nothing but a species of grass. But we found the place completely occupied by sea-fowl. Soon after sunset there appeared to come out of the ground, a great number of Mother Carey's Chickens, and, supposing that they had nests there, we immediately commenced a search for them. We were not long in discovering that these birds made holes in the ground to lay their eggs in, which generally consisted of three or four. The mouth of the hole was invariably just large enough to admit one bird at a time, and the stench proceeding from it was very offensive, we were also much disturbed I remember by their noise at night.”

continued for several successive days. We were, however, sometimes amused by the numerous whales, sharks, and merry porpoises, in their wanton tricks playing around, frequently so near, as almost to touch the vessel's side. We had also frequent opportunities of seeing, and indeed of examining the *nautilus* (argonauta), or as seamen usually term them, "Portuguese Men of War," with a variety of other submarine inhabitants, that occasionally sported round the vessel, as she lay becalmed on her wide expansive bed, with her sails indolently flapping to and fro against the mast.

If there is any situation, save actual shipwreck, in which a vessel may be placed at sea, more truly distressing, and ungrateful to the feelings of those on board, than another, it is surely the calm, that immediately succeeds heavy blowing weather. The swell, that still rolls undisturbed, mocks each effort of man to subdue its influence, and in despite of his authority, continues to disturb the peaceful serenity of all else around, by the violent, and incessant rolling of the unfortunate bark, until every plank and timber in her frame, groans under the infliction. It is frequently the case, especially in the Bay of Biscay, that vessels in the most settled calm, but under the influence of a heavy Atlantic swell, are nearly thrown upon their "beam ends," and otherwise suffer far greater injury, particularly in their spars and rigging, than could result from the severest storm.

There are two understood routes from the British

Channel to the northern ports of the United States ; one or other of which is selected by the vessels making for this destination, according to the season or time of the year, they may have to cross the Atlantic. These are distinguished amongst seamen as the northern, and southern passage ; the first continuing to the northward of the Gulf stream, in 40° to 45° degrees northern latitude, until it crosses the great bank of Newfoundland, as also Saint George's bank on the American coast, which it usually meets in 64 degrees west longitude.

The Gulf stream, which escapes from the gulf of Mexico, from which it derives its name, by the Floridas, through the old Bahama channel, runs nearly parallel with the east coast of North America, decreasing its velocity in its progress, from three knots per hour ; at the same time extending its width, as it proceeds to the northward, and verging to the southward of the great bank of Newfoundland, is joined by the arctic current from Bhering and Davis Straits, which diverts its course to a southeasterly direction. Its breadth is supposed fifty miles on the American coast ; off Charleston it is probably sixty miles ; off Cape Hatteras, near ninety ; and off the Capes of Virginia, from one hundred to one hundred and twenty ; and extends to about one hundred and sixty leagues at the Azores. After passing Gibraltar, Madeira, &c. it unites with the tropical current, passes through the Caribbean sea, and again falls into the gulf of Mexico, after running a circuit of near fifteen thousand miles.

It was formerly supposed that this current was principally occasioned by the Mississippi, and other giant rivers of western America, that flow into the Mexican gulf. But this opinion is now exploded, and has given way to the received notion, that it is altogether produced by the trade winds, that, blowing continually from the eastward, in the latitude of the tropics, propel a vast body of the water of the Atlantic, to the north-eastern coast of South America, and passing the West India islands, is forced along the shores of Caraccas, Carthagen, &c. into the Bay of Honduras, and subsequently escaping through the narrow pass between Cape Cartouche on the continent, and Cape Saint Antonio on the island of Cuba, enters the gulf of Mexico, and unites itself in its further progress with the waters of the Mississippi.

The other, or southern passage to the United States, crosses this stream, or great "oceanic river," as it is sometimes called, first in its progress to the south-east, and running for a considerable distance almost parallel to its southern boundary, again crosses it within about eighty leagues of the coast of America.

Vessels sailing by the northern passage, though exposed to much blowing weather, generally make the quickest run. The distance, too, is somewhat shorter. Our captain selected this route, regardless of its difficulties, and particularly of the ice, that at this time had broken up to the northward, and was known to have drifted in very considerable quantities

by the arctic current across the bank of Newfoundland. He affected to despise all notion of attendant danger ; though it had become a matter of notoriety before our leaving Liverpool, that an unusual number of icebergs had already been met with by homeward-bound vessels, deterring many others, proceeding on the outward voyage, from selecting this route.

Several days had now passed by, without any remarkable incident taking place to divert the scene from its usual monotony. We had sometimes a fair wind to cheer the prospect of a speedy release, and termination of our voyage, but in general had to contend with strong westerly winds, against which it was difficult to make much head way. A vessel was now and again descried from the mast head ; sometimes visible from the deck. Those astern were soon lost sight of, whilst our superior sailing generally enabled us to come up with any that might be discovered a-head. The coming-up-with and hailing a vessel at sea is always a joyous occurrence, and exhilarating to all on board. It in a manner brings us back to the world,—to a communion with our species, and dissipates for a while the feeling of solitude and utter loneliness, that frequently seizes upon the mind when at sea ; independent of the curiosity to which it gives rise, in the minds of all, to discover the name and character of the stranger—the nation under the protection of whose flag she is proceeding on her way. But our captain seldom felt any anxiety on this head ; and, if that a half quarter of a mile might bring us within hailing distance of a

strange sail, would rather avoid, than encourage such approach.

After experiencing two or three severe gales, which are somewhat usual in crossing by the northern passage, we now approached, with a fine easterly breeze, the outward, or eastern skirt of the Newfoundland bank. The weather, for two or three previous days, continued unusually fine; the temperature, however, subject to frequent variation; the thermometer having fallen, within the short space of twenty-four hours, from 64° to 40° degrees, the water to the temperature of 38° of Fahrenheit. The evenings set in with unusual chill, accompanied by heavy dense fogs, which prevented the possibility of distinguishing the ship's length from the deck. It was very evident that this sudden transition both in weather and temperature of the sea, must have proceeded from some unusual, though defined agency acting on both, which might with great propriety be attributed to the icebergs supposed to be in our immediate vicinage. The wind, as observed, was fair from the eastward, which proved a far too powerful incentive to our captain to "push a-head," rather than adopt the advised course, of shortening sail at nightfall; or the more prudential one of heaving the vessel to. But the character of his ship, and his own, in a great measure, depended upon the quickness and despatch with which he might make the passage. He was, in consequence, deaf to all remonstrance, and callous to every approach of danger that did not appear imminent. The advantages resulting from

a few hours fair wind, outweighed every other consideration, and set at nought the perils that hovered near. Every other eye was strained on the look out, until at length about four o'clock P.M. of the second day of our watching, all surmises were set at rest by the man at the mast-head calling out, as he hailed the quarter-deck—“Icebergs a-head.” A very natural curiosity soon rallied our entire party on deck, and for a while put an end to every other association in our minds. A short run of about two hours brought us near to this northern visitant, in order to avoid which, we were compelled to alter our course two and a half points to the northward. A second—and soon a third, hove in sight; while, before sunset, we could plainly distinguish eleven large islands, besides several smaller ones, from the quarter-deck.

The appearance of these moving mountains, reflecting each shade of the evening's sun, as we passed them in succession, was exceedingly beautiful. We supposed them to have been from one hundred and twenty, to one hundred and sixty feet above the sea level, while two-thirds of their actual size lay buried beneath the water; stretching out to an unusual width at every side, and forming reefs over which the sea dashed with very considerable force. Their shape or form, as well as size, is subject to continued change, which is the more rapid, as they advance to the southward. Our providentially falling in with them, at the hour they first hove in sight, was of fortunate occurrence; for if they had escaped observation till after dark, no human foresight could have

saved the vessel from destruction ; as when discovered, we were, what seamen term, "running free," with a fine nine knot breeze, stem on to the first descried, while the second, and third, lay a little further on, the one on our larboard, and the other on our starboard-bow. Though the wind still continued fair, our captain, who at length appeared somewhat conscious of his position, adopted on this night the precaution of shortening sail, which was the more necessary, as the evening had set in with an unusually dense fog, intercepting all look-out from the vessel.

Beset as we now were on all sides, without knowing which way to turn, our situation seemed too precarious to induce a very peaceful night's rest. The ship continued to roll on at the lazy rate of four knots, under single-reefed top-sails ; the stillness being occasionally interrupted, by the bounding and splashing of the porpoises, on either side, as well as the grampus which sometimes neared the vessel, disgorging water almost upon our deck. As the morning approached, the wind fearfully increased ; but as the day appeared it dispelled all apprehension. The light however had scarcely beamed, when our attention was aroused by an unusual noise, and a clatter on deck, the vessel leaning heavily to the breeze, and which strange uproar we found some difficulty in reconciling as being caused by the usual morning's work, of adjusting and trimming the sails, washing decks, &c. We in part hastily dressed and rushed on deck, where all was in the most alarming, and seemingly inextricable state of con-

fusion. The top-sail-haulyards, preparatory to close-reefing the sails, were already let go; the sails flapping with a boisterous fury to and fro; while the numerous ropes, disengaged from their usual fastenings, kept swinging through the air at each motion of the vessel, as if discharged from all further office. The seamen, apparently under no control, kept running fore and aft in the wildest alarm, uncertain where to lend their aid, or where such could avail; whilst the captain, whose presence of mind had nearly forsaken him, seemed immovable, and riveted to the deck on which he stood. "What's the matter," we eagerly inquired—"what's the matter?"—"Look!—Look!" replied the captain, with a tremulous anxiety, as he pointed to the ship's lee bow, where amidst the haze we now clearly distinguished a large island of ice, towering almost perpendicular above our reckless vessel, from which there appeared no hope or prospect of escape, with several small icebergs to windward and around. There was certainly no time for deliberation; our first object was to apprise our unconscious fellow-travellers of the extreme danger of their situation: having done so, and secured whatever papers were of any value, we again immediately reached the deck, to assist wherever our services could avail, or to await whatever other fate might now betide us.

But the squall, which was unusually severe, and accompanied by a shower of cold sleety rain, had now in part blown over; and in its progress had given a sudden and very unexpected change to the

wind, by means of which alone, under Divine Providence, we fortunately escaped the most imminent danger, and very probably a fate, that has overtaken many as gay and well trimmed a vessel, as the one in which it was our fortune on this occasion to cross the Atlantic. Having thus altered our course, and miraculously escaped this large iceberg, with numerous others in its vicinity, all hands were employed in setting the ship to rights; while, favoured by a further slant of wind, we had nearly cleared the several islands by sunset, and on the following day found ourselves considerably to the westward of the Newfoundland bank, with its usually disagreeable and murky fog.

The storms we had passed, were as usual succeeded by a calm, with occasional light breezes from the north-west. We had now been one month together on board; sufficient time, in all good reason, to become acquainted with each other—our good and amiable qualities—for of foibles, or imperfections, we, of course, had none: yet were we weary of each other, and almost of ourselves. In proportion as we lessened our distance, and neared the American shore, our anxiety, and I might almost add our discontent increased. In truth we were heartily tired of our confinement, and sighed for a release. At length, about noon, on the thirty-fourth day of our departure from Liverpool, we made soundings, for the first time, in thirty-six fathoms, on the south-east point of Saint George's bank, $41^{\circ} 19'$ north latitude, $67^{\circ} 45'$ west longitude; and on the third day suc-

ceeding, descried the land, Long Island, bearing by compass N. W. by N. sixteen miles. On the following morning the high lands of Nave-Sink, or as they are more commonly called "*Never-Sink*," greeted our arrival and bid us welcome. The wind was fair, blowing dead upon the land; the ship going near ten knots through the water: but yet no pilot boat to point the way, or to assist us to our long expected and eagerly looked-for port. We passed in quick succession, two or three other homeward-bound vessels, lying-to—afraid to venture in without assistance, and very soon after opened the entrance of the harbour, the navigable part of which is exceedingly narrow. Still no pilot at hand, or within view, to help or guide us to our anchorage, which made it a matter of some uncertainty with the captain, whether to run the chance of being again driven out to sea, or upon the coast, or attempt upon his own responsibility the dangerous passage across the bar;—the risk, it appears, was great—the occasion no doubt imminent. It was blowing hard upon the shore, and threatening every moment to increase to a gale of wind from the south-east. We at length approached the barrier; still no pilot, or hope of meeting one! There was now but little time for deliberation, and our captain, having calmly surveyed the different land marks, and attentively examined his charts, determined, *coûte qui coûte*, to risk his own, and the vessel's fate, and try the passage. He deserved better; for we had scarcely run on for twenty minutes longer, when the vessel struck with very

considerable force upon the north bank, where she continued until one of the news-boats, connected with one or two establishments of the New York daily press, and who are generally in the offing to meet foreign vessels, or from foreign ports, on arrival, came to our assistance, and through whose timely aid we fortunately soon after succeeded in getting off, without sustaining any very great apparent injury. We anchored on the same day at the quarantine ground, Staten Island, having thus completed the passage from Liverpool in thirty-eight days.

The scenery in nearing the inner bay and harbour of New York, particularly after a long and wearisome voyage, is truly beautiful, and of the most grateful and fascinating kind; the bright and vivid colouring of all around, at this particular season, imparted a vigour and freshness to the scene, that gave new buoyancy and life to all on board. The approach to the inner harbour is strongly fortified and well protected, by several formidable and newly erected works.

We had now let go our anchor, furled sails, and were setting all to rights, when a boat from the shore brought on board the officer of customs, with the medical officer of the station. Being fortunate in escaping all kinds of epidemic sickness since our departure from the Mersey, our cabin passengers were permitted to land, with dressing apparatus and change of linen only; the general luggage not being allowed to go on shore without undergoing a very particular search, and written permit from the

Custom House, for which a sum of fifty cents, or about two shillings and twopence is demanded. This first exaction, though of trifling amount, did not serve to give us any favourable impress of the American system of remunerating their public officers, which makes any part of their salary depend upon the chance fees, they are thus able to secure from the casual traveller, or more needy emigrant landing upon their shores. As we were naturally anxious to see New York, we secured an early passage in the steamer from Staten Island, from which it is distant about seven miles across the inner bay and harbour, and reached this first and most important of all American cities, about four o'clock. All our cabin passengers being strangers, proposed keeping together, and were soon well accommodated at an excellent hotel, the "Mansion House," out of the noise and tumult of business, though in the immediate vicinage of Wall Street, the Bowling Green, and Battery.

CHAPTER II.

Emigration—The necessity of approaching its inquiry with caution—Public writers on Emigration to the States—Their habitual exaggeration, and fallacy of many of their statements corrected—The industrious and prudent only that succeed—Of European Emigrants in general—The proportionate number of German, Scotch, and Irish, who are successful—Of the number of passengers who annually arrive in the United States—Individual feeling of dislike in the United States to European Emigrants—Native American party—Their objects and organization—Their late manifesto—The published declaration of their leaders—State laws affecting Emigration—Tax levied on Emigrants—Its unconstitutionality—The spirit of hostility directed against the European Emigrant in the United States—The busy interference of the Irish Emigrant in the politics and local affairs of the country—Their strong partisanship, and the prejudice it occasions.

OF all the means held forth to man for the improvement, and bettering his fortunes and condition in the world, there is certainly none that requires more serious and calm reflection; none that we should approach with more patient and deliberate inquiry, or regard with more apprehension of its advantages, or ultimate success, than emigration. Whether we consider it with relation to ourselves merely, or those mayhap who may be influenced by our decision and example, or whether with reference to the advantages we are about to surrender for the uncertain, and perhaps the mere imaginary ones we

hope to secure by an abandonment of country, and change of home.

It were indeed an easy matter with those in whom an inherent restlessness of disposition may nurture discontent under every auspices, or to whom fortune in its capricious mood may have been chary of her favours, to arrive at a conclusion, and promise themselves by the change an immediate improvement in their means and worldly circumstances, a sudden realization of the fanciful dreams, created perhaps by the difficulties of embarrassed situation, and who see nothing in the prospective to mar or cloud those anticipations, beyond the impediments in their way to an immediate accomplishment of their purpose. But the path to wealth and independence in America, is by no means of that easy discovery, that all who seek it may ascertain its course; or of that generally diffused kind, that all who may reach the shores of the New World, are sure to partake of its advantages. The emigrant, whose indolence of disposition, or whose unhappy and unsettled temper, unfits him in his own country for the successful prosecution of a profitable employment, will very soon find, that the same drawbacks will impede his advancement in the United States, the same difficulties obstruct his progress to independence, and interrupt his way to wherever he may direct his footsteps. He will find assistance withheld, or only extended to him according to the measure of his own exertions, or general usefulness in the community he is amongst, and his increased

wants supplied in proportion only to the efforts he himself may make for their procurement. "'Tis not every emigrant (says the eminent Franklin) who succeeds ; no, it is only the sober, the honest, and industrious. Happy those whom the transition has proved a powerful spur to prosperity, and to the good establishment of children, born in the days of their poverty, and who had no other portion to expect than the rags of their parents, had it not been for their happy emigration. Others, again, have been led astray by this enchanting scene ; their new pride, instead of leading them to the field, has kept them in idleness ; the idea of possessing land is all that satisfies them ; though surrounded by fertility, they have mouldered away their time in inactivity, misinformed husbandry, and ineffectual endeavours."

It has heretofore been the practice of most writers on Emigration to the United States, to present, beyond the reasonable gain secured to honest industry and perseverance (and which will be sure of a reward in every country) further and unreasonable inducements to the settler—an assurance of other immediate and extended advantages, representing them also of easy acquisition where none are really to be found ; or if that they possess a more than ideal existence, are so placed beyond the emigrant's reach, as to render them at all times of questionable value to him. They present to his imagination, the day-dream of immediate independence and wealth, as already within his grasp, which sustains his hopes,

fires his ambition, and leads him on to acts of repeated indiscretion, until the realities of his situation points out the unexpected difficulties with which he is beset, when there is then no receding from the course he has taken, no mode of retracing the ground he has passed over, or opportunity given to atone to himself, and retrieve the errors he has committed through their means. He is told: "So high are the wages of labour, averaging at least double the rate of England, and quadruple that of France; so comparatively scanty the population; so great the demand for all kinds of work; *so vast the quantity, and so low the price of land*; so light the taxes, and so little burdensome the public expenditure and debt," that "every man in the country is a landowner, and has competence within his grasp." He is also assured by the same authority, re-echoed in every successive period to the present day, "That a small sum of money, the savings of two or three years of an industrious prudent man, will enable him to purchase one or two hundred acres of land;" and that, "from this cause labourers turn farmers as soon as they have acquired a little property." This is not fair—it is not just to the people of other nations. It is not fair, by this and such like extravagant and undue colouring—this deliberate perversion of simple fact, to excite expectations in the breasts or minds of men, that no reality can approach or hope to come near. Neither is it just for any sinister, or apparently laudable end, to persuade the confiding, and frequently the unfortunate of other countries,

to break through the ties of every former association—forget the friendship of early or matured years—to quit the comforts, if fortunately they have any, of their former homestead, for perhaps the dissonant, uncongenial, and it may be to them, uncomfortable habits of a foreign land, in the vague pursuit of objects, they are told are within their immediate grasp, though in fact far removed beyond the means of their actual attainment. True it is, that there is land in abundance in America; but surrounded and overrun with those difficulties to its speedy and early reclamation—those natural barriers of a young and unexplored country, that to a poor man is almost insurmountable in his efforts at cultivation. Labour too, is well provided at those particular periods of the year, limited as they are to a few months in the spring and summer season, for which there is any demand, at least in the more laborious out-door occupations, which are those exclusively set apart for the negro, the emigrant, and stranger; and appropriated to him, for the sole reason, that no native white American could be found, even at considerably advanced wages, to assume their duties; at the same time that the demands upon the pecuniary resources of the emigrant are multiplied in a ratio fully equal to any increased means he may acquire, which are absorbed by the additional expenditure to which he is exposed in the purchase of those essentials that he would heretofore have considered as mere superfluities in his mode of living, but which a change of climate, and the inroad it frequently

makes upon European constitutions, has established as of the first necessities of life ; leaving him at the end of a laborious struggle, with scarcely any better prospects than when he first started ; and certainly without making any very rapid advance in that independence, and increased wealth, which he was so confidently promised as a corollary to his labours at the outset.

But we must not be supposed from this, to set our face against emigration under every imaginary circumstance, or to close our eyes to the manifest advantages that we have known to result on many occasions from its adoption. We condemn the deliberate promulgation of opinions for which there is no just foundation ; the confident assurance of fact, with the deductions to be taken from them, that never had existence, as an unworthy device—a discreditable mode of influencing the thousands who are induced by such means to give up the certainty of a maintenance, however scanty and parsimonious in its kind in their own country, to trust their fortunes in the precarious and difficult procurement of a mere subsistence in a stranger land, in the confident anticipation of securing—by no other than the contracted, the ordinary and adventitious means, the labour to which they were wont in their early years—both riches and independence. We condemn that indiscriminate approval, that would hold forth to all classes, the same measure of advantage, the restless and abandoned, as the good and moral citizen—the wasteful and extravagant, as the in-

dustrious and prudent—the man of idle and uncertain habits, as the hard-working and persevering artizan, who may confidently expect to find in America, as in any other portion of the world, the full reward of his assiduity and exertions.

It has been remarked by a late intelligent writer, whose opportunities of observing has given considerable weight to his opinions, “that of the emigrants from the various countries in Europe, how much wiser the German, than almost all other Europeans. They hire themselves out to some wealthy landsman, and in that apprenticeship, learn every thing that is necessary. They attentively consider the prosperous industry of others, which strongly impresses them with a desire of possessing the same advantages; by dint of sobriety, rigid parsimony, and the most persevering industry, they speedily succeed. The Scotch and Irish do not commonly succeed so well; for it has been remarked, out of twelve families of each nation who have emigrated, generally seven Scotch, nine German, and only four Irish will succeed. The Scotch are frugal and industrious, but their wives cannot work so hard as the German women, who share with their husbands the severest toil and labour of the field, which they understand better. The Irish do not succeed so well; they love to drink and quarrel; they are litigious, and soon take to the gun, which is the ruin of all industry and saving.”

This we really believe to form a more favourable estimate of the comparative success attending emi-

gration to the United States, than even that which the facts themselves will warrant. Yet what a tale does it reveal, what a lamentable disclosure does it bring before us—the disappointment and wretchedness entailed on thousands who seeking emigration as a panacea for the many probable and perplexing difficulties of their situation in the world, have with an earnest confidence of success

“Set their all upon the cast,”

and embarked their fortunes in the chance attainment of a mere and precarious subsistence.

From the last report of the Secretary of State made to Congress in 1837, it will appear that the number of passengers who arrived in the United States from foreign countries during the preceding year amounted to 80,952.

Of which were Males	51,942	
Females	29,010	—80,952
Of these were born in the United States		4,013
		<hr/>
Foreigners		76,939
Of this number there were natives of		
Great Britain and Ireland	41,792	
British American Colonies	2,681	
Germany	20,142	
France	4,443	
Prussia	568	
Switzerland	445	
Denmark	414	
Holland	297	
Mexico	797	
Texas	698	
Cuba	516	
All other countries	4,146	
	Total	<hr/> 76,939

Of the above were landed at

New York	56,578
Baltimore	6,658
New Orleans	4,966
Boston	2,690
Philadelphia	2,147
Portland	1,621
Passamaquoddy	1,471
All other parts	808
Total	<hr/> 76,939

The foregoing may be taken as a fair average of other years, from which we deduce that of the whole number of European emigrants from the United States, Great Britain sends out about 45,000 annually, or very nearly two-thirds of the entire. Supposing, then, instead of *seven* in every twelve of Scotch, and *four* in every twelve of Irish, who constitute at least four-fifths of the whole number of British Emigrants, that *half* of the entire who emigrate actually succeed, we have the lamentable fact presented to us, of twenty thousand luckless and disappointed beings annually expatriated from their early homes, and thrown helpless upon the surface of American society, to eke out a wretched and miserable life, and to contend in their humble efforts, as we have often known them to do, against the most malignant prejudices, the most unreasonable hostility of the great mass of the American people.

To such an extent has this ignoble and ungenerous feeling against the European stranger been of late carried, that associations have been organized in

many parts of the republic to give it increased energy and direction, under the name or title of the “ Native American ” or republican party, and whose acknowledged purpose is, to check emigration, by enforcing a change in the general and municipal laws of the country, as affects strangers, withholding from them many of the political privileges they now exercise, at the same time, controlling, by an almost prohibitory enactment, their arrival in the country.

This party, which dates its existence as a separate political body from the year 1836 only, is daily acquiring new strength from its increased numbers, and more perfect organization, and is commended to the popular feeling by the jealous apprehension in the minds of most Americans, of an undue rivalry of European emigrants upon their own soil, as from other causes, equally as unreasonable and selfish. It has already extended its ramifications throughout various intersections of the country, especially within the eastern, or Atlantic States, where a dearth of population, or paucity of labour seldom exists, to point out the frequent impolicy, or inexpediency of its proceedings; and within the last and present year, has been able to control many of the municipal elections, especially in the empire city of New York, at all times remarkable in its antipathies, and ill-concealed dislike to the emigrant stranger.

Whatever of doubt may have existed as to the purpose of the early formation or designs of this party, they have taken care to dissipate all appre-

hension on this account from the public mind, in the published manifesto, in which they very clearly set forth the objects of their institution to be as follows :—

1st, “The entire repeal of the present naturalization laws, and the prescribing twenty-one years residence as the future limit to which any Foreigner shall be admitted to the rights of citizenship.”

2ndly, “The withholding from all Foreigners at all times, and under all and every circumstances, the right to be appointed to office—to legislate—administer or execute the laws of the country.”

3rdly, “The repeal of the present common school law, and the re-enactment of the public school law in its stead ; thereby enforcing the introduction of the *Bible*, without ‘*note or comment*,’ as an universal school-book throughout the various public schools of the country.”

This latter, though directed against the Roman Catholic population generally, is especially intended to operate against the Irish emigrants and their descendants, and to debar them from the advantages of gratuitous, or public instruction. We cannot forget, that this has been one of the ingredients included in the catalogue of ills of which the Irish Catholic has had to complain in his own country, which heretofore occasioned so much of sectarian and embittered animosity, and which has produced so many dire and lasting consequences in its train, that it is somewhat startling to find the principle attempted to be introduced as a component in

American legislation, especially at this period of progressive advancement and civilization, and at the very time that the councils of the British Government have yielded to the necessity of a more enlarged and liberal observance, in its efforts to dispense universal instruction amidst this portion of her population.

The public declarations of the avowed leaders of this party breathe the same spirit of malevolence and dislike to the foreign emigrant, and which we even find embodied in many of the public records of the country. We may instance, amongst others of a minor note, the official message of the late Mayor of New York (Aaron Clark) to the Common Council of that city, recommending to their adoption some more effectual municipal means of abating foreign emigration to this port; and though we do not recognize in this public declaration a deliberative act of any representative, or public officer of the Federal Administration, to which any other, or foreign Government, may offer exceptions; we are, nevertheless, constrained to attach very considerable importance to its promulgation, not only as emanating from the chief magistrate of the most important commercial, and politically influential city of the republic; and re-echoing, as it certainly does, the voice of a large majority of the people of these States, but also from the equally important delineation it affords, of the privation and suffering, to which so very many of our confiding fellow countrymen have been exposed, in their zealous and simple

efforts, to realize among strangers in the New World, those anticipations of worldly independence and future gain, which they have failed to secure among their friends in the Old.

“Hundreds of thousands of the population of portions of Europe” (remarks this public functionary), “are in a state of poverty, excitement and wretchedness—the prospect before them very discouraging. The old country has more people than it is convenient to support; and though many of them feel no anxiety to leave their native land, they see others depart; they read the mixture of truth and fiction by those employed to obtain passengers; they are assured they can easily return if not suited with the country; that certain employment, enormously high wages, and almost sure wealth await them. The times being more unpromising in other countries than in our own, they imagine they cannot change for the worse, and hither they come,” with the result at which his honour arrives, that,—“they cannot fail to be an intolerable burden to them.” While he continues:—

“Our streets are filled with the wandering crowds of these passengers, clustering in our city, unaccustomed to our climate, without money, without employment, without friends—many not speaking our language, and without any dependence for food and raiment, or fireside—certain of nothing but hardship and a grave; and to be received, of course, by no very ardent sympathy by those native citizens, whose immediate ancestors were the saviours

of the country in its greatest peril. Besides, these seem not to hold opinions in harmony with the true spirit of our government. They drive our native workmen into exile, where they must war again with the savage and the wilderness, encounter again the tomahawk and scalping knife, and meet death beyond the region of civilization and of home.

“Petitions, signed by hundreds asking for work, are presented in vain. Private associations for relief are almost wholly without funds. Thousands must therefore wander to and fro on the face of the earth, filling every part of our once happy land, with squalid poverty, and with profligacy ;”—and this effort of native sensitiveness concludes, by the following affectation of sympathy in their assumed wretchedness.

“It is a mercy to them to keep them where they are, at their own fire-side be it ever so humble, where they will be amongst their relations, and under a government that is bound to take care of them at all hazards.” “Labourers are not sought after ; and while we pity the griefs and sorrows of all our fellow-creatures, we cannot deny that a preference in the distribution of charities, as well as *place* and *employment*, is due to the descendants of the soldiers of the Revolution, and the heroes and sufferers of the second war for Independence. It was asked by the Father of American liberty ; it has been promised to their sons. It cannot be conceded to aliens, without great indignity to our native and adopted citizens.”

It is with extreme concern that we are compelled to record these sentiments—the admissions deliberately made, and put forth under the sanction, not merely of the individual who has vouchsafed the information, but of a large proportion of the American public, with whose opinion the sentiments put forward by his honour the Mayor on this occasion are in direct unison.

There are many no doubt who arrive in the United States, under the unfortunate delusion which this public functionary so justly depicts, expecting to find in this land of promise a solace for every ill, or at least some reasonable encouragement for their industry and individual efforts; who leave their homes in the belief of an immediate change of circumstances; and though not of surpassing riches on arrival in the country, take with them willing hearts, ready and anxious to work out their future subsistence; and reluctant, as we have frequently known them, either to draw upon the benevolent kindness of their transatlantic friends, to become burdens on public charity, or applicants for state or municipal favour. If from any casual or unforeseen difficulties they are compelled to seek public aid for awhile, or before that they can individually overcome the dislike of the American citizen to give them employment, they have well provided from amongst themselves, and from their own scanty and prescribed means, for the liquidation of whatever of misnamed charitable assistance is at any time extended to them; besides contributing a considerable surplus fund to the corporate

revenues of this city, in the tax levied upon each emigrant upon his first landing. It is then imprudent, and the while ungenerous—'tis even worse than this—it is unjust to the individual, as it is injurious to themselves, by an unkindly treatment—by means of a petty and discreditable warfare, still carried on against the emigrant, to scare and drive away from their shores a confiding, generous, and hard-working people, that, under a more enlightened and just policy, and freed from the inconvenience of all unreasonable interference, might be constituted an acquisition to their national wealth and resources. 'Tis impolitic in the extreme, apart from other considerations, by means of any narrow or selfish course, to excite and inflame the passions, and sow the germ of early discontent in the minds and breasts of men, who, though of foreign growth, are one day to class as of their fellow-citizens; and who, from their first landing in the country, are singled out and kept apart, from the mere circumstance of their birth, as a distinct and inferior caste—denounced in the degrading vocabulary of every native American, as unworthy of a more intimate fellowship with him, and in no wise fitted for the enjoyment of that rational freedom and independence, which at another time he claims as of man's inheritance—the inborn right of every human being.

The laws of the State of New York require, “that the captain of every ship or vessel, conveying passengers to the port or city of New York, from any foreign country, or from another State, shall report

the name, last legal settlement, place of birth, age and occupation of such passenger, to the mayor of the city, within twenty-four hours after arrival, under a penalty of *seventy-five* dollars for each passenger so neglected to be reported. And that every person, not being a citizen of the United States, arriving in this city with intent to reside, shall report himself to the Mayor, under a penalty of *one hundred* dollars for neglect in doing so."

By a further statutory regulation of this State, all shipowners are compelled to give bonds to the corporation, that every passenger brought by them from foreign countries, shall be provided for by them for two years from the time of their first landing, or the captain or owners may compound with the almshouse commissioners by agreement; this last arrangement is called "Commutation," and is the prevailing practice of late years.

This sum is not regulated by any fixed rule, but varies indefinitely, according to the caprice, or will of the corporation. It has been ascertained by easy calculation, and the experience of past years, that the positive amount of risk in no year exceeded *thirty-three* per cent, and then the commutation money did not exceed *one dollar* per head; at which sum it continued up to the year 1837, when various exactions, varying from *one* dollar to *six* dollars per head, have been unscrupulously exacted from each passenger.

Besides this tax, there is also another, and equally onerous one, of *one dollar* per head, that each emi-

grant is required to pay under the pretext or demand of "hospital money." This charge, which is levied on steerage passengers, is doubled in the case of cabin passengers. By reference to the official returns, noticed in a preceding part of this chapter, the reader will perceive that 56,578 emigrants landed in the year to which it refers, at the port of New York, contributing a sum little short of *one hundred and twenty-five thousand* dollars, at the *minimum amount charged*, for the support and maintenance, hospital charges, &c. of every chance applicant from amongst them for relief. This sum, which may be considered far under the average of other years, is paid in the above proportion, and in this instance by the emigrant as a part of his passage money, and exacted from him before that he is permitted to go on board.

Assuming the ascertained risk at thirty-three per cent, or a sum of about *forty-one thousand* dollars, there will remain under this modified calculation a surplus sum or revenue of *eighty-four thousand* dollars that annually finds its way into the city coffers—contributed by these "pauper emigrants," as they are called, and it is probable, appropriated to pay the salaries of many of the public corporate officers and retainers of this body, who very possibly owe their situations to the virulence of their opposition, and the unsparing, and uncalled-for abuse with which they assail the emigrant, especially of the old country, on every occasion that is presented to them.

Doubts have frequently arisen as to the constitu-

tionality of enforcing these exactions, apart from every other consideration :—the positive right of any individual State of the republic to enact and enforce laws, delegating a discretionary power of this kind, so liable to be abused, and that in its practice might be made to operate as a direct and positive interdict of all communication between the seaboard, and other inland portions of the United States, and the free subjects of other nations, in peace and amity with its government. It certainly appears to our thinking, an arrogant assumption of legislative power, on the part of any segment or separate portion of the confederacy—a right that we contend belongs only, and under its *responsibility*, to the nation at large—a direct and hostile interference with the interests and acknowledged privileges of other States, of which it thus assumes to be the arbiter ; whilst we conceive it to be opposed in its first principles to the spirit, if not the precise letter of the American constitution, such as we have read it, requiring only to be properly and legally tested before the federal tribunals of the country, to be denounced in terms of unqualified condemnation.

We will not blend with this question the right that every State has to frame laws for its own internal, or municipal government. These are beyond even the claim or just right of remonstrance ; and belong to the people to whom the maintenance and protection of their own rights, so long as they do not infringe on the established rights of others, is in every way conceded. But the

laws of which the emigrant complains, in this instance, are not limited to this extent. They reach, in their more positive control, above the mere domestic government of this, or any other State of the republic, and may be extended *ad libitum* to operate as a positive interdict of all intercourse between the people of other, and European countries, and those of the several States of the New World, beyond the western limit of New York.

By the 9th section, article 1st, of the Federal Constitution, a power is vested in the General Congress, solely to control emigration to the United States, by the imposition of a tax at their discretion, not to exceed *ten* dollars each person; but no such authority, we opine, is directly given to any of the individual States, who are bound under the 2nd section, 3rd article, of the same Constitution, to submit in all matters of controversy "between two or more States, between a State and citizens of another State, and between a State and citizens thereof, and foreign States, citizens, and subjects," to the jurisdiction of the Federal Government, to be determined by the laws in force under the Constitution.

Had a severe and onerous tax of this kind been confined to those emigrants who intended to continue residents of the State of New York, there might perhaps be some colour of excuse for the demand; but there can be no apology for the exaction, when borne in mind, how very few of European emigrants, who annually arrive in this port, remain within the city, or continue subject to its municipal authority, but immediately find their way to the newly settled

western country, and are thus far removed from every remote chance of becoming a burden, either on the bounty, or taxes, of its goodly citizens.

A two-fold question arises from these demands: the one as immediately relates to the emigrant; the other, with reference to the generally admitted rights of neighbouring inland States, who are to a considerable extent affected by the imposition. The first, involving the constitutional privileges of any one of the Federal States to interpose by local or municipal laws, and of its mere will in checking emigration to the United States; or of interfering with the assumed rights, that are at least impliedly and mutually conceded by friendly States, to the citizens or subjects of each respectively, of landing on their soil, and of peaceably sojourning or passing through the territory of the other, to any other terminus, or to where perchance their objects, or interests, may eventually betake them. The second,—the constitutionality of any such interference, by, or on the part of any one State of the Republic, to the admitted prejudice of remote and newly settled States, interposing between the manifest interest of such State, and the influx of an emigrant population into its territory. These are matters, though scarcely within our province, of which we hope to see an early and amicable adjustment; at present they operate as a grievous imposition, a severe hardship on the emigrant stranger, in the pecuniary and unreasonable exactions they compel him to undergo.

Should the emigrant hope to profit by the advantages that are, nevertheless, offered to him in

the change he has made of country, and of home, he will find it necessary to remodel himself with more becoming care, to the practice, and national peculiarities of the people he is amongst, than to which he has generally been accustomed; to abandon, or at least to modify, many of his peculiar notions, and to identify himself more in spirit, as in his conduct, with the habits, and national feeling, than the generality of those of his countrymen who have preceded him, have deemed it of importance to attend to. By this means only will he avoid the jealousies, the vexed and angry feelings that are every day springing up against him in the country; the antipathies, and deep dislike, which these feelings necessarily produce, and that have so fearfully of late displayed themselves in overt acts of lawless violence and crime, that surmise is defeated in anticipating their further result, or the injurious consequences that may arise from the determined hostility which a repetition of these scenes are so likely to occasion.

Twice within the present year has Philadelphia, the second of American cities, become a prey to the wild disorders of an unrestrained licentiousness; originating in the party strifes, for such has been their character, of the "Native American Party," including amongst them the reckless and discontented outpourings of American society within its limit, and the Catholic or Irish emigrant population of that devoted city; against whom the tide of popular fury was for several successive days directed.

Numerous lives fell the sacrifice, whilst upwards of one hundred houses were burnt to the ground: including also several of the Catholic churches or houses of public worship; the convent of the Sisters of Charity; the residences and libraries of the Catholic priesthood, as well as the schools of the Catholic emigrant population. Yet, will every American, in the full recollection of these proceedings, tell you, of the happy condition of this favoured land of universal benevolence and freedom—this home of the exile—this refuge of the politically oppressed, and persecuted, of other nations, to whom its thousand welcomes are addressed on reaching their shores. He will speak to you in the milder accents of confiding truth, of this retreat and sanctuary from all religious strife and persecution; and endeavour to impress upon your belief, the happy and universal toleration that is extended at all times, and throughout every part of his vast country, to every variety of sect and religionist.

But the spirit of hostility that called forth these excesses was not of the day or of the hour. It possessed none of the characteristics of the suddenly excited feeling of an intolerant and unrestrained population; but had been of gradual and stealthy progress—of fixed and certain aim; to which the emigrant has himself, in too many instances, given encouragement. For we have no wish to extenuate the conduct of our fellow-countrymen, who constitute the great bulk of the British emigrants to the United States, in this respect—their too frequent

and busy interference in all matters of internal or domestic government, in which the circumstance of their early naturalization has permitted them to take part—the violent partisanship of their general proceedings in all municipal and other contests ; and to which we have often and painfully borne witness ; which they attempt to justify, not from its necessity, not from any real advantage or positive good it may secure to them in their new position, but from the terms of their assumed compact—the recent allegiance to which they had sworn—the newly discovered sacrifices they had made, in their severance from friends and early home, to identify themselves in all its reality with this, the country of their adoption. They carry with them, in too many instances, to the New World, the prejudices and dislikes, engendered by early associations in the Old. The sectarian animosity ; the unsettled and peculiar notions, which the absence of all liberal and enlightened instruction, together with the sickly influence of a morbid political excitement, to which they are ever subject in their own country, cannot fail to produce. While acting under their varied influences, they become obnoxious to the native citizen ; who cannot forget, that the emigrant is the product of another soil ; has been reared and schooled in the principles of European monarchies, and that the laws, constitution, and machinery of American government, are unknown to his experience, and very probably to his comprehension ; in which he can reasonably feel but very little interest, or anxiety, either as to its

welfare or future preservation. That neither is it in one short-lived day that he can forget his own or father-land—dissever every natural tie of kindred and former home—obliterate therecollection of every early association, and become identified in spirit and feeling with this, his newly-adopted country. Nevertheless, he is generally found amongst the most busy, and, we regret to add, the most uproarious in his interference at every election; classing himself as of the ultra-democracy of the country, and frequently carrying his notions of liberty, in the exercise of his newly acquired right, to the verge of licentiousness.

These excesses were also much increased by the religious feeling and embittered acrimony evolved in them; for the distinctiveness of the Irish emigrant population; their unity and combination has unwisely formed them into a diverse and separate community, apparently of separate interests and feelings from the native citizen, of which one or other of the great political parties that divide the country are always ready to take advantage; and by the means to which they invariably resort, to incite, and indirectly encourage a state of things, that they are generally themselves the first and loudest to condemn; and for which it would be unreasonable, indeed unjust, to charge the emigrant as the sole, and undivided cause. Whenever the balanced state of parties, in any intersection of the republic, may have heretofore rendered the ascendancy of either in the least doubtful, the co-operation

of the Irish Catholic has always been eagerly sought for ; their religious and national prejudices for the while encouraged ; their very faults lauded as the explication of every known virtue, by the party who may hope to profit by their support, that seldom fails to draw forth, as a countervailing medium, the virulent and intemperate denunciations of their opponents, by whom every fault is bared, and in intelligible form laid before the world. Their national peculiarities, their most trifling digressions, under an exaggerated interpretation, are amplified into crimes of the most repulsive and dangerous kind, destructive of all social order and peace, and totally subversive of that rational liberty which they are permitted to enjoy in common with every citizen. Their religious creed is assailed with the ascerbity and bitterness of individual and sectarian dislike, and represented in its principle, and general influence as antagonistic of the political freedom ; the republicanism of which every American is alike jealous, and ready to defend with his life. Prejudices and animosities are thus engendered, and crowd around the emigrant on every side ; even those, who, for sordid or party purposes, make use of him for the while as a political weapon in their hands, become tainted with the national dislike ; and only wait the opportunity, as in the late instance in Philadelphia, to make common cause with every native citizen, under the common banner of American nationality, to curtail him in his privileges,

or to uproot him from the soil, the expatriated home of his recent adoption.

A strong prejudice is also very unfortunately created against the emigrant, from a supposition in the minds of the industrial, or working classes of American citizens, who erroneously attribute the occasional dearness of provisions, and of all other necessaries of life, in the Eastern or Atlantic States, to the great annual influx of a foreign population. This fallacy is nevertheless very general, contrary to the evidence of their other senses and the numerous and manifest truths within their experience; proclaiming to them the fact, that to the emigrant's exertions, their labour and industry, is the nation in great part indebted for its extended national improvements, its public works that bear daily and irrefragable evidence of their usefulness, with very many other advantages derivable from their sojourn in the country.

CHAPTER III.

Constitution of the United States—Origin of its system—Legislative power—Local or State governments—Anomalous state of American legislation—States rights and resolutions—South Carolina in 1832 and 1833—Governor McDuffie—Tendency of the General Government to usurp the power of the individual States—Late President Harrison—His theory of government—Difficulty in negotiating with foreign nations—The necessity of some better defined power resting in the Federal Government for this purpose—President of the United States—His mode of appointment—The term for which he should hold office—No person but a natural born citizen eligible to the situation—Provision in the law in case of death, removal, &c.—His immense patronage and power—His irresponsibility—President Jackson—His dangerous usurpations in the government—Commercial crisis of 1837 induced thereby—Senate of the United States—How constituted—The materials of which it is composed—Its general character—The character and general state of demoralization of the Lower House—Charge of habitual intoxication of its members publicly made by Hon. Henry Wise, representative from Maryland.

THE Constitution and Government of the United States is of a federal republic. The origin of its system had its rise from a General Congress, which first assembled in the city of Philadelphia, in the year 1774, composed of delegates chosen by the House of Representatives of each of the thirteen old colonies, except Georgia. This State, having after-

wards acceded, increased the number to fifty-four and a president.

The unjust and oppressive conduct of the British Parliament against these colonies aroused the indignation of the entire population, who, impatient of control, and the restrictions to which they were made subject, by a solemn act of Congress, July 4th, 1776,* renounced all allegiance to the crown of Great Britain, and declared the American colonies *free and independent states*, and at the same time published articles of confederation and perpetual union between the States, in which they assume the style of the "United States of America," and decreed that each State should retain its sovereignty and independence, and every other power not delegated to Congress.

These articles of confederation, after eleven years experience, being found inadequate for the purposes they were intended, delegates were chosen in each of the United States, to meet and fix on other necessary amendments. They accordingly assembled in convention in Philadelphia, in the summer of 1787, when a new constitution, more suited to the general exigencies, was adopted.†

Under this constitution, which formed a compact between the thirteen original States, the legislative power remained separate and divided in part be-

* See Appendix (letter C), for the American Declaration of Independence.

† See Appendix (letter D), for the Constitution of the United States and amendments thereto.

tween the Federal or General government, and each State within its immediate territory. To the Federal Government, belongs the power of making peace, or war with foreign nations; raising and supporting an army and navy; fixing the organization of the militia; imposing taxes for the common defence and benefit of the Union; borrowing and coining money, and fixing the standard of weights and measures; establishing post offices and post roads; granting patents for inventions, and exclusive copyrights to authors; regulating commerce with foreign nations; establishing an uniform bankrupt law; also, an uniform law of naturalization; and lastly, the federal tribunals judge of felonies and piracies committed on the high seas; of offences against the laws of nations, and questions between the citizens of different States.

To the State Governments is committed the branch which directs and controls the internal concerns of each State; its local laws, as far as relates to property and private rights; regulates the police; appoints the judges and all civil officers; imposes taxes for all State purposes; and exercises all other rights not vested in the Federal Government by direct enactment.

In examining the principles on which the Federal Constitution is based, we shall, perhaps, find much to commend; its laws are framed with a liberal and enlightened policy, though of partial and limited influence in securing and otherwise protecting the rights of the American citizen, who is more imme-

diately placed under the control of the State laws, of some one or other of the numerous sections into which the country is divided.

These States may be said (except in their foreign or external relations, and in the other instances we have enumerated,) to be placed beyond the influence of any other controlling power; and whilst enjoying a perfect, at least an imaginary sovereignty, frame such laws for their internal government as they may think proper; and provided that they do not overstep the leading principles of the Constitution of 1787, such as abrogating the writ of *habeas corpus*, or the trial by jury, secured to every American, may adopt such measures, as in their caprice or wisdom may seem meet. They have certainly taken advantage of these reserved rights, and, in their efforts at legislation, have presented to the world as neat a piece of legal patchwork as is to be found extended over any other, or equal, portion of the habitable globe.

The wrongs and inconveniences arising from this intricate and anomalous state of Government, are of admitted and daily occurrence. To the foreigner, this novelty is for a while inexplicable. Heretofore, accustomed to look upon America as one great family, regulated by one general and fixed system of mild and wholesome laws, he is strangely perplexed to find instead, that each State, or division of the country, is in a great measure controlled by a distinct code peculiar to itself, and only operative within the limit of its immediate territory, or jurisdiction. He finds the laws of Massachusetts of a

somewhat different complexion from those of New York; New York equally distinct from those of Pennsylvania; Pennsylvania to vary from those of New Jersey and Maryland; Maryland from those of Kentucky; in short, no two States of the Union, however according in their general principles, governed by the same precise rule, but each distinct, and as unconnected with the other, as if directed by opposite interests, or forming parts of two separate hemispheres. Americans of intelligence, those who can see their country, otherwise than through the distorted medium of their national prejudices, are generally prepared to admit the evils that grow out of this system. But it would be idle to propose any change, or reformation. The national, or rather the sectional prejudices of every citizen, would rise in arms to discourage the attempt, as threatening their individual or state sovereignty, and interfering with their assumed, or asserted, right of self-government, by which is reserved to them the privilege of living under as ill defined and perplexing code of laws, as any people were ever cursed with.

The recent admission of Arkansas, and Michigan, into the Union, has increased the present number of these States to twenty-six. The thirteen united colonies which first abjured their allegiance to the Crown of England, and that adopted and issued their memorable Declaration of Independence in 1776, were, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania,

Delaware, Virginia, Maryland, North Carolina, South Carolina, and Georgia. All the other States, that are now members of the Union, have been since admitted in the following order, viz. :—

Vermont—which was separated from New York, was admitted into the Union, 1794.

Tennessee—which was separated from North Carolina, was admitted, 1796.

Kentucky—originally a part of the territory of Virginia, was admitted, 1796.

Ohio—which was formed from lands north-west of the Ohio River, that have been ceded to the General Government by the States to which they belonged, was admitted, 1802.

Louisiana—formed from the Louisiana purchase, admitted, 1812.

Indiana—from a portion of what is called the North-west territory, in 1816.

Mississippi—from part of the territory of Georgia, admitted, 1817.

Illinois—from the North-west territory, admitted, 1818.

Alabama—from part of Georgia, admitted, 1819.

Maine—which was separated from Massachusetts, was admitted, 1820.

Missouri—formed a part of the Louisiana purchase, was admitted, 1820.

Arkansas—from a portion of the Louisiana purchase, was admitted, 1836.

Michigan—which was constituted a territory in 1805, was admitted, 1837.

The several origin of the names of these States are as follows, viz.:—Maine was so called as early as 1688, from Maine in France, of which Henrietta Maria, Queen of England, was at that time proprietor. New Hampshire was the name given to the territory conveyed by the Plymouth Company to Captain John Mason, by patent, Nov. 7, 1639, with reference to the patentee, who was governor of Portsmouth, in Hampshire, England. Vermont was so called by the inhabitants, in their Declaration of Independence, January 16, 1777, from the French *verd*, green, and *mont*, mountain. Massachusetts from a tribe of Indians in the neighbourhood of Boston. The tribe is thought to have derived its name from the Blue Hills of Milton: “I have learned (says Roger Williams) that Massachusetts was so called from the Blue Hills.” Rhode Island was named in 1644, in reference to the Island of Rhodes in the Mediterranean. Connecticut was so called from the Indian name of its principal river; New York, in reference to the Duke of York and Albany, to whom this territory was granted. Pennsylvania was named, in 1681, after William Penn. Delaware, in 1703, from Delaware Bay, on which it lies, and which received its name from Lord De La War, who died in this bay. Maryland, in honour of Henrietta Maria, Queen of Charles I., in his patent to Lord Baltimore, June 30, 1632. Virginia was named, in 1584, after Elizabeth, the virgin Queen of England. Carolina, by the French in 1564, in honour of King Charles IX., of France.

Georgia, in 1772, in honour of King George Third. Alabama, in 1817, from its principal river. Mississippi, in 1800, from its western boundary. Mississippi is said to denote Kie, whole river, that is, the river formed by the union of many. Louisiana, so called in honour of Louis XVI. of France. Tennessee, in 1736, from its principal river: the word Tennessee is said to signify a curved spoon. Kentucky, in 1782, from its principal river. Illinois, 1809, from its principal river. The word is said to signify the river of men. Indiana, in 1802, from the American Indians. Ohio, in 1802, from its southern boundary. Missouri, in 1821, from its principal river. Michigan, named, in 1805, from the lake on its borders. Arkansas, in 1819, from its principal river. Florida was so called by Juan Ponce Le Leon, in 1572, because it was discovered on Easter Sunday; in Spanish, *Pascus Florida*.

The co-existence of these several independent sovereignties, resting in the full and uncontrolled enjoyment of their individual rights and privileges, altogether independent of the Federal Government, to which they have delegated but a partial and defined power, presents to the world an unusually strange and complex state of legislation; especially to the foreigner, who finds it difficult to reconcile with his preconceived notions of a firm, united, and settled government, the many disjointed fragments, the partial and unequal laws, the uncertain and piece-meal legislation, by which the country is governed; and which carries with it in its compli-

cated machinery, its dissonant and incongruous materials, in the conflicting interests of the various intersections into which it is divided, the germ of a probably early dissolution, that ever and anon threatens to shake the Republic to its centre, and expose the fallacy on which it is based. It was only in the years 1832, and 1833, that South Carolina, relying upon her state reservations, asserted her right (and in her instance, the rights of the other States) of seceding from the Union, whenever believing her individual interests compromised by any interference or general law, though made applicable to the entire States; and declared her determination to resist with open force, certain imposed restrictions of the general government, by which a protecting duty was extended to the manufacturing States of the north, to the assumed prejudice of the exports of the south. This question of mere internal regulation was near being determined by a direct appeal to arms, in which most of the southern States would have united against the Federal Government, and scattered the confederacy to the winds, had not the timely interference of Congress, directed by Mr. Clay, to whom his country is much indebted, arrested for a while, the impending crisis, by sanctioning a compromise between the refractory State and its nominal head, based upon the most liberal concessions to South Carolina, and, which thus, for a time, succeeded in saving the Republic from a convulsion that threatened its dissolution. —“ A crisis is approaching,” declared Governor

McDuffie in his inaugural address to the Legislature of his State, and directed to the south generally, "which the people must prepare to correct by force; by it alone will they be able to maintain those rights, which cannot much longer be secured by that *miserable mockery of blurred, obliterated, and tattered parchment, the Constitution of the United States.*"

Nor was the public voice in the north raised against the dangerous principle asserted by these proceedings, where the pretensions of South Carolina were also vehemently insisted on by many, *as of the common rights of every State within the Union.* To the timely concessions of the Federal Government, however, is the Republic indebted for its preservation on this occasion; its temporary release from the very serious embarrassments with which it was menaced, and restoration to tranquillity and order; though not without germinating future difficulties for itself, in the constructive admission of State pretensions, even to the extent insisted on by South Carolina.*

* "In the interpretation of the anti-federalists, the subsisting connection between the several States of the Union is insisted on, as a mere compact—a treaty, under which, though still retaining an entire and undisputed sovereignty, they entrust certain restricted powers to the general government, still preserving the right of withdrawing them at pleasure. This principle is asserted by Rawle, who insists that it is perfectly competent for any State to secede from the Confederacy, on its electing to do so. This position is, nevertheless, denied by other eminent Jurists, both by Webster and Story, who maintain, that the pre-

The tendency of the general government for years past has nevertheless been to concentrate, as much as possible within itself, the reserved power of the individual States; to strengthen and consolidate such power, by the appliances, and means it possesses in the control and distribution of the patronage at its disposal. The revolution in public opinion, with the induction of the Whigs or Federal party into office, in 1841, as of its consequence, has had a tendency to check this anti-democratic learning, and to guarantee the independence and irresponsibilities of the several States within their respective jurisdictions. The late President Harrison, in accordance with whose principles the last administration had been formed, has perhaps, gone further than any of his predecessors in this respect, and in the first public exposition of his policy, has laid down a theory of government, at variance, in some respects, with all former or general practice, in which is not only recognised the entire and perfect irresponsibility, and exemption from all

sent connection of these States was established, not by the States, but by the whole people of the Union in their corporate capacity, assembled in conventions, and thus only could it ever be abrogated. Till then, the States are bound to bear the mandates of the Supreme Government, when issued in execution of its appointed powers; and any act inconsistent with these orders is in its very nature null and void. The only plea that could be urged would be one of such extreme necessity as to be *extra* and *ultra* the constitution, when all the bands of law are broken, and revolution succeeds."—*Story's Commentaries*, vol. i. pp. 302, 308, 330—332.

control of the several States within their respective limits, but in which he earnestly condemns all interference of the general government, "as leaving to the States only the shadow of that independent action, for which they so zealously contended, and on the preservation of which they relied, as the last hope of liberty."

But the principles that are thus inculcated are in direct controversy with the experience of all former usage. The tendency of all power is to extend its limitation, and augment its influence, frequently, by the most unjustifiable usurpations; such, the direction and aim of all authority—the very natural bias of both federal and state governments; whose successful encroachments, are so many unwarranted invasions of the rights and privileges of one upon the other. The conduct of the Federal Government has scarcely been a whit more extravagant than the usurpations of the different States; and who have, in more instances than one, arrogantly assumed the rights appertaining to the supreme government of the country, especially in its connection and direct intercourse with foreign nations; and have so pertinaciously adhered to these recently asserted principles in their constitution, that foreign governments are sometimes at a loss in what form to direct their negotiations, or to know, with what particular intersection of these States, they continue to hold amicable, or friendly relations. The difficulties that must necessarily arise from this unsettled and undefined position, have been

instanced in the embarrassing progress of many of the negotiations, undertaken even by our own government with the United States, in which have been included the local or sectional interests of individual States ; at the same time, involving questions of great international concern, and that it were of the utmost consequence to the future good understanding between both countries, to bring to some definite and satisfactory conclusion ; such as the lately undefined state of our north-west boundary, that has only been brought to a close, under a conventional arrangement with the State of Maine, and supreme government--the embarrassments arising from the incidents connected with the late troubles along our Canadian frontier, and that have been the frequent and near occasion of open and direct hostilities between both countries. It would certainly appear to be the interest of the American people, as no doubt it is of European States, with whom they are in daily intercourse, that these difficulties should be speedily removed by some better and general understanding, by a further limit to the unreasonable exactions of individual States--by some clearer definition of the administrative power of the Republic--some responsible representative authority, invested with a more unrestricted, or better defined control, in all, or every matter of controversy between the United States generally, or any individual State and foreign nations ; that would disencumber its negotiations of the many difficulties and embarrassments, with which they are liable to be surrounded, and tend to

ensure that peace and good understanding, that should subsist between individual members of the one great family of civilized nations.

Article 2nd, section 1st, of the Constitution of 1787, and article 12th of the amendments thereto, points out the mode in which the President is to be elected, and declares, that he shall hold his office for the term of four years, from the date of his appointment:—this does not prevent his election for a second term, which may enlarge the period of his service to eight years.*

Under this provision of the law, each State appoints in such manner as the legislature thereof may direct, a number of *electors*, equal to the whole number of senators and representatives that such State sends to Congress; but no senator, or representative, or person holding any office of trust or profit under the United States can be an elector. The *electors* 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. The lists of the votes are then sent to the seat of government, directed to the Presi-

* The first Administration under Washington continued 8 years.

" Second	do.	do.	John Adams	do 4 do.
" Third	do.	do.	Thomas Jefferson	do. 8 do.
" Fourth	do.	do.	James Madison	do. 8 do.
" Fifth	do.	do.	James Munro	do. 8 do.
" Sixth	do.	do.	J. Quincy Adams	do. 4 do.
" Seventh	do.	do.	Andrew Jackson	do. 8 do.
" Eighth	do.	do.	Martin Van Buren	do. 4 do.
" Ninth	do.	do.	Harrison & Tyler	do. 4 do.

dent of the Senate; who, in presence of the Senate and House of Representatives, opens the certificates, and the votes are counted; the person having the greatest number of votes for President is declared to be elected to that office, provided he has the votes of a majority of all the electors appointed. If not, then the House of Representatives selects the President by ballot from the persons, not exceeding three, having the greatest number of votes.*

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of the Constitution, is eligible to the office of President. In case of the removal of the President from office, or of his death, resignation, or inability, the appointment devolves upon the Vice-President; and Congress may, by law, provide for the case of re-

* The following, shews the number of *Electors* to which each State was entitled, at the general election in 1841, amounting, in the aggregate, to 294; viz.—Maine, 10—New Hampshire, 7—Massachusetts, 14—Rhode Island, 4—Connecticut, 8—Vermont, 7—New York, 42—New Jersey, 8—Pennsylvania, 30—Delaware, 3—Maryland, 10—Virginia, 23—North Carolina, 15—South Carolina, 11—Georgia, 11—Kentucky, 15—Tennessee, 15—Ohio, 21—Indiana, 9—Mississippi, 4—Illinois, 5—Alabama, 7—Missouri, 4—Louisiana, 5—Michigan, 3—Arkansas, 3:—Grand total, 294.

The present Congress is chosen according to the Act of Congress of 1842, the ratio being one representative for every 70,680 persons in each State, and of one additional Representative for each State, having a fraction greater than one moiety of the said ratio, computed according to the rules prescribed by the Constitution of the United States. Present number of Representatives 223.

removal, death, or inability, both of the President and Vice-President, declaring what officer shall act as President, until the disability be removed, or President elected. The Constitution also requires that the President must be thirty-five years of age, and have resided fourteen years within the United States.

Many objections have been raised, from time to time, to this mode of electing the President and Vice-President of the Republic, as adverse to the spirit of the constitution, and the true principles of an entire representative system, on which it is supposed to be based. To our thinking, it savours somewhat of an absurdity; nor can the people, who are declared to be the immediate source of all power and authority, in these States, be deemed to exercise any certain positive voice, or veto in the matter. What are the facts? Two hundred and ninety-four citizens are chosen by, and from the bulk of the population. These two hundred and ninety-four are then to elect amongst themselves, by ballot, the individual, who, according to their suffrages, and not by the concurrent voice of a majority of the entire people, is to preside over the nation—its destinies and welfare. These citizens are men like unto themselves, with passions and frailties incidental to our common nature, exposed to unusual temptation; and though supposed to speak the wishes of the immediate constituency by whom they are elected, are still within the reach of any extraneous, or undue interference that may be resorted to, to restrain, or influence their vote. Once chosen, they are beyond further

control; and though elected to express the views and opinions of other parties, may, nevertheless, vote as they themselves think proper, and appoint whom they please, without being held accountable in their conduct, or proceedings to any party whatsoever. Public opinion in America, may have restrained, on all former occasions, the abuse of this trust, and may still do so; until the stake to be played for is of increased value, or that it involves something more than the mere peaceful government of an industrious and busy population. Yet, how apparently senseless, how perfectly useless this mode of election, if that the constitution really intends that the people are to be the governing power, and to appoint those whom they choose shall be their rulers. The men that they thus select to nominate a President, and Vice-President, for the Republic, are in no wise charged as being necessary parties in determining the popular will in this respect, which is previously ascertained through the ballot-box, at the time of their appointment; but which may be neutralized or set at nought by their subsequent action. In what possible way, then, do their services, or intermediate interference avail? Certainly in none that we can discover, except where they may be rendered purely mischievous, and instrumental to the entire subversion of this essential privilege, which is declared as of the constitutional rights of the sovereign people.

The income which the President derives from his office is small; rather limited, we conceive, to admit

of the expenditure to which, as the head of the nation, he is generally required to submit; restricted as it is, to a sum of twenty-five thousand dollars, or about five thousand guineas annually, which can scarcely be supposed to meet his necessary disbursements:—but his patronage is of an extensive, as of a dangerous kind; and in the hands of an ambitious and selfish man, might easily be used with disastrous consequences to the peace and well being of his country. 'Tis true, that he is nominally restricted in its application, by the Senate, which is privileged to exercise a veto in many of his appointments; but even this, when considering the mode in which such a control may be avoided, or rendered nugatory, together with the other, and many weapons within his reach, and which he may wield at pleasure; the absolute authority which he exercises over the various departments of the government, that are in fact responsible to him *only*, for their acts, unless that they are so glaringly inconsistent, or illegal, as to merit impeachment; with the sword of the country in the one hand, and its treasures in the other, it is impossible to consider him in the light merely, in which he is represented to the world, as the chief magistrate of a free people, under their immediate restraint, and incapable of, at any time, gainsaying, or disputing their will, or high behests. Should he act corruptly, or from design, it is also true, that he is liable to be arraigned before the general Senate; though this provision in the law may be considered a mere waste of words,

or of the parchment on which it is written, from the exceeding difficulty of its accomplishment, under almost any circumstances, and the unexampled patience with which every American would submit to the most oppressive wrong, rather than expose to the world any of the excrescences that grow out of their peculiar system.

The President is also irresponsible to any party during the term for which he is elected, for the course of policy, either in the foreign, or domestic relations of his country, he may choose to pursue: he is neither called upon, nor required, as of right, to enter into a vindication of his views,—an explanation of his conduct, or, to excuse himself from the errors of his government, however at war its measures may be, with the best interests of his country; which is compelled to bear with the infliction of the many blunders, the frequently admitted evils of his misgovernment, whatever may be their consequence, until the residue of the four years of his incumbency may expire. His power to do good is circumscribed by legal restrictions; his means of effecting evil, numerous—and, in a great measure, beyond control.

The now practice of changing, on every successive administration, the public officers—the retainers of the government, from the first Secretary of State, to the porter in charge of the door, or entrance to the Capitol, without reference to former, or past services, or the reward that a nation owes to its

public servants, has grown upon the country, without exciting the apprehensions, or jealousies of the people; who become reconciled to the practice, when told, that it is one of the necessary ingredients to their republican form of government, that the favours and patronage of the executive should be divided amongst its citizens, and that each in his own person, however unfitted for the duties, should share in turn in the emoluments of office. The hope of individual gain at the public cost, even at some distant day, reconciles the many who are expectants for situations, to any abuse in the distribution of government patronage; and closes their eyes to the alarming influence of the man, whose uncontrolled will may at any time wield a power at present unknown even to European monarchies, and destructive to the independence—whatever of real liberty that America possesses. In the first year of the administration of Andrew Jackson, (late President of the United States) he is said to have removed, or otherwise appointed, no less than two thousand one hundred, of all grades, to situations under the Federal Government.

The character of the men who heretofore filled this high and honourable trust, was an assurance—a sufficient guarantee to every American, that the power with which they were invested by the constitution would never be abused, or sullied in their hands: a time, however, may arrive when the bright example of their career may no longer serve to guide

their successors in the "path of honour, and the way to greatness," or check the ambitious, selfish design of some bold and daring innovator, who, reckless of all ties of country and of ulterior consequence, may avail himself of the uncontrolled authority invested in the chief magistrate of the Republic, and under the guise of a laudable patriotism, wield it with unerring and destructive aim, to the attainment of some sinister and dangerous purpose:—but these are of the natural consequences to be apprehended in confiding an unrestrained power of this kind to the hands of any one individual—an absolutism, uncontrolled by public opinion, or otherwise restrained by any of the guards, by which public liberty should ever be protected in its due and wholesome exercise.*

Accustomed as we are at this side, to the full and

* We feel assured that we shall be fully sustained in these opinions, by every American of intelligence, or who can soar above the prejudices of an early and narrowed education, to view these things in their proper light. We might recite instances where the same apprehensions, the same sentiments, have been acknowledged by men of all parties in the United States, even the most moderate in politics, who admit the evils we have pointed out, as inherent in the character or peculiar structure of their form of government, for which, however, they are seldom prepared to suggest or offer any remedy. We quote the following testimony in support of our views, from the published letter of General Winfield Scott, Commander-in-Chief of the United States Army (and who is now among the candidates for the next Presidency of the Republic), of date 25th Oct., 1841, to the people of the United States, explanatory of his opinions, on this, as well as on various other important questions, connected with the Government and well-being of his country:—

peaceful enjoyment of a rational freedom—the entire protection of life and property, under the mild and

“The President is, under the checks of the constitution and law, rightfully invested with the power of the sword, and he has again and again had that of the purse also. The House of Congress, it is true, lays taxes for imports, and regulates the sale of the public domain; but it is he (through his agents) who handles the proceeds. From 1833 to 1836, (to say nothing of the present) he alone nominated and dismissed all the agents who kept, as well as those who collected, distributed and disbursed the public revenue. The apophthegm—make us your executor, we care not who are your legislators—has a frightful application to such small agents, and the immense treasure that annually passes through their hands.

“The rapid increase and spread of population; the growth of national wealth; the amount of revenue collected and disbursed; the new relations (by the extension of commerce) with foreign countries; the additional appointments at home and abroad; the number and value of contracts—all constantly and necessarily on the increase; a general decay in morals, perhaps as great in Congress as elsewhere; the habit that we have seen prevail during the several Presidential terms—of filling public offices with but little or no regard to moral standing—have, taken together, already opened to government, elements of power and corruption, which it was impossible for the framers and adopters of the Constitution to foresee or to conceive. Who at that distant day, for example, ever dreamt of the spectacles which have recently disgusted every honest citizen: of post-masters, mail-contractors, mail-agents, and census-takers, covering the land with government pamphlets, handbills, and extra-gazettes, sufficient (if read) to sap the morals, public and private, of an entire generation? of Custom-house mercenaries in the large cities, living on the public, neglecting every duty for party meetings and the polls, and rendering to power the most bribe-worthy services? of district attorneys and collectors, rambling missionaries, defending every abuse of office—their own the most indecent—or in order to maintain power in the hands of their patron? All who have

salutary influence of just and wholesome laws, we can conceive nothing more threatening to peace and social order—nothing more alarming to the general well-being of society, or more destructive to a nation's welfare, its prosperity and advancement, than the excesses, with which the United States has been within late years familiarised,—the daring usurpation,—the uncontrolled abuse of all authority, of which the recent government of General Jackson has given such fearful example: the putting aside of all legal “responsibility,” as he termed it, unknown to, and unsanctioned by the constitution of his country; trusting to the forbearance—the quiescent temper of his fellow citizens—the apathy and indifference of the intelligent, perhaps from their incapacity to restrain his acts, and the shouts and plaudits of the multitude, in part made up of the ignorant of all classes, for a sanction to the most reprehensible conduct, in the pursuit and gratification of a mere personal hostility to the late Bank of the United States, the only remaining check to his morbid and sickly ambition: as also the unrelenting and party war waged by him, against the credit and entire monetary system of the country, which carried heart-burning and desolation in its train, ruining millions of industrious and enterprising citizens, and reducing to the utmost

reflected on the foregoing facts must be ready to affirm—that Executive patronage ‘has increased, is increasing, and ought to be diminished.’”

penury, many of the most wealthy, and previously independent of the community. For this—even this, there was no remedy at hand to stay his progress; no means to which the country might resort, but patience—patience which the people were called upon to practise; though in testing the “experiment” of this obstinate old man, no less than seven-tenths of the mercantile community were reduced to a state of *absolute bankruptcy and ruin!* The Senate raised some feeble remonstrance against his monstrous usurpation, and after much noise and angry discussion, contented themselves by merely passing a resolution, carried by a majority of twenty-six to twenty, declaring that “the President in the late executive proceedings, in relation to the public revenue, has assumed upon himself an authority and power, *not conferred by the constitution and laws, but in derogation of both.*”

If ever there was an act that deserved reprehension, and merited the united censure of an abused and outraged people, it surely was the unconstitutional and overhand measure of President Jackson. Yet, were there no further steps than these taken in vindication of the laws that had been abused—the constitution that had been thus trampled upon, to carry out the views and expositions of this modern political empiric, or to protect the country against its most wanton repetition. Even the Senate, which can seldom charge itself with any similar act of independence, neutralized this almost only effort on behalf of individual and popular rights, by expunging

from their records the condemnatory resolution, by which they had, only in the preceding session, recorded their opinion of the executive innovations of which it so justly complained; to administer to the vanity, and appease the wounded pride of the "old Roman," as President Jackson was familiarly termed, and to whom this august body, as if conscious of its worthlessness, bowed down in lowly and humble submission. But such is modern republicanism!—such, it would appear, a necessary and conjoined part of the structure raised with so much cost by our transatlantic friends, and commended to our choice as the noblest effort of man's genius in human legislation. Still, the consequence, as the primeval cause of all this, belongs to themselves, to which they will have to look in time; or else be prepared to see their country visited by some periodical scourge of this kind, levelling all classes, and sweeping all before it with the destructive violence of a tornado.

Article 1st, sec. 2 and 3 of the Constitution, states, the legislative power to be vested in a Congress of the United States, consisting of a Senate and House of Representatives, and prescribes the duties devolving on both.

Of the Senate chamber, it may, with some degree of propriety be alleged, that they constitute the only deliberative assembly, apart from their late subserviency, that is really entitled to assume the name—that can be deemed to possess a reasonable share of talent in their body, or preserve the least decency, or decorum in their proceedings. Chosen, or ap-

pointed by the legislatures of the individual States, each of which sends two members, (apart from the consideration of their relative population,) they form in their aggregate, a representation of the several commonwealths comprised in the Republic, and are supposed to act as a counterpoise, or, check between the federal executive, and the general representatives of the people in the other, or Lower House of Congress. They are generally men of talent, as of influence in their respective States, and number amongst them several of the most prominent public characters of the country.

A somewhat different description attaches to the Lower House, composed of members chosen from the great bulk of the population, in the ratio of one representative for every 70,680 persons in each State. To the majority a seat in Congress is purely a matter of trade—of mere mercantile speculation, in which the pecuniary advantages, as well as disadvantages are weighed, and carefully set one against the other; and in the end shares the fate of every saleable commodity in the hands of an American, being used for the purpose of increasing his temporal means—of ensuring his personal or individual advancement.

When taking into account the vast patronage of the executive, its power to remunerate the services and individual sacrifices of its supporters, it is, perhaps, only reasonable to expect, that the majority of this House, as the fact really is, are generally found the pliant creatures of his will, the ready instruments

of his power, or of any usurpation he may have the hardihood to attempt. Their legislative proceedings generally shew a lamentable deficiency of talent, of public virtue, as of gentlemanly decorum in their conduct to each other, as also in their order, or mode of transacting the public business; five-sixths of their time being consumed in personal and unworthy altercations, in violent strife, that frequently eventuates in the most unseemly abuse, or in direct personal conflict with each other; or is otherwise wasted in idle, frivolous, and interminable debates, which a stranger would feel some difficulty to understand, until assured that each of these modern lawgivers receives a sum of eight dollars per diem for their services, paid from the public purse for every day that the sessions may so continue its existence, and which he is the more apprehensive of bringing to a close by expediting its legislative business to its termination; for after all, eight dollars per day to an American, is a matter of some moment, particularly as the amount in settling up his account might very justly be classed under the heading of "nett profits," for which he seldom gives any fair, or adequate consideration.

Their proceedings are rarely published in the periodical, or daily press, except in an abridged and unusually condensed form; and are generally looked upon with a most stoical indifference by nine-tenths of the American people, who are seldom influenced in their habits, or local customs by the laws that may emanate from this source. Uncontrolled by public

opinion—uninfluenced in their conduct by any high or elevated purpose—seldom directed by what is called the public good, or the interests of their constituents, they mostly act without concert, without any previous arrangement; and preserving their individuality to the end, are generally unincumbered by an adhesion to the avowed or admitted policy, or measures of this, or any other party; whilst they are at all times enabled, by retaining the control and exercise of their own vote, to continue it in the market for the competition and further service of the highest bidder. Consistency, except in promoting their individual ends, is seldom an ingredient in their public conduct; and it is no uncommon exhibition to find an “Honourable” representative (for all members of Congress are entitled to this anti-republican adjunct to their names,) of either House, opposing on to-day some general act of the Government, and on to-morrow, approving of the same measure in all its various and complicated details. There is no organized “constitutional” opposition, as in England, to watch the policy, and scrutinize every successive act of the administration; no marshalling of parties, supporting opposite and conflicting opinions; and eliciting in their collision that truth and sound judgment, that under such circumstances might be expected from their deliberations; and also forming from their divisional and comparative numbers, some criterion from which to judge of the political feelings and sentiments of the country. Here every man acts for himself, and by

himself, upon his own individual responsibility; and it is not unfrequently the case, that the promoter, or mover of any public measure in the House, meets with his most determined opposition from the one, or other of the two representatives, seated immediately on either side of him.

All members of the administration, and those holding office under the Government, are ineligible to sit in Congress; lest, that they might be supposed to control the debates, or that the presumed bias in their opinions should interfere with the impartiality—the strict propriety of the vote they would be called upon as representatives of the people, to give on all occasions. This morbid sensitiveness—this “straining at a gnat,” possesses many countervailing disadvantages, occasioned by the absence at all times, of some acknowledged organ, or representative of the administration to guide, or take charge of all public measures originating with, or immediately supported by the Government; with the further inconvenience, caused by the frequent necessity of some responsible party to explain the views and intentions of the administration, which is thus brought to act more in concert with the people, to answer the numerous inquiries that grow out of almost every question, and that are incidental to almost every debate. It is surely no excuse, the difficulty or exposure that might result to the Government from this intelligent exposition of its views; instead of the refined special pleading, the ingenious sophistry with which they are now generally wrapped up, in

some unnecessary, diffuse, and verbose message of the President, or in the written explanations of some Government subordinate, as sometimes called for under the formulæ of a vote of either House. It is surely the people's right to possess this privilege with their rulers; for each representative to be informed in his place, and without the necessity of this special legislative interference on every occasion, of those measures of a public kind, the public disclosure of which might not militate to the public disadvantage. Such a course would remove the studied secrecy which now encompasses every projected measure of the administration, and put them to a test, that would disengage the valuable and good, from the dross and spurious admixture with which they are sometimes alloyed.

But this is a procedure, that we will be told by our American friends, is inimical to the spirit and principles of all modern republicanism; and detrimental to the full enjoyment of all rational liberty:—dividing with the people the essential power of self-government, which should always remain vested with them alone, and which forbids any necessary measure of legislation originating with the Executive; it being, as they conceive, a usurpation of the inherent rights belonging solely to either House of Congress. Such, we recollect to have been in accordance with the theory of Government—of ultra-democracy propounded by the late President Harrison in 1841; so fully explained in his inaugural address to the nation, under an apprehension of the

extremes of usurpation to which his predecessors had gone in the administration of the Government. This power he suggested should be altered, by diminishing both the patronage and influence of the Executive, making it the "agent," not the "principal," the "servant," not the "master;" and above all, by abating its dangerous interference with the course of legislation in Congress, which he asserts, should be always left free and uncontrolled by Executive interference.

The quarrels—the disgraceful bickerings and party feuds in which honourable members so often indulge, has grown upon the nation, until it now forms an almost daily part of its legislative proceedings. Scarcely a debate can close without some exhibition of this kind, often terminating in individual conflict, and not unfrequently in loss of life. It is to very little purpose that the organization of both Houses of Congress, subjects the conduct of each member to the control of a Speaker, whose authority on many recent occasions, especially in the House of Representatives, has been set at nought, as imposing inconvenient and unjust restrictions on the republican freedom which each citizen claims as his right, when not infringing any positive, or statute law of the land. Still the national character is injured by these excesses; the prosperity of the country no doubt retarded, and the legislative counsels of the nation brought into discredit by their frequent exhibition.

To the stranger these details may appear exaggerated; they are nevertheless true—borne out by our

own experience while in the country--admitted to exist by every intelligent and candid citizen who has paid attention to the matter, and sustained by the concurrent voice of such portion of the public press as may possess sufficient honesty and independence to proclaim the humiliating truth.—“Never in the annals of our country,” writes the talented editor of a New York paper,* “or in any other that professes to be enlightened and civilized, have such improprieties of conduct, such shameless proceedings, such a total disregard of order and decorum, and such a flagrant irreverence for rules been exhibited and permitted, as during the last Session of Congress (1837). There the sacredness that ought ever to characterise a legislative hall, the solemnity that ought ever to reign in the temple of the laws, the deliberations that ought ever to govern parliamentary proceedings, were literally trampled upon, desecrated, and contemned.

“Disagreeable and disgusting quarrels and disputes, unseemly acts of contention and strife, unhallowed words of provocation and abuse, and bitterness, anger, malice, and wrath strode conspicuously over order and decorum, civilization and respect. *Rant* assumed the prerogative of reason, and the speeches of many were more like the incoherent ravings of maniacs, than like the calmness of debate, or the ratiocination of enlightened minds. And so many, and so fierce were the strifes that were waged, that the House might be compared to an insurrectionary

* New York Transcript.

camp, the members of which were about to rush into the arena of civil war. The feudal barons of long bygone days were far more peaceable, and less antagonizing than a portion of our Congress. All respect for the place, for the occasion, for character, for country, appeared to be lost, and passion and rage held the reins. Where almost all were clamorous talkers, few hearers were to be obtained, and long and angry debates, procrastinated and defeated business, neglected duties, discomfited hopes, and dishonoured names were the unpropitious and hapless results.

“ It would not be fair, however, to suppose, that every man who has a seat in the National Legislature is included in this category. There are many, no doubt, who may claim an exemption, and to whom these strictures are in every way inapplicable; who are untiring in their exertions, and at all times eager to assume the duties, and fulfil the objects for which they are sent to Congress.”

It were, perhaps, difficult to trace this state of things to any one defined cause, or beyond the yet crude and unsettled state of American society, particularly in the more inland or remote sections of the country, from whence a considerable proportion of its members are chosen; together with the few restraints that exist under their peculiar organization, to control the passions—repress the expression of easily aroused feelings, or soften down the violence or asperities of men, who though drawn together under the sanction of the same law, and

for one common purpose, are generally strangers to each other—to the peculiarities of their dispositions, who, though selected to promote one common interest, and watch over the destinies of the same nation, encourage those personal, anti-national and sectional feelings, that acknowledge the existence of a separate interest in the different States—that too frequently interrupts the harmony of the public counsels, and are at all times at variance with the admitted prosperity and welfare of the country. We have, indeed, heard of other causes advanced as explanatory of this state of social and legislative disorganization; the disgraceful exhibitions with which the Halls of Congress are familiarised; whilst amongst the most general, and in which we profess our entire incompetency to determine, is the too frequent indulgence of honourable members in habits of intemperance, induced, perhaps, by the idle, the uncertain and listless occupations—the mode in which they spend their time, away from their usual business pursuits, while in attendance at the capital. The Honourable Henry Wise, Member of Congress from the State of Virginia, who is certainly one of the most influential and leading men in the House of Representatives, in writing to Judge Hopper, of the State of Maryland, in answer to a public invitation to attend a meeting of the Maryland State Temperance Society, in 1837, observes:—

“I state the fact, then, to the nation, that some of the higher Executive Officers at Washington, are, and have been, *notorious drunkards*—drunkards

in my sense of the term, habitually affected by ardent spirits—once a week—impaired in constitution by the use of strong drink ; and I further state, that I have often heard the reason assigned, and believe it was a valid one, for the House of Representatives of the Congress of the United States not sitting in the evening after dinner, when the public business required it, that many of the members were so much in the habit of intoxication, that they were not only unfit themselves for public duty after a certain hour in the day, but were likely to prevent others discharging their duty, by interrupting the order of proceeding. During the late part of the Sessions of Congress, when the two Houses were compelled to sit late, members, too drunk for the decencies of a tavern bar-room, were not uncommon sights in the Senate Chambers, and in the hall of the House of Representatives of a Republic, whose fathers handed down to it, the hallowed and immutable truth, that no free government, or the blessings of liberty, can be preserved to any people but by firm adherence to justice, moderation, temperance, frugality, and virtue. These are *facts*, Sir, which, in my name, if you choose, you may bring to the attention of the Convention, as worthy of the notice of the people of the United States.”

Thus saith the Honourable Mr. Wise, whose past life has in great part been devoted to the public service, whose patriotism and ardent love of country none dare impugn ; whose sincerity and high honour are unimpeachable ; and whose means of

forming a correct judgment on the subject to which he directs the especial notice of his countrymen, none will venture to deny. Yet, do we hope, for the sake of poor humanity, its frailties and sufferings, that he may have been deceived; and that from his own exceedingly temperate habits, and natural distaste of every excess of this kind, that he may have been unwittingly led into error as to his coadjutors in either House, with whom we shall now leave the honourable member to discuss the subject, whilst undertaking a brief consideration of the Local or States Governments.

CHAPTER IV.

State Governments—Executive power in each State—State legislative bodies—Their constitution—Their component materials—Qualification of Electors—General character of the elected—Their venality—The late William Cobbett—His letter to President Jackson, describing the character of the Pennsylvanian legislature—The United States judicatory—Judicial power divided between Federal and States Governments—Judges of the United States—Their general incapacity and unfitness for their situation—Salary unequal to their expenses—Want of encouragement to the proficiency or attainment of legal information in the United States—Judges Sutherland and Cheevers—Mode of appointing Judges in the several States—The term for which they hold office—Their salaries—Mode of removal from office—The demoralizing influence on American Society of the American Judicatory—Foreigners, especially Englishmen, placed beyond the pale or sympathies of American Judges—Foreigners counselled to avoid litigation—If forced to have recourse to legal proceedings in the United States advised how to act—Precautions necessary to adopt—Judge Betts and Judge Edwards—Strange and opposite versions of the same law—The abuse of judicial trust tending to encourage a Lynch law system—The little interest that Americans take in the daily proceedings of their several law courts.

THE Local, or State Governments of the separate commonwealths are nearly similar in their composition, or constitutional formation to the Federal Government of the country; the executive power of each State being vested in a Governor with the title *ex-officio* of “His Excellency,” their republican simplicity, and natural abhorrence of titles of all

kinds to the contrary, nevertheless.* Their legislative bodies consist of two branches, both of which are returned by the same electors, who may be said to compose the entire adult white population of the country:—the usual qualification being citizenship, with one, or two years residence, and payment of taxes. The only exceptions are the following:

In *Vermont*.—The legislature consists of a house of representatives only.

In *North Carolina*.—Representatives are chosen by the whole resident free citizens who pay taxes. But senators only by freeholders.

In *New Jersey* and *Virginia*.—The right of suffrage for both houses is limited to persons holding a small amount of landed property.

In *Maryland*.—The senators are chosen by delegates named for the purpose by the people.

In all the other States, the period for which the representatives serve is for one, or two years. The elections are *biennial* in Delaware, South Carolina, Tennessee, Louisiana, Illinois, and Missouri; and annual in the other States.

The shortest period for which senators serve in any State is *one* year, and the longest *five*. In the States of *Maine*, *New Hampshire*, *Massachusetts*, *Rhode Island*, *Connecticut*, *New Jersey*, *North*

* The rights of citizenship or naturalization are denied to all foreigners possessing European titles, until such time as they publicly renounce these—"degrading marks of monarchical government," and sign a declaration to this effect, which is immediately placed on record.

Carolina, Georgia, the senators hold their office for one year only. In *Ohio*, and *Tennessee* for two years; *Mississippi, Indiana, Alabama*, for three years. In *New York, Pennsylvania, Delaware, Virginia, South Carolina, Kentucky, Louisiana, Illinois, Missouri*, for four years. And in *Maryland*, for five years. When the senate of any State serves for more than one year, it is renewed by parts, or divisions, one-third of the number going out annually when they serve for three years; and one-fourth when they serve for four years. The removal is by halves every two years.

It is no very easy matter to speak of these several legislative bodies with composure, or in befitting language. To say that they are bad—very bad, will convey a very indistinct notion of their character and general usefulness, and afford the reader a slender estimate of their real value. Instituted for the declared purpose of preserving the rights and liberties of their fellow citizens, and guarding with jealous care the interests and property of the people whom they represent, they merge these and every other purpose, in the one absorbing consideration of self—self—to which their whole mind is turned, their every thought, their individual exertions made to subserve. Their political position is only valued, as it contributes to their worldly gain, and the advancement of their personal and worldly advantages. Chosen from all grades and classes of the people, they present a strange diversity of the most dissonant and heterogeneous materials—a gathering of the mere odds and ends of society, without reference

to peculiar fitness, or capacity for the efficient exercise of the important trusts which they assume. All matters of local legislation are nevertheless, within their province; the property of every individual in their respective States, within their jurisdiction; his life and liberty within their control; regulated by the laws they may choose to enact for this purpose.

The following presents a tolerably accurate analysis of the late House of Representatives, of the State of Massachusetts, as also of Pennsylvania; which affords a fair sample of the legislatures of the twenty-four remaining States: that of Massachusetts consisting of 241 farmers; 127 merchants or traders, including grocers, iron and lumber dealers; 44 lawyers and attorneys; 22 shipmasters; 22 manufacturers; 10 physicians; 12 clergymen; 8 gentlemen; 5 freeholders; 5 educators; 4 editors; 4 surveyors; 3 agents of manufacturing companies; 1 clerk of ditto; 3 shoremen; 2 underwriters; 1 civil engineer; 1 wood dealer; 1 deputy sheriff, or bailiff; 1 surveyor of lumber; 1 druggist; 1 drover; 1 oysterman; 1 saddler; 3 taylor; 1 silversmith; 11 carpenters and housewrights; 2 bakers; 3 printers and booksellers; 3 blacksmiths; 2 pump and block makers; 10 tanners; 2 soap boilers; 3 wheelwrights; 1 thatcher; 5 coopers; 4 shoemakers; 2 butchers; 1 chair and harness maker; 3 card makers; 1 paper maker; 1 tinman; 5 masons; 1 maker of playing cards; 1 looking glass maker; 1 paper stainer; 3 machinists; and 6 others, occupation not known

The same august body, in the year 1837, consisted of 239 farmers; 117 mechanics and handicraftsmen; 110 merchants and retail dealers of different callings; 36 lawyers and attorneys; 16 clergymen of various persuasions; 10 physicians and apothecaries; 30 manufacturers; 22 mariners or seafaring persons; 17 gentlemen of various characters; and 35 of other occupations.

Of these "other occupations," there are 6 surveyors; 4 inn and tavern keepers; 3 post-masters; 3 schoolmasters, or teachers; 3 newspaper editors; 2 deputy sheriffs, or bailiffs; 2 butchers; 1 broker.

Of the mechanics, the greater number of any one kind is, 8 tanners; next greatest, 6 painters, &c.

The House of Representatives of Pennsylvania is somewhat more select. It consists of 55 farmers; 15 lawyers and attorneys; 28 merchants and retail dealers of various callings; and 2 set down in American phraseology as gentlemen.

These details will convey to the reader some idea of the strange variety of character, and of persons, of which the local legislative assemblies in the United States are usually composed; the diversified materials of which they are framed and put together. What a strange medley do they present!—what a hotch-potch miscellany of all casts and grades of American society; from the anvil, as well the conventicle and pulpit—from the boiling house, as from the judicial bench—the shambles and slaughter house, as from the merchant's desk—the tailor's board, as from the plough—all—all abandoning

their natural and legitimate occupations, quitting the pursuits of a more quiet and rational industry to legislate and give laws to a nation, whose varied, uncertain, and ill digested form of government, we are asked to consider, as the perfection and acmé of human legislation :—at the same time that every species of unmeasured abuse is unsparingly heaped upon the Institutions of the parent country, from whence in point of fact they derive all that is of the least value, or in any manner worth preserving among themselves.

The character of many of these tribunals, we believe, to scarcely admit of any very strict inquiry. They however accord with all that their fellow-citizens usually require, or even expect from them ; who are generally prepared to extend to them immunity for any dereliction of their duties, except of a very flagrant kind, which they sometimes take care to visit at the next ballot-box. The following description of the Pennsylvanian Legislature affords, we verily believe, a tolerably correct portraiture of most of the others. The statement is taken from a letter of the late William Cobbett, written a short time before his death, and addressed by him to General Jackson, at that time President of the United States. It was extensively circulated in the several States of the Union, including the State of Pennsylvania, where we happened to be on the occasion, without one word of contradiction being uttered or published in reply : we may then reasonably presume its entire correctness :—

“ Names do but amuse me, I lived for eight years under the Republican government of Pennsylvania, and I declare that, I believe that to be the most corrupt and tyrannical government the world ever knew. I was several weeks at Harrisburgh during the sessions of the legislature, and upon my honour I believe that there was more personal corruption, more bribery, in the persons, in the legislature, and in office, more of this during the one session of the Legislature, than has ever taken place in Whitehall and Saint Stephens during the ten or twenty years that I have ever known them; added to which, were the *lowness*, the dirtiness of the villany; the vulgarity; the disregard of all sense of morality and of honour, making the whole thing so disgusting as to drive an Englishman half mad at the thought of ever seeing his country subject to such rulers. Oh Sir! I must forget the votes of the legislature bought by losing a game at cards at the tavern—I must forget the great game which the Bank of Philadelphia lost in that room of borrowed light, in the centre of the tavern, when the card-playing was going on, both day and night, Sundays not excepted, during the whole of the Sessions for the purposes of bribery—I must forget the betting-banks of Pennsylvania—I must forget the court-house at Harrisburgh, &c.”

But Harrisburgh, where the annual sessions of the Pennsylvanian Legislature is held, forms no exception in this particular. The same mal-practices—the same recklessness and disregard of pub-

lic decency may be found to exist at the capitals of many of the other States, which generally constitutes the head-quarters of the numerous band of jobbers, speculators, political quacks, and gamblers—idlers, and watchers—the parasites and hangers-on of those in power—the men of every kind of chance-work, with the retainers, and long list of needy dependants, who, with unerring instinct, crowd around the public offices, seeking each favourable moment to improve their fortunes at the public expense. But this is a perfectly legitimate pursuit, if not a laudable and praiseworthy occupation in America; assumed by a large proportion of the population, and sustained by the concurrent sanction of the entire, who insist on the principle of continued change, as an essential and commendatory part of their republican system.

It will scarcely be considered within our province, in endeavouring to afford some just estimate of American society and guard the emigrant from the numerous shoals and quicksands that everywhere surround him on his arrival in the country, to enter upon an analysis of the many and admitted evils that grow out of this state of internal legislation, though it were impossible to remain for three months in any part of the United States—to mix in the daily business intercourse of the country without feeling them on every side, in the insecurity that is every where given to property, as well as to personal liberty, and the general inefficiency of the laws for any useful, or beneficial purpose. For our

own part, we candidly state from our personal experience, that we should as soon live under the most intolerant of European despotisms, where we might at least hope to be freed from the venality, the corruption, and inherent vice, that marks the daily and hourly progress of American legislation, and the uncertain dispensation of its laws—believing as we do, that the despotism of one man, is at all times more supportable, more easily bearable, than the uncontrolled tyranny and oppression of the many.

Of an equal importance with the enactment of just and wholesome laws, is their due and proper administration. It were of little moment how far the legislature may have avoided, or fulfilled its obligations to the nation, if the laws that are passed for the protection of every man's home, his fireside—the liberty which is his inherent right, are set at nought, either by the incompetency of the judges to whose exposition these laws are confided—the partizan feelings that are known to exist amongst all grades of American society, or the venality, or moral turpitude with which the American judicatory has been so often and deliberately charged. To the hands of the judges is confided the highest trust a nation can confer; whilst no adequate means have been taken to ensure their stability and independence, or removal from those every day temptations to which their needy and restricted means has so unwisely exposed them.

The judicial power in the United States, unlike

to almost any other country, is divided under two distinct and separate responsibilities, between the Federal, and the States' Governments, each possessing separate and distinct authority within the same jurisdiction.

Under 3rd article, 1st section, of the Federal constitution, such power is vested in one Supreme Court, and such other inferior courts as the Congress may from time to time, order and establish. The judges both of the supreme and inferior courts, hold their office during good behaviour, and at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

The judicial power of the several States, comprises whatever of authority that is not expressly delegated by the constitution to the Federal Government; and extends its entire and absolute controul over the property and persons of the citizens of each State respectively; as well, as of all other parties being, or residing within their limit:—to subjects of other governments, as also to citizens of neighbouring States, who are equally amenable to their municipal and statutory laws, who may sue and be sued in their local courts, as in the courts of the United States, for debt, or the fulfilment of any contract made, or entered into without their territory, as within the strict limit of their jurisdiction.

The judges of the United States, as well as those of the several states, or commonwealths, may be said to form a co-ordinate part of the government of the

country, and to exercise an unlimited influence over its destinies and welfare : their decisions when not appealed from, constituting the laws of their respective States, until altered by some subsequent legislative enactment. Their mode of appointment and term of office is as varied and uncertain, as is the popular will, under which their several constitutions are framed, and in many instances quite as exceptionable.

There can indeed be but one prevailing opinion, even in America, as to the general incapacity and unsoundness of its judicatory—the glaring incompetency of the men to whose legal exposition and presiding care, is confided the property—the liberties, even unto life, of every citizen. Elevated to the high and responsible situation which they occupy, either from their known political bias—their recorded prejudices—their partisan feelings on some leading question of local, or domestic policy, with their general subserviency to those in power, without reference to peculiar fitness or talent, they, in nine cases out of ten, owe their elevation to their eminently possessing the very opposite of those qualities, that of all others should recommend them to the judicial seat. No man of any character in the United States will accept the appointment; no lawyer of eminence, or acknowledged abilities, undertake the office for the limited pecuniary prospects it affords. There is here but slender inducement for talent to exert itself—nothing to stimulate ambition, or excite an emulation to the attainment of that proficiency, so necessary to the due and pro-

per explaining of the laws, which they are called upon to administer. A lawyer of any note or in good practice, may reasonably hope to realise some six or eight thousand dollars per annum, and which presents much stronger motives to his exertion, than he could possibly ever feel in the prospect, or possession of a seat on the judicial bench. As it is—the judges of the land are frequently compelled to receive instructions from the bar, and to content themselves with the law as propounded to them by counsel, according to the interpretation that the interests of his client may, for the while, require him to attach to its ordinance.

We are fully borne out in these observations, by a strict analysis of the present state of the American bar; the general character and inefficiency of the men who occupy the judicial seat; the slender means at their disposal; the very few amongst them of any eminence or talent, and those few, annually decreasing by desertion from their ranks. During our sojourn in the State of New York, we were witness to two such cases: one, in the instance of Judge Sutherland of the *Supreme Court*; the other, of Judge Cheevers, *Chief Judge* of the *Common Pleas*; each of this State, and both retiring from the bench, for the purpose of *accepting subordinate situations in their own courts*.

The Albany Evening Journal, published at the seat of government, announced the retirement of Judge Sutherland in the following notice, with remarks:—

“ Judge Sutherland resigned his seat upon the

Bench of the *Supreme Court* this morning, and was immediately appointed by the Court, *its Clerk at Geneva*, in the place of Nathan Williams, deceased.

“ Judge Sutherland, in announcing his resignation to the Court, stated, that he was compelled to do so, in consequence of the insufficiency of the salary. He had not, he said, by the studied, strictest economy, during any of the twelve years that he had held the office, been able from the salary to support his family. By devoting, as he had done, the whole of his time to the duties of the bench, his private affairs, by long neglect, had become necessarily deranged, and, in short, that after nine years hard service, he was now as many thousand dollars poorer than when he took office.”

But there are other and equally strong objections to the *frequency*, as to the manner of these appointments, and the inadequacy of their remuneration; fraught as they are with mischief, and charged with difficulties that scarcely need specification. A “ door is here opened,” to adopt the language of an eminent modern writer, “ to party intrigue, and for the more dangerous purposes of private hostility and cabal, which it will ever require the strong reaction of popular virtue and steady habits to keep shut. How often will eminent lawyers, who would adorn these tribunals, refuse to accept a seat on the bench, when the terms of office are so precarious; and from those who do accept, what firmness and integrity are required, to overcome the temptations which the varying chances of re-elections will create! Among

such shifting succession of judges what is the prospect of sound constitutional decisions! Every new incumbent will pronounce, it may be, a new set of principles; and the law of the land will take its form and colour from every fresh election, and be a mottled patchwork, instead of an uniform robe without a seam. Still more glaring becomes the policy of the principle when the appointments are annual. To displace the judges from the Supreme tribunal every year, to give place to successors, who in another year are to share the same fate, and thus to make the temple of Justice the scene of a pageant, which enters on the stage, and then withdraws, like the shadowy kings of Banquo's line, is more a solemn trifling with the great ends of justice, than the policy of a wise and prosperous government."

"The duties of the judges are to expound the laws of the land, to pronounce those rules, and define those rights, which affect the character, the property and person of every individual in the community: upon the secure enjoyment of those rights, political, civil, and religious, depends the welfare of every citizen, and whatever interferes with their protection by the judicatory, whatever diminishes in the least degree, the certainty that impartial and just decisions will be pronounced from these tribunals, impairs the stability of those rights, and undermines the pillars of national prosperity. Every thing, of course, that tends to make the judge dependent on any extraneous power, whither popular caprice, party spirit, or executive, or legisla-

tive patronage, or displeasure, is an essential defect in the constitution of these tribunals, and threatens danger to the public at large.”

The following are the modes of appointment, the time for holding office, &c. &c. in the several States composing the Republic in 1836.

*The Judges those of the Supreme Court of
each government.*

In Massachusetts, New Hampshire, Maryland and Maine, the mode of appointment is by the Governor with the consent of the Council, a distinct body from the General Assembly.

In New Jersey, by the Council and General Assembly.

In New York, Kentucky, Indiana, Louisiana, and Missouri, by the Governor, with the consent of the Senate, the smaller branch of the General Assembly.

In Pennsylvania and Delaware, by the Governor.—South Carolina, Tennessee, Georgia, Ohio, Mississippi, Alabama, and Illinois, by the Legislature.

Term for holding office.

In Massachusetts, New Hampshire, Pennsylvania, Delaware, Tennessee, Louisiana, Illinois, no limit is prescribed.

In Connecticut, Alabama, and Maine, the limit is seventy years of age; in Missouri and Mississippi it is sixty-five.

In New York it is sixty years.

In New Jersey, Ohio, Indiana, the judges are appointed for seven years.

In Georgia, for three years, and in Rhode Island and Vermont, for one year only.

The causes of removal are generally the same throughout the different states.

The mode of removal.

In all the states except Rhode Island, Maryland, and North Carolina, the judges may be removed after conviction upon impeachment. In Rhode Island no provision is found in the Constitution for removal in any manner. In Maryland removal follows conviction on a presentment of a grand jury of the Supreme Court.

In Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Maryland, Georgia, Kentucky, Louisiana, Illinois, Alabama, Mississippi, and Missouri, the judges may be removed by the Government upon the address of both houses of the legislature. In others two-thirds—in others three-fourths must unite in this address.

Salaries.

In Massachusetts, Pennsylvania, Delaware, Virginia, Ohio, Indiana, Mississippi, Illinois, Alabama, Maine, and Missouri, the salaries of the judges may be increased but cannot be diminished.

In New Hampshire, South Carolina, Georgia, and Louisiana, the salaries can neither be increased nor diminished.

In North Carolina, Kentucky, Tennessee, the constitution requires that an adequate salary shall be attached to the office; a provision apparently authorizing an increase and decrease.

In Rhode Island, New York, Connecticut, New Jersey, Maryland, and Vermont, no provision is made by the constitution.

The salaries, except those of the chief and six associate judges of the Federal or United States court, vary from two thousand, to two hundred dollars, or from about four hundred to forty-five pounds sterling, annually. In some few instances they amount to about three thousand dollars, and in one only, (State of Louisiana) to five thousand dollars. On the other hand there are several—the five judges of the court of Common Pleas of Rhode Island, for example—who receive no salary whatsoever, but are paid by entry or fees paid in their respective courts.

The pernicious and demoralizing influence of this state of things, with the abject and entire dependence of the judicatory upon the extraneous power which controls its action, the free and independent exercise of its duties, is pregnant of evil consequences to the entire community. It extends its influence to the remotest part of the republic, and finds its way to the domicile of every individual; interfering to a certain extent, with the social and moral duties of every citizen. It has succeeded in introducing a set of men to the judicial bench in no wise competent to assume its duties; at the same time

that it has made "American justice" a bye-word of doubtful, if not of sinister and ominous signification, throughout all parts of the world.

We need scarcely refer to the daily and published records of the country, or other authentic sources of information, to bear testimony to the malversation, and abuse that every where abounds; wherever the cupidity or weakness of the judge has become interested, or the passions or prejudices of the court been called into exercise: being well convinced from our own experience in the country, not only of the lamentable want of ability, but also of integrity and moral fitness of the generality of those called upon to administer the laws, to whose tender mercies the lives and fortunes of every individual are necessarily committed: and from whom, under their present organization, we might as reasonably hope for a fair and impartial administration of justice, as from the veriest and most corrupt tribunal of the least tolerant of European despotisms.

To the native citizen this void in the internal government of his country is perhaps the more easily reconcileable; it being in part the work of his own hands, the result of his own happy choice. He can blame only himself; whilst the remedy, were he to unite with a majority of his fellow-citizens to bring about a change, is easily within his means of realization. But not so the foreigner, especially the Englishman, who has arrived in the United States with very different

anticipations, and who generally, placed beyond the pale or sympathies of this or any other party in the country who might control justice in its fair exposition as regards him, has more to fear in this respect, more to apprehend for whatever of restricted freedom or protection he may enjoy, while assailed by the continued jealousies, the unreasonable dislike, and narrowed prejudice of a large proportion of the American people; who are uncontrolled in this respect, by the natural and common influence of education, or softened down in the virulence of these antipathies, by any generous, or more general intercourse with the rest of mankind. It certainly becomes the duty of the foreigner under such circumstances, to place the strictest guard upon his actions—to avoid every species of litigation as a game in which the odds are at all times against him; in which defeat (however justice, and equity may preponderate at his side,) is sure to overtake, and in the end, to mark him out as its victim.

Occasions, it may be urged, will nevertheless arise, when with the most peaceable intentions, and an earnest endeavour to avoid all species of legal controversy, a foreigner—an Englishman, may find it impossible to escape the snares and covert designs of others. If compelled, under such circumstances to enter the lists of legal warfare and risk his fortunes to its uncertain influence, he should endeavour to imitate the example of his American friends, and practise a well-understood lesson of American prudence and foresight, by carefully selecting such

person only, to act as his professional or conducting agent, his attorney and lawyer, (for here both professions are held conjointly by the same individual,) as he may have reason to know possesses not only what is termed "the ear of the court," but whom, he may also ascertain, professes the same politics, belongs to the same clique, or party in the state, and is otherwise on those intimate and familiar terms with the presiding judge, in the court where his suit is to be tried : of which many lawyers avail themselves to secure admission to his confidential intercourse, or private interviews, even on matters of a purely judicial nature, in which they may be professionally interested, and at the time passing under his observation as a judge. These favoured parties are generally well known in every city and town in the United States ; as are those lawyers professing opposite views, and in whose hands, however well versed in the every day practice—the more profound or other legal quiddities and subtleties of their profession, the best and most righteous cause stands a fair chance of being lost. We can ourselves bear witness to the working of this system. We have seen it in its nauseating and most disgusting form ; where the political bias, the anti-national prejudice and dislike of the judge of the Supreme Court of Judicature, (and we more than suspect his avaricious predilections,) have marred and shamefully perverted the ends of public justice, in the face of the most astounding facts, and contrary to the strongest possible evidence laid before him ;

perfectly heedless of the injury and wrong done to suffering and unoffending parties, whom an imperfect and vitiated legislation had unfortunately placed at his mercy.

Neither do we believe this malversation and abuse of a high judicial trust to confine itself to the numerous body of selfish, ignorant, and incompetent men, numbering some three or four hundred, scattered over the wide surface of the republic, to whom is entrusted the dispensation of public justice; but that the taint reaches to the higher class of American judges, to whom the public have a right to look for some better example, and a surer protection in the enjoyment of their properties and civil rights. We can ourselves recollect being present in the Federal, or United States district court of the southern district of New York, and hearing the present Judge Betts, filling one of the highest judicial situations in the country, in an important action tried before him on questions with which we were familiar, and where the damages to the plaintiff were laid at ten thousand dollars, and a public functionary of some consequence the defendant, so deport himself throughout the trial, and in his further exposition of the law, in charging the jury, who before had determined to award exemplary damages, that the plaintiff was thereby, and contrary to every legal and equitable principle, deprived of all adequate compensation for the notorious wrong he had sustained. We have known the same plaintiff but a very short while afterwards, made a defendant

in just such another suit, with which we were equally conversant, in the supreme court of the same State, (New York) and tried before the Honourable Judge Edwards, in which the same legal questions were involved, the same doctrine of "probable cause," the pivot on which the case rested; when this profound and erudite judge, propounded dogmas—asserted legal principles, the very obverse, the very extreme, and antipodes of those which a few weeks before we had heard declared in solemn seriousness, and almost within his hearing by Judge Betts, as the settled and firmly established law of the land. We have indeed, heard and seen this—the same individual in the one suit, either robbed of a fair, or just equivalent for the injury, or loss he had most wantonly sustained; and when immediately after, as a defendant in another court, almost within the same building, and by *means of a directly opposite version of the same law*, mulct in a sum of fifteen hundred dollars and costs; and both, or either of these learned functionaries, influenced by motives we could well define, standing erect in this shameless prostitution of justice—this scandalous abuse of laws they were called upon to faithfully and impartially administer.

It were a difficult matter, we confess, to recognise the law under these strange curvetings—to anticipate whatever course it may take in its dispensation, or to know what precise rule an innocent and oppressed man should pursue in the usual or daily concerns of life; the experience of the past being but seldom a guide to the future; the laws of

yesterday as seldom the laws that are to direct and govern us on to-day ; and both essentially different from those that are intended to control our actions on to-morrow. The public press, that in England is generally a fair echo of the public voice and the best protector of its rights and liberties, independent of the moral, the high-toned and constitutional formation of our own legal tribunals, is the best corrector of these, or any such like abuses, that might perchance creep into our system. But not so in America, where public opinion is scarcely defined, or at least of very uncertain influence in the correction of these or similar excesses—where the private or individual affairs of most men absorb every thought, and engross every mental effort in the advancement of their more immediate concerns, destroying in a great measure every noble and elevated feeling, all kind of friendly sympathy for each other ; while they take but little interest in watching the course of any judicial proceedings in which they themselves are not immediate parties, or in some way directly concerned ; and rarely trouble themselves with the correction of public delinquencies of this kind, so long as the consequences appear removed from their own threshold. The press of the country seldom interferes in such matters ; but would rather sanction the continuance of these, and far greater evils, than by using a corrective, admit the existence of any abuse, however dangerous to their peace and liberties, and that may not be directly chargeable to any of the opposing poli-

tical parties in the state, or to allow any defect in the formation or working of their system of self-government to appear in its true and natural colouring before the world.

It will perhaps be said, that when an injury such as we have stated, is thus visited upon an innocent party, through the wantonness, the depravation, or misconduct of the judge, the law of America, being to a great extent assimilated in principle to the law of England in this respect, provides a remedy, in an appeal to some other or higher tribunal. But such is not the case in every instance. The appeal from Judge Betts sitting in *Nisi Prius*, was by the rules of this court permitted only to Judge Betts as sole presiding judge in his own court of appeal : and when that the party complainant did so appeal from " Philip drunk to Philip sober," and that a case had come before this just and discriminating expounder of American jurisprudence, for correction, according to the practice of the District Court, previous to its being again brought before him on argument, he disavowed every word he had so uttered in his elaborate disquisition to the jury on the trial—disclaimed having proclaimed the novel and heterodox opinions he had publicly asserted, and that *had coerced them in finding their verdict* ; and directed a new and opposite version of his *charge*, such as he had never spoken—perhaps until then, had not reasonably thought of, but now concocted and arranged in his private study " *to be substituted instead* ;" as one which he could feel no

apprehension in placing on record before the world. An effort was made by the appellant in this suit, who had already expended large sums of money in its prosecution, to induce "his honour" to revise and alter this proceeding, and afford him some reasonable chance, at least, of maintaining his rights. But the tenacity with which men cling to error, the perversity with which they adhere to wrong once perpetrated, was not to be overcome in the instance of this public functionary; and the further prosecution of this suit was consequently abandoned.* The appeal from the decision of the

* It may be necessary to explain to our legal readers, as to others, the difference between the practice, and law of England, and of America, in matters of this kind. We believe it to be the case, according to the usage of the British law courts, that when a plaintiff or a defendant in a suit already tried, intends to appeal from the decision or verdict had against him, an application is generally made within the four first days of the next ensuing term to the judges of the court in which such suit was originally instituted, for a "*rule nisi*," praying liberty to set aside such verdict by entering up a nonsuit or verdict instead, for the party so appealing; or to grant a new trial founded on exceptions, or points of law raised on the trial, or on certain alleged facts set forth in an affidavit already on file: these facts generally, being some newly discovered evidence—or, of being taken by surprise; or what is sometimes the case, the misdirection in the charge of the learned judge to the jury, under which their verdict was rendered. A day is thereupon appointed, or comes on in course for the hearing; when the points raised, on which the rule is endeavoured to be made absolute, are fully argued before the court; and are overruled or admitted, as the case may justify: *all action, or proceedings on the original verdict being stayed in the mean time.* But in the American law courts, the prac-

Honourable Judge Edwards was in like manner given up, the learned judge in the full plenitude of

tice in such cases is very dissimilar. The attorneys of both parties, plaintiff and defendant, are there supposed to take a full and accurate report of the proceedings as they actually occurred on the trial, including the judge's charge, &c. Should either intend moving to set aside the verdict delivered by the jury, notice thereof is given within a certain prescribed time by the party so appealing, to the opposing attorney, and a copy of the report of the trial so taken, transmitted therewith, for his assent or correction, should it vary from the report that he has himself made out. This is called "*a Case*," which is thus returned to the appellant's attorney, with any alterations or amendments there may be; and thereupon submitted to the judge who may have tried the cause, to correct or reconcile the discrepancies in the report, should any exist between the said parties: after which the question of setting aside the verdict comes up for argument before the court. In the cause referred to, which was tried before the Honourable Judge Betts of the Supreme Court of the United States, the ground of appeal on which it was thought to supersede the verdict, was the extraordinary, perverse and wrongful interpretation of facts, and the plainest law, by the learned judge in charging the jury (to which exceptions had been taken on the part of the plaintiff on its delivery) by which they were coerced in their decision, and the plaintiff thus deprived of any reasonable equivalent for the loss he had sustained. Yet, whatever this charge may have been, whether delivered under the influence of corrupt or unworthy motives—whether or not the doctrine laid down by the court was, or was not, the law of the land—whether contrary to every former precedent, and opposed to every established principle of American jurisprudence—the public, but more especially the plaintiff or injured party in the suit, became invested with an absolute property in its existence, and had a right to claim any advantage from its correct and faithful report being included in his

an arbitrary and unconstitutional discretion, and in perfect understanding with the plaintiff's attorney, who was of those entitled to his private and friendly interview, refusing to stay proceedings in the cause, until an application could be made, and argument had in legal course at the next sitting of the court, on the reserved points made by counsel at the trial; and by which means the plaintiff, favoured by a most iniquitous verdict, was enabled to enter up judgment, issue execution, and satisfy his demand before that a time even *could arrive* to the defendant to bring his case on appeal, before any competent legal tribunal for further hearing and adjudication.

Case, in his further efforts to set aside the verdict on the grounds we have stated.

The suppression of this charge and substitution of another instead, declaring a very opposite version of the same law, by Judge Betts (when the case subsequently came before him for revision previous to its being argued) which this learned functionary never uttered, and perhaps never thought of on the trial, was a grievous wrong—a severe and deliberate injustice done to the plaintiff or appealing party—an outrage upon decency, and as it must appear to be, an outrage of no ordinary kind, against the due and impartial administration of justice—even in America.

We have dwelt upon this subject from its extreme importance in faithfully characterising the law of this country—the door which is thus open to the most iniquitous wrong, with the evil which it inflicts upon society in America; where it virtually abrogates the trial by jury in all cases of civil controversy, and leaves every suitor at the mercy and disposition of every venal and corrupt judge, before whom any cause may be called up for trial and adjudication.

But such is American law.—Such indeed a fair sample of American justice in its every day practice ; so little calculated to secure our respect or ensure the least measure of our confidence. When such things can come to pass, and find a response in nearly every state of the republic, are we to feel surprised at the distrust, the little reliance that is placed, even by Americans, in the honesty and uprightness of their rulers, in the efficiency of their legal institutions, or the integrity and good faith of those entrusted with the protection of their character, life, and property ; that exhausting human patience, seeks a requital in the wild and fierce revenge, of which in America, we have had so many and fearful examples. The Lynch law code, the reenactments of the unrestrained violence of savage life, is partly of its generating ; and which is even attempted to be sustained in its principles, by the asserted necessity of its influence, in checking the growing licentiousness of the people, who are otherwise uncontrolled by the equitable administration of any milder law, in which reliance can be placed for the protection of the innocent, or punishment of the guilty.

Some estimate may be formed of the little interest that Americans attach to the proceedings in their law courts, and the little time they bestow in the consideration of all such matters, from the fact, that these courts are often held with an auditory of some two or three attorneys or lawyers, and of scarcely half a dozen other persons, the parties perhaps immediately concerned, as listeners to the

proceedings. It is not unfrequently that we have gone into the United States District court of the south district of New York, and besides the presiding judge, finding only his register or clerk, two or three lawyers, one representing the plaintiff, the other the defendant, and engaged in the midst of a legal argument of some importance to the luckless suitors, besides whom, the crier, and door-keeper, there was scarcely another present. We could no longer feel surprise, at the conduct we have already noticed in the presiding functionary of this court; in part attributing to this general exemption of all law proceedings from public observation or notice, with the near certainty, that whatever might transpire within these courts, the report would seldom travel beyond their precincts, the lax and very culpable conduct with which we have already charged these institutions.

We have endeavoured to impress upon the emigrant who may have the misfortune to be involved in legal warfare in America, the expediency, we might have added the necessity, with a view to an impartial adjudication, or of the ultimate success of his suit, of employing only such counsel or conducting agent in any such he may undertake, as may at least be on some friendly or amicable footing with the presiding judge. We have known instances where undue means have been resorted to from the facility of access to the judge's private study, or his personal dislike to the opposing party, and where the litigant, contrary to every just expect-

tation, has in consequence, wrongfully succeeded in the attainment of an unjust, and unworthy object. At the same time that we have known lawyers, and of some eminence, refuse to be engaged in a suit, unwilling to risk their reputations from a certainty of defeat, in acting in conjunction with others of their profession to whom the presiding judges of the court were known to be hostile. Nay, to such an extent does the influence of a friendly feeling or otherwise, existing in the court extend itself, that we were ourselves individually concerned, on behalf of another, or third party, in a chancery suit in one of the most influential States of the Union, when the course, or proceedings to be adopted were suggested and definitively arranged, the bill altered and amended in private chamber by the very judge who was afterwards to adjudicate and pass upon its merits, when before him in open court. We inquired of our solicitor, how such could come to pass, or for an hour to be tolerated amongst any thinking or well-regulated community? and received as our answer, that "His Honour," was in fact indebted to a memorial that had been signed by this individual, as by some others, in placing him in the high official situation which he then occupied, and could not well refuse any return service of this kind, that my informant might at any time choose to exact from him.

CHAPTER V.

Alderman or assistant Justices' courts—Easy mode of recovering small debts—Characteristic scene in an Alderman's court in Philadelphia—Of American Lawyers and Attorneys—Both professions conjoined and held by the same individual—The great inconvenience occasioned thereby to suitors—Litigation in America—Average number of cases usually for trial on the calendar of the principal state courts—Unusual procrastination of suits—Qualification necessary in adopting the legal profession—The character of American lawyers generally—Their want of all honest principle, with the danger and risk of any man entrusting his affairs to their hands—The late Henry Storrs of New York—David B. Ogden—Hon. G. W. Dallas, with other practitioners at the American bar—The existence of a dangerous legal society in the United States, directed by a Tetrarch or head—Their rules and organization—Their special objects and power—Honourable W. Livingstone, late Minister to France, supposed at their head—Their dangerous influence on American society—Laws for the settlement and regulation of property in the United States—Rights and privileges secured to married females—Laws relating to debtor and creditor—American bankrupt law—English bankrupt law possessing no efficacy in the United States—Facilities given in the United States to sue on behalf of British or Foreign creditors—Mode of proceeding in such cases—Insolvent law of the several states—The law of one state inoperative in any other—The efficacy of a judgment recovered in any of the states—Foreign judgments received only as evidence, as indebtedness to be otherwise established by due legal process before that execution can issue—Insolvent law in Philadelphia—Its mode of dispensation exemplified in a remarkable case tried before the Honourable Judge King.

IF that the higher legal tribunals of the country are distinguished, as well for their profligacy, as for

their general incapacity and unfitness, they are certainly equalled, in this respect, by the inferior, the Alderman or assistant Justices' court of each state; amounting to several hundreds, and instituted for the purpose of securing to the creditor, a cheap and speedy mode of recovering small debts; varying in amount from the smallest sum, to fifty dollars, and in some instances to one hundred. They are generally, in the larger populous cities, in daily session; and were, no doubt, originally intended to answer the same purposes as our municipal, quarter sessions, or civil bill courts; though generally exempt from the control and inconvenient restraint of jury trial. The presiding officers are usually taken from the humbler walks of the legal profession, and are humble in talent and all useful information—frequently in morals, and always in the extent of their legal acquirements. It matters very little in any of these tribunals, on whose side, plaintiff or defendant, the weight of evidence, justice, or truth preponderates; judgment being awarded in nineteen cases out of twenty, in favour of the plaintiff; who in the language of a late talented writer—“retires with the consciousness of having gained profits and advantages by his superior cunning, and the vanquished, with the disgusting and demoralising conviction, that a tribunal of his country has allowed injustice to be done him.”

The following characteristic scene is said to have actually taken place in the office or court-room of Alderman B—s, of the staid city of Philadelphia,

and in a case then before him, wherein the plaintiff claimed a considerable sum for goods sold and delivered; but produced no vouchers, nor examined any witnesses in support of his demand. We will not undertake to vouch its absolute authenticity, whilst we readily give the statement as affording a fair specimen of—"Justice of the Peace law" in America.

After the cause of action had been stated, the following dialogue is reported to have taken place between the Justice and Counsellor N—s, of the Philadelphia bar, who represented the defendant.

Justice B—s.—"Well, Mr. N—s, what has your client to say in this matter?"

Counsel.—"Certainly nothing, Sir; it can hardly be deemed incumbent on him to resist a claim wholly unsupported by testimony."

Justice B—s.—"What, Sir—do you imagine that a man would have the boldness to sue another before me, without some ground of complaint?—the thing is impossible. It behoves the defendant, therefore, to prove that the plaintiff was in the wrong, and in the absence of such proof, the conclusion of law is against him."

Counsel.—"But may it please your worship, it is both illogical, and illegal, to call upon me to establish a negative."

Justice B—s.—"I call upon you to do no such thing. It is a clear affirmative, viz. that the debt is paid. Every plaintiff has a *prima facie* case,

which must stand good, until something is shewn from the other side to destroy it. I have so decided one hundred times, without exception or appeal. Mr. N—s, judgment must go against you.”—And judgment went accordingly.

From this, we shall now turn to another branch of the legal profession—the lawyers and attorneys, who, though altogether separate in the nature and character of their respective duties, are nevertheless held conjointly by the same individual. This practice, so opposite to English custom, is generally attended with inconvenience to a suitor in the American law courts; and apart from the increased profits it may bring with it, cannot prove otherwise to the lawyer whom he may select as his professional agent. It is impossible, that in the clashing of the separate duties of counsel and attorney, that require the former to truly and faithfully expound the law according to his judgment, and the facts submitted to him, on the one hand, and the interests and pecuniary inducements of the attorney, to increase and add to the number and amount of his bill of costs, on the other—to which his duty as an advocate is often made to give way—the interest of the client can possibly be preserved, or at least properly attended to; but that a plaintiff is frequently compelled, against his interest and better sense, to go into court, either as a complainant, or otherwise, to defend some unprofitable law-suit, merely to promote some sinister views of some corrupt or dishonest

agent, without merits, or the slightest legal justification to sustain his proceedings. Should he on the contrary, fall into hands disposed to deal fairly by him, he will also meet with difficulties from this conjunctive and complex arrangement of the two professions. The lawyer, in order to do him justice, is often obliged to neglect his most essential duties as an attorney, to afford him opportunities to search out precedents, if, indeed, that they are of any value in an American law court, and to make himself thoroughly instructed in the technicalities and legal bearing of every new feature of the case he has undertaken: whilst as the attorney, on the other hand, seeking to perform this equally essential part of his duty, he is oftentimes compelled to lose sight of the necessary share of a lawyer's profession, for the purpose of looking after, and instructing witnesses—copying records—preparing and serving notices, and otherwise arranging with proper care, such necessary evidence as will sustain his declaration, or plea, when called upon to prove, or defend his case, before a court or jury. The result of his exertions are consequently at all times uncertain, and generally unsatisfactory; whilst a cause is seldom set down for trial, that either party are prepared to go into evidence.

There are generally from two to five hundred cases on the calendar for trial, at the opening or commencement of each term, of the principal state courts of Boston, New York, Philadelphia, and other populous cities of the Republic; one-fourth of the

number being seldom called up for hearing; while the remaining three-fourths are allowed to descend to the next ensuing term—then to the next, and so on *ad infinitum*, so long as the attorney or lawyer, may assent to the postponement; the client being seldom admitted as a party in any negotiation of the kind, which is generally continued to the period, that no further costs are to be made by the delay.*

The restrictions usually imposed upon every citizen in qualifying for the profession of a lawyer, are so trifling, seldom exceeding three or four years' apprenticeship in an attorney's office—the probationary course of study to which he is supposed to submit, so very circumscribed—the inducements to enter the profession, from the inordinate litigation so prevalent in every part of the United States, so great—that it can scarcely be a subject for wonder, that but few of those evidences of respectability and talent, so remarkable in this influential body in England, are discernible in the American bar. In no part of the civilized world is so much dross, and base material, intermixed with so little

* The average, we apprehend, is nearer to *six* hundred! The "Bangor Courier," of the State of Maine, one of the least populous states in the Republic, in giving an account of the litigation encouraged amongst its citizens, says; "At the Court of Common Pleas lately held in that town (1836), there were *twenty-five hundred cases* on the docket; and on the docket of the Supreme Court, which was expected to be held in the same town in the ensuing week, there were *sixteen hundred cases!*"

of what is valuable and good—so little to be found of honour—so little of probity, or worth—so little of good faith, or indeed of honesty in its more simplified meaning, that it were really a risk for any person to entrust an American lawyer, or attorney with an insight to his affairs, or to consult him on any difficulty or embarrassment in which he may be placed. Traders, in the fullest sense, they readily barter the interests committed to them, for the merest prospect of personal or individual gain, and deride with a cold and unmixed selfishness, the misfortunes—the tenfold misery and want, of which they are often the fruitful source. We speak advisedly on this subject, as well from a considerable experience, as from the assurances and repeated statements of others, on whose truth and discernment we could rely. Our own business in various parts of the Republic, as well as the business of others especially confided to our charge, rendered it necessary at different periods, that we continued in the country, to employ some twelve or thirteen different professional agents, (lawyers and attorneys,) many of them sustaining a high and even an honourable reputation amongst their compeers; such men as the late Hon. Henry R. Storrs,* William Betts of New York, J. Duer of New York, David B. Ogden,† Hon. J. K.

* A man of extraordinary and brilliant talents, and for some years a member of the legislature—he is since dead.

† Who is of very considerable eminence, and one of the leading members of the New York bar. His practice is generally

Kane,* Hon. J. M. Dallas,† with others whom we forbear to name, and can truly aver, that of the twelve or thirteen it was necessary we should confide to, nine of the number, either shamefully and deliberately betrayed the trust we had reposed in them—became accessaries with the parties opposed, to do us mischief, or otherwise compelled us to purchase their fidelity and questionable services, by the tender and payment of an unusual and extravagant bribe; which the tender consciences of these individuals no doubt set down as the legitimate perquisites of an honourable profession.

It is no very unusual practice in the United States, that when a suitor is compelled to employ one of these gentry, he also retains another of the profession, to attend and watch his movements; and to apprise him of any irregularity he may detect in his proceedings. This may be a good, though we suspect it a hazardous device, with the untutored in legal matters; especially, if these parties should chance to be on any good understanding with each other.

confined to the United States Courts (the Court of Errors, the Senate,) or in appeal cases at Washington.

* A near friend of the late President Jackson, and connected with his Government as one of three Commissioners for arranging the late French Indemnity to the United States.

† At the time of our employing him, Attorney-General of the State of Pennsylvania; since then, the United States Minister at the court of Russia, and now *Vice President of the United States*.

We have frequently been assured in the United States, of the existence, in connection with the legal profession, of a wide spread and dangerous legal society, which has extended its influence to every part of the Republic, and by its secret workings becoming a prolific and poisoned source of litigation; blighting the prospects of many a fair and industrious family, and everywhere carrying trouble and misfortune in its train. So secretly arranged are its measures—so well contrived all the plans of this dangerous and irresponsible body—so perfectly veiled from public scrutiny, and observation, that its acts pass unnoticed before the world, and are unknown to the very parties who are the sufferers, or who are most served by their proceedings. This latter class it may be presumed, form a limited proportion of those, who are drawn into the meshes of this dangerous coalition; whose labours are incessant, and directed rather to promote and serve their own immediate ends, than to advance the interests and views of parties, whom perhaps, they have never seen, and with whom there exists no possible sympathy, or any two ideas in common. We subjoin the following hasty sketch of this society; for though the emigrant may at first be removed beyond its influence, occasions may possibly afterwards arise to bring him into more immediate collision with its proceedings.

This society differs in design and organization from any we have ever heard of. It is composed of thirty-three members, all of whom are lawyers

of the most efficient character; constituting an invisible chain of intelligence, extending from New Orleans to Boston. The ruler of this select corps, called the Tetrarch, is invested with the most absolute and irresponsible power.

The whole of the United States is divided into eight districts; four members compose a council in each of them, and when they divide, the ruler decides. It was in the first instance, a self-constituted society, and likely so to continue, as each member before he dies, or resigns, nominates his successor. "Few die and none resign." No females are admitted, and the nominated man is stript for examination. If his person be found perfect, and without blemish, then the mental examination commences. He is examined by each of the eight councils in rotation. If they all report favourably of his legal qualifications, and temperate habits, the Tetrarch admits him to full membership; after administering to him in presence of one of the councils, a solemn oath of unconditional submission, in all matters relating to his duties in society. This examination is said to be of the most rigid kind; and any one to pass it must be versed in the principles, both of the common law and civil law,—in the rights of persons and property,—in constitutional principles, and particularly in the original structure of the feudal system and its connection with modern tenures; comprehending in its purview, an interminable horizon of learning, that seems to recede for ever as the mind advances.

No one is admitted until he is thirty years of age, and has been seven years a practitioner of law. Ten members remain unmarried to be ready at the shortest notice to obey the Tetrarch, who can command them to remove to any part of the United States, and remain there, under the pretext of practising law during pleasure.

All the proceedings are secret; and the council seldom meet twice in the same place, and never communicate with each other by writing, or keep a record of their proceedings. The Tetrarch visits each of the councils as often as practicable, to be apprized of every important measure that is adopted, or discovery that is made.

The object of the society is to collect information about doubtful titles to property, and make up correct legal opinions about them. When a defect is discovered in any man's title, if the property involved is valuable, (they do not meddle with trifling matters), the Tetrarch orders one of the members to make terms with one side, or the other interested, for the conduct of a suit-at-law; which is done at the expense of the club, and generally for a certain portion of the amount received. The immense property thus acquired is thrown into a general fund, after each member takes a certain portion, which is appropriated to his own use.

The operations of the club, though seen no where, are felt in every part of the Union. A knowledge of facts, titles, and doubtful questions of law, are ferreted out, and carried by the ruler along the whole

line of councils, undergoing an analysis in each of them, that defies both mistakes and defects. All acts of Congress, all State acts, all municipal regulations, all public and private corporations, all public and private donations, and in fact, the title of every man who has a large fortune, are secretly overhauled, reported on, and shaped by the councils in the most imposing forms, to pass through the Courts.

Individuals in different parts of the United States, have been informed by persons to whom they were utter strangers, and who reside in some distant state, of titles and claims which they themselves never thought of recovering. The parties in whose name the writs are brought, are never informed of the existence of the club, they know none in the business, but the lawyers appointed to conduct their causes, who are generally introduced by some one who is not a member. This secrecy is observed to avoid prejudice that would arise against the society if it was known.

They make it a rule to offer their services in the first instance to the parties who stand on the just side of the question; if their terms are not agreed to, then they negotiate with the other side. The unmarried men are compelled to peril life and limb in the service of the club, and cannot marry unless the wife of one of the members dies, in which event he can never marry again. The unmarried men are allowed liberal salaries, to live in the fashion most agreeable to them: but they have summary laws

prohibiting all appearance of extravagance, and are enjoined to avoid all ostentation of learning, always pretending to know less than they do.

We have given this detail as we have received it. Yet this is pretty well, and presents a most unenviable prospect to the nation, and but a slender guarantee of the future domestic peace and harmony of its citizens. Guided in their conduct by the most selfish motives—uncontrolled by none of the kinder feelings of man's nature, to restrain the wantonness of an undue interference in the affairs of others; they become the scourge of civilized life—the cause of dissension and the bitterest animosity wherever they tread, to wherever their labours are directed: setting kinsman against kinsman; child against his parent; uprooting all the most sacred and social ties, that bind mankind together, and disseminating their poison, with the sure and stealthy pace of the midnight assassin, through every vein and artery of the Republic. It surely becomes the nation to uproot this wicked and unhallowed institution; to restore peace and harmony amongst its population, instead of the dissension, the domestic strife and rancour, which the schemes and continued efforts of this dangerous, and irresponsible body is sure to generate.

The Honourable Edward Livingstone, up to the period of his late embassy in 1835, to the Court of France, is stated to have been the Tetrarch of this nest of domestic conspirators; and to have been for several months, a few years back, at Harrisburgh, the

capital of the state of Pennsylvania, making search amongst the public records, to discover flaws in the title to a large tract of country called "Nicholson's lands," comprising more than one hundred thousand acres; the greater part of which, had of late years been improved and built upon, by their present owners. Several suits were subsequently commenced in the United States courts for a portion of this property, and we believe are yet pending.

The laws for the regulation and settlement of property in the United States of America, are with some slight variations, the same throughout the several states of the union; and with perhaps the exception of the law of entail, or primogeniture, and some one or two others, are generally modelled after the British law in this respect. Of the most remarkable, if not the most important of the exceptions, is the law which secures to the wife, or married female, a present separate estate in personal or chattel property, altogether distinct, and beyond the control of her husband, without the intervention of a trustee or any third party. Instances are frequent, when the dwelling-house, including the shop or store, the entire of a valuable stock in trade, and all else on the premises, together with all profits arising from a lucrative business, are the individual, the recognised and *bonâ fide* property of the wife; the husband merely performing the secondary duties of a clerk, or bookkeeper, in the establishment, for which he receives a regular or stipulated salary. All females are very properly

exempted in the United States from imprisonment for debt.

The bankrupt laws of England, enforced against English bankrupts, at the time either temporarily or otherwise resident in the United States, lose all their efficacy on crossing the Atlantic: no one of the states recognise them as affecting the person or property of such bankrupt, within their respective limits. In this case, the claim of his English assignee would receive no possible countenance. But this would not debar his English or foreign creditor suing for their debts in any part of America, where such debtor may reside, provided the actual indebtedness of such bankrupt was properly authenticated by affidavit, sworn to before some judge of a court of record, in any part of the United Kingdom, *using a seal*, and attested in the usual form by the proper officer of such court, and the American Consul of the port or district, where the affidavit may be sworn. Such document, with a letter or power of attorney to any party, agent, or otherwise, in the United States, would insure the same facilities for instituting and ultimately proceeding in a suit at law, in the name of a foreign or English creditor in America, for the recovery of debts contracted out of its jurisdiction, as would be afforded to him in any of the law courts of Westminster; though the same proofs would also be required to insure a verdict; which if followed up by judgment, would entitle the plaintiff to satisfaction according to its priority, over all other claimants.

But an English or foreign creditor, if residing at the time beyond the jurisdiction of any court in which such suit might be brought, would be compelled on application of the defendant, to enter into security for the payment of the costs of any such proceedings so taken in his name, conditional to his being permitted to continue any such suit.

There are also laws for the relief of insolvent debtors throughout every part of America; but to a certain extent inoperative beyond the particular state or territory, to which they belong; no state recognising the laws of any other, as far as they relate to debtors seeking to avail themselves, or take advantage of them, as to debts contracted in other parts of the Union, or beyond the immediate limit of their jurisdiction. For example, a citizen incurs debt in the city or State of New York, where, if a resident, he is always exempt from arrest. He proceeds to Philadelphia, or elsewhere in the State of Pennsylvania, on business or otherwise. His creditor apprized of his departure, takes care to anticipate his arrival at his destination; when he is immediately arrested on a writ, issued upon the mere application of such creditor from any of the local courts, and held to bail. But here a six months' residence, if at large, or a three months residence if confined in prison, is necessary, to entitle him to the rights of citizenship; to enable him to apply for, and become entitled to a discharge under the insolvent law of this State. He passes through the ordeal and patiently awaits the period of his enlargement; when he immediately

sets out upon his return to New York. But he has to pass through the state of New Jersey, of which his wary creditor takes advantage : and as this state adopts the same maxim, of not recognizing any of the local, or state laws of its neighbours, he is again arrested, and for want of bail, committed, or sent to prison, to undergo another preparatory course of confinement, before that he can be allowed to take advantage of the insolvent laws of this state, discharging him from the responsibilities of the several debts, from which he had been just released in the adjoining state of Pennsylvania, and before that he will be permitted to return to his family, or home. The same unfriendly treatment will await him in whatever of the states he may chance to make his appearance, until such time as he may secure his person from molestation, by availing himself of the benefit of the insolvent law of the state, in which his debt was originally contracted.

Though none of the States acknowledge the insolvent law of another, or neighbouring commonwealth, as extending an exemption to insolvents from arrest, or further legal proceedings for the recovery of debts contracted beyond their immediate limit, they nevertheless admit the efficacy of a judgment, (if recovered in any one, and properly authenticated,) throughout the entire : and such may be removed, for the purpose of being recorded in whatever part of the United States the debtor may reside, or possess property. But not so in the case of a foreign judgment, which would only be

received as an evidence of indebtedness, to be further established by other legal proof, before that a plaintiff could proceed to execution.

The number who annually avail themselves of the regenerating influence of the insolvent laws, in those States of the Union, where the laws of imprisonment for debt are yet in force, will scarcely admit of any just computation.

In the city and county of Philadelphia, comprising a population of from one hundred and fifty, to one hundred and eighty thousand persons, nearly eighteen hundred annually pass through this ordeal of redemption. The sessions of this court, are held in this city at stated quarterly periods, in each year, under the presiding care of the Honourable Judge King, who is also president, or chief judge of the court of Common Pleas, and whose forbearance and very commendable patience, as well as very extraordinary despatch in discharging some hundreds of these applicants at a session, we can ourselves readily bear witness. They are certainly brought before him in appalling numbers—sworn to their schedules, by platoons of some ten, or twelve at a time, or as many as can conveniently place their hand upon the Sacred Volume at the same moment; which they no sooner take from their lips, than they are dismissed with the most flippant levity, by this moral and arch expounder of American law, with the simple admonition to “go and sin no more.” The sameness of this burlesque is sometimes broken in upon, by a chance opposition made to some less

fortunate wight, who is thereby doomed to pass through a further ordeal ; though that the judge has no discretionary power to award punishment, for any well sustained charge of fraud, or otherwise, made against him ; or ought, except to direct bills of indictment, to be preferred at the next sitting of the city grand jury. But this course is so very unusual, that we query if half a dozen cases have occurred where this procedure has been resorted to, within the same number of years, for almost any pretext will suffice ; without indeed that the applicant is a stranger, and possesses no local interest to give sanction to his past proceedings. We were pointed out in the fashionable promenade of Chesnut-street in this city, a well-attired, and in appearance a rather consequential personage, who was represented to us as a petitioner at every succeeding term of this court. His father, who was some while dead, had been an eminent physician, in extensive practice in Philadelphia ; his mother, who was still living, allowed him sixty dollars per month for his individual expenses ; yet with this, he still contrived to run into debt ; and notwithstanding that he usually discharged his engagements every three months by aid of the insolvent court, still found persons ready to give him credit. He once more, perhaps for the tenth time, appeared before Judge King ; who, a little surprised at again seeing him, at once addressed him ; and between whom and Mr. —, the following dialogue is said to have taken place.

JUDGE K. "What, Mr. —, again here ! How is this ? and three thousand dollars owing by your schedule !" which had been handed to the learned judge.

Mr. ——. "Why—ye—yes, your honour ; I have certainly been unfortunate—but 'twas impossible to avoid it—utterly impossible, under my late very peculiar circumstances."

JUDGE K. "It must be some very peculiar circumstances, indeed, that could run you into debt three thousand dollars beyond your means, and within the short space of a few months—pray how do you account for this ?"

Mr. ——. "Your Honour—I had a race-horse that—"

JUDGE K. "Very bad – very bad ; race-horses I know from experience are very expensive ; but—three thousand dollars within so short a time ! Have you no other way you can account for this unusually large expenditure ?"

Mr. ——. Somewhat hesitatingly. "Why, your Honour—I—I kept—"

JUDGE K. "Not another race-horse, I hope."

Mr. ——. "Oh no, your Honour—I kept a woman."

JUDGE K. Whose ears appeared to be somewhat tickled at the disclosure. "What ! a woman ! —a woman !"

Mr. ——. "Yes, your Honour—two women."

JUDGE K. "Two women ! keeping two women,

Mr. — — ! humph !—enough to destroy and ruin any man living—the loss is easily accounted for—very easily—give him his discharge.”

And Mr. — —, who was accordingly again released from his debts, or at least all further trouble, or inconvenience on their account, soon disappeared, nothing loth, amidst the crowd.

Yet such is American law, at least its mode of distribution in Philadelphia, amidst the sober, the sedate, and quiet descendants of the immortal Penn. What a lesson, nevertheless, in modern ethicks !—what a precept of morality to impress upon the young mind of the coming generation, receiving their instructions in profligacy and vice—even from the legal tribunals—the judges of the country.

CHAPTER VI.

Criminal Law of the United States—Its mode of distribution — Trial by Jury—Grand Juries in the United States—Their component materials—Their being subject to undue influence in the discharge of their duties—New York Grand Jury—Instances of its moral unfitness and profligacy—Essential difference between an English and American Grand Jury—Official Charge of the Honourable the Recorder of New York to the Grand Jury of that city, explaining the duties within their observanc—Uncertainty of redress on complaint in criminal cases—Sworn informations unnecessary as a preliminary in the arrest of a party complained against—No protection afforded to the citizen against vexatious or illegal arrests—Justices of the Peace in the United States—Their general incapacity, their venality and worthlessness—Extreme latitude given to the Magistracy—American Police —Their general efficiency and organization—The late “Ashburton Treaty” with Great Britain, with reference to the surrender of fugitives from justice arriving in either country—Political Refugees in the United States—The general indifference and cold-heartedness of their reception—The expatriated Pole—Emmett—Sampson—McNevin and others, victims of the late Irish Insurrection—Fugitive Debtors in the United States—Affidavit of indebtedness sworn to in England, sufficient to hold a defendant party to bail in the United States—Juries in the United States, selected by ballot—This precaution frequently insufficient to insure impartiality, or guard against the perversion of justice on the part of the prosecution—Modes by which Juries are frequently packed in the United States, their selection by ballot notwithstanding.

THE distribution of the criminal law is equally entitled to consideration. On it depends our best security for liberty and life and the enjoyment of those advantages secured by the exertion, the industry, and perseverance of every citizen. It is manifestly the interest of all, the Peasant as the

Peer—the low-born and unpretending, as the wealthiest and most exalted in the land, to preserve it undefiled, and beyond the control of every external, or undue influence—to watch with diligent and anxious care, its daily and even progress, and to mark with loud and universal reprehension, every deviation from strict rectitude and principle, in its dispensation. Always bearing in mind the important law maxim, that “it is the duty of a judge to *declare* and *expound* the law, as he may find it, not to make, or alter it.”

Every citizen of the United States is supposed to be secured, under the constitution, in the full and free enjoyment of the right to a fair and impartial trial by a jury of his peers—to be confronted with the witnesses against him, and to have the assistance of counsel in his defence.* He is also supposed to derive from the prompt and equitable administration of the law under which he lives, security and protection for his person, and the peaceable enjoyment of his property and civil rights:—though from the continued change in the law in this respect, at least in its practice, making it a somewhat difficult matter to at all times rightly understand it, the trial by jury may be considered, in many of the States, if not altogether abrogated, yet so altered in its general features, as to present it under a very different aspect from that in which we recognise it in our English jurisprudence. These observations will apply to the eastern, as to the middle states; as well to the

* Article 6th of the amendments to the United States' Constitution.

state of New York, certainly in advance of all other parts of the Union, in the fixedness and understood principles of its judicatory, as to the more lately settled parts of the republic.

The English law, in this particular, that which Americans affect to adopt as their rule, has wisely and mercifully placed, the two-fold barrier of a presentment and trial by jury, between the liberties of the subject, and the prerogative of the crown. "It has with excellent forecast," observes Sir William Blackstone, "contrived, that no man shall be called to answer for any capital crime, unless on the preparatory accusation of twelve or more of his fellow subjects, and that the truth of every accusation should be afterwards confirmed by the unanimous suffrage of twelve of his equals and neighbours, indifferently chosen, and superior to all suspicion."

Notwithstanding the eulogium of this able and erudite commentator on the institution of the grand jury, its utility at the present day, is frequently and not inaptly questioned. A late distinguished writer on modern jurisprudence, speaking on this head, observes, "It must be acknowledged, that it (the British grand jury system) is one of the many relics of antiquity, which Englishmen worship out of mere superstition. The use of finding an indictment, before a man suspected of a capital offence can be submitted to trial was, that no one suspected merely of guilt, should be subject to the hardship of imprisonment, and the expense and delay of a public trial, at the discretion of an individual, at a period when trials only came round once in seven years, and

when the powers of the law were wielded by fierce, impatient, and arbitrary barons, or the ministers of an arbitrary king; a security like this, against the dreadful hardship of imprisonment of any length up to seven years, was of no light importance. Since the 2nd and 3rd of Philip and Mary, which conferred upon justices of the peace the power of imprisonment before trial, the grand jury, which now only sits at the time the court sits, at which the alleged offence may be tried, has evidently lost all power to save any man from the hardship of undue imprisonment, and seems really to serve no purpose whatever, but that of furnishing to the actual delinquent an additional chance of escape. The court appointed to try the man in the best mode, is ready to try him—then why try him twice?—first, in a bad and insufficient way, and only after that, in a good and final way.

“A grand jury must do one of two things. It must send a man to trial, or discharge him. It must find the bill a true bill, or the contrary. In all cases where it sends a man to trial, it neither does good, nor evil, for the man is tried, and sustains the consequence of his trial, exactly as if no such thing as a grand jury had been in existence. In the case in which the grand jury discharge, the man must be either innocent or guilty. If innocent, the grand jury is useless again, for immediately, or in a short space, the man would have received the same discharge, from the court that would have tried him. The only case, therefore, in which a grand jury could do anything, which would not be done without it, is, the case in which it dis-

charges a man really guilty, whose guilt would have been ascertained by the court. There is only one case then in which it can be anything but useless, and that is, *in a case in which it is purely mischievous.*”

We should almost have supposed that when the writer had penned the foregoing observations, he had been well instructed by previous intimacy with the system as practised in the United States; the abuse and disregard of every principle of justice and impartiality, the private injury and wrong, assured and protected by these tribunals, that may in very truth be considered, as “multiplying the chances of escape” from justice, and rendering the lives and properties of almost every individual, more or less insecure. However inefficient, or otherwise useless, grand juries in England may be considered, in the furtherance and aid of public justice, they at least possess the negative attribute of doing no intentional, or deliberate mischief, or of unjustly interfering between the due administration of the laws, and the parties that may come before them. To a grand jury, made up of the materials that generally constitute such bodies in England, composed of men, not only of very considerable wealth in their respective counties, which presumes them to possess some stake, in its orderly and peaceable deportment, but of men, whose honesty and singleness of purpose,—liberal and extended education, would make them in every way competent to assume its duties; whose characters are without stain, and beyond reproach, and whose rank and high standing in society renders them impervious to every attempt at

the exercise of an undue influence, in controlling or biasing their opinions;—to such men, we submit, an extensive, discretionary, or it may be, an arbitrary power of this kind, for we will not quarrel with the word, can well be confided, without any great apprehension of its abuse. But not so in America, where the republican equality of each citizen, renders him equally eligible, and competent with his neighbour, frequently chequering this very respectable body with an incongruous admixture of all classes and grades of society—the mechanic, as the merchant—the tradesman, as well as the man of independent wealth—the illiterate with the better educated; all mixed up in one hurly-burly, each adopting some incoherent notion or opinion of his own, to which he adheres with a pertinacity, proportionate only to his incompetency to form a correct one, on any subject removed beyond the limit of his own contracted sphere of action.*

* We take the last Grand Jury of the County and City of New York, that has come within our notice, (Sept. Term, 1843), as being the most favourable specimen we have as yet met with, of the respectability of these bodies in the United States.

On the Panel being called over, the following answered to their names, and were sworn, viz. :—

G. Blunt, <i>Foreman</i> , Mechanic.	Thomas Kelly, Brewer.
John C. Brown, Builder.	Henry A. Halsey, Merchant.
Wm. Everdell, Engraver.	Aaron Kline, do.
Wm. Gale, Silversmith	Jas. J. Rogers, do.
Edw. Flanigan, Merchant.	Edwin Townsend, Clothier.
W. A. Howell, Cabinet-maker.	Sheppard Knapp,
James Peach, Painter.	John L. Brown, and
Jer. Skidmore, Coal retailer.	Lemuel Pitman, set down in
John Jackson, Stone Mason.	American phraseology as
Benj. Bayley, Apothecary and Physician.	“Gentlemen.”

That such men are open to the influence of the many interested parties that are called before them, either as prosecutors, witnesses, defendants, or accused, on whose conduct they are to adjudicate, with their numerous friends and partisans behind the scenes, there can be no doubt. Repeated instances have come within our own short experience, where the most corrupt, though successful efforts, have been made to divert the current of public justice, from its pure and wholesome source, into the most poisoned and perverted channels. Nor are these practices confined to any particular state, or peculiar to the lately settled parts of the republic, but extend to the more advanced, influential, and civilised districts. Nay, we have known, even in the "empire city" of New York, where a large proportion of its grand jury have been previously tutored in the interest of the accused party, with manuscript memorandums, or written briefs of instructions, secretly prepared by the accused, or his counsel, in their pockets; interspersed with the foulest abuse, and slander of the character and motives of the prosecutor, and witnesses, who were to appear before them to give evidence, with their minds in part made up, and prepared for an acquittal before any inquiry had been gone into—in short, the entire case was prejudged before the prosecutor, or complainant had appeared to give his evidence. We have witnessed this much, and subsequently heard the accused, who stood charged with a heinous crime, exult in the efficiency of the means planned for his escape; which had thus

enabled him to successfully evade the constituted law of the land, and soar above its influence

But where the industry and adroitness of the agent—the interference, and personal exertions of friends, have been but partially exerted, and are insufficient to quash an embryo criminal proceeding, an investigation is sometimes gone through; the practice of these tribunals in America admitting the hearing of witnesses on both sides, for the defendant, or accused, as of the prosecutor, with evidence to rebut, as well as to sustain, whatever charge or accusation may be made, or brought before them. We confess to have been somewhat surprised on first ascertaining these additional labours, as of the duties of an American grand jury; and on hearing explained to them, as of the obligations of the trust committed to their keeping, in the charge of the Honourable the Recorder of New York, assumed to be the general practice throughout all parts of the republic; wherein his Honour directed them,—“by no means to limit their inquiry to merely ascertaining the sufficiency of evidence to support an indictment, but to sedulously investigate each case, as it might come before them; to hear and examine witnesses, not only in sustentment, but also in refutation of each accusation, and to pass their verdict, by finding or ignoring the bills, as if empanelled in the petty jury box to try the case.”

This examination of witnesses on both sides, is often gone through, in the spirit, or disposition we have before observed; while pretexts are at all times, and by such means, easily furnished to warrant the acquittal of the accused, however his

guilt, should such reconcile with the secret wish, or personal inkling of a majority of the jurors present. Still the principle is open to other objections, and may be charged in positive violation of one of the most essential provisions of the constitution; which declares each citizen entitled as of right to a fair and impartial trial by a jury of his peers,—to be confronted with the witnesses against him, and to have the assistance of counsel on his defence. Yet here is constituted an irresponsible tribunal, dark and secret in its proceedings—often, and as we have known it, dishonest in its purpose, and “purely mischievous” in its results; assuming with its own, the other, and defined duties of a special or petty jury—proceeding to hear the case, and determine its merits, in the absence both of prosecutor and the accused, and of counsel to represent either, as also of a judge, or other competent legal person, to declare and explain the law; while removed from the protection and wholesome surveillance of public observation, so generally and so usefully exercised on all other such occasions.

We must not be told of the advantages that can possibly counterbalance this evil—this gross perversion of the first principles of common justice; nor can we join in an admission of the protection that such is said to afford to the innocent, the unobtrusive, and well-meaning citizen; who, it is contended, would be often dragged before some other less considerate public body, to meet charges preferred in the guise, and assumed confidence of truth, but with the covert and dishonest purpose, to invade the character and reputation of innocent

parties ; who are, on the other hand, afforded by this system, an opportunity to relieve themselves from every injurious imputation, without being compelled to do so in open court, and in the gaze of thousands, as witnesses to so humiliating a necessity. Such indeed are the arguments in the mouth of every American, with whom we have conversed on the subject, and who, admitting this perversion in their criminal code, are anxious to excuse this innovation ; perhaps forgetting the while, that if the party accused is really innocent, he has no certain opportunity by this means of establishing such fact, or so long as he is partially ignorant of the precise nature of the charge, or accusation made against him ; as also the evidence adduced, and perhaps suborned to sustain it ; and that should he be subsequently compelled to appear before a petty jury, by reason of this perversion, he is consequently prejudiced in their opinion of his guilt, if only from the circumstance of judgment having already been pronounced against him, by an assumed impartial tribunal, in every way competent to investigate both sides of the question—the truth, as well as the falsehood, of the accusation ; with the presumption, however ill-founded, of their decision being based on strict impartiality, and the merits of the case, sustained by the evidence before them. It is unreasonable to expect that men, however personally disinterested, and prepared to do justice between their fellow men, can divest themselves, when in the petty jury box, of this bias, on any second investigation of a case,—without being influenced by a strong presumption—

a reasonable prejudice, as to the probable guilt of the accused.*

A stranger in any part of the United States, has few inducements to complain of wrong done him, with at least any reasonable hope, or prospect of redress; for independent of the strong tide of prejudice with which he is beset, he has also to meet the certain opposition of some local interest, or cabal, to silence every just, or reasonable remonstrance. Should he nevertheless insist upon his complaint being received, he is surrounded with difficulties, that at every step remind him of his imprudence, and inflict more suffering—more real punishment, than what perhaps he is so impatient to redress. His own security in the form of bonds to the “sovereign people,”† are deemed insufficient to insure his attendance to prosecute at the next sessions, or sitting of the court. As a stranger, he is possibly without friends, that would join with him in the required recognizance for this purpose; and in default, he is not unfrequently sent to prison, to reflect

* In the charge of the Honourable the Recorder of New York (Judge Tallmadge) to the September (1843) Grand Jury of that city, he earnestly exhorted them to “make full and complete investigation in all cases presented to them, before true bills of indictment were rendered, as the effect of an indictment, in case of *clear acquittal* before a petty jury, was nearly as injurious to the reputation of the accused, as if convicted.”

† All processes, bonds, recognisances, and other official documents that in England are made in the name of the Crown, are, in America, generally drawn up “*In the name of the People of the United States, Free and Independent;*” or, “*The People of the State of New York, Free and Independent,*” or of such other state as it may be.

upon his folly, and learn some discretion in his future conduct.

The instance of a young man named ‘—*James*,’ that came under our immediate notice in Philadelphia, will explain the practice, and severe operation of the law in this respect.

— *James* was of sober, quiet, and industrious habits, and supported an aged mother, who resided at Lebanon in the state of Pennsylvania, distant about eighty miles from Philadelphia, by towing boats on the Schuylkill canal. On one occasion, when nearing Philadelphia, he was waylaid, assaulted, and robbed of all the money on his person, amounting to some two or three dollars. His first care on reaching this city, was to apply to a magistrate, when a warrant was issued for the apprehension of the delinquent, who was soon after taken; and who admitted on his examination, the charge made against him, but made no effort to excuse or extenuate his crime: yet was he set at large, on procuring the required bail to appear at the next criminal court to be held in said district. — *James*, on the other hand, was a stranger in the city of “brotherly love,” as Philadelphia is sometimes quaintly called, and had no friend to join with him in the required recognizance to ensure his prosecuting. He tendered his own bail in any required amount; but the law exacted more than this, and much more than poor *James* could satisfy. It was to no purpose that he appealed to the sympathies

and benevolent feelings of the magistrate, and urged the helplessness of his widowed mother in his prayer for mercy. The majesty of American law, that allows every partisan, and wholesale scoundrel, to go "unwhipt of justice," was in the instance of this unoffending and innocent young man to be vindicated; and without any other crime, or the semblance of a charge made against him, was unfortunate James hurried off to prison, where he was confined for between two and three months in a miserable cell, compelled to associate with many of the most abandoned and reckless of American society. He appeared and prosecuted in due season to conviction, the party who had so assaulted and robbed him, who underwent some trifling punishment for the offence; but—*James* lost his money, and what was of far more value, his time, and his situation—his widowed mother, her sole support; for which the state, in its liberality, made him compensation about two dollars, or eight shillings and fourpence, sterling. He was then turned adrift, with his mind and habits somewhat altered, to wend his way, in the best manner he could, towards his desolate home; with ample time to ruminate as he went along, on the many and perplexing difficulties of his situation in this world, notwithstanding the blessings he was always taught to anticipate from the happy form of government under which it was his fortune to live, and the equitable and conscientious distribution of justice, which it shared amongst his fellow citizens; dealing the same mea-

sure to all, the accusing with the accused—the guilty and the criminal, with the innocent peaceable and well conducted.

Sworn informations, in criminal cases, are by no means a necessary preliminary to a Justice of Peace issuing a warrant for the apprehension of a suspected or accused party ; which places the liberty, and personal freedom of every citizen at the mercy of a generally corrupt, illiterate, and partisan magistracy. But such a restraint upon the authoritative violence of a body of men, whose recorded delinquencies outnumber every reasonable calculation, and who have scarcely aught to control them in the most despotic exercise of their authority, beyond the scanty measure of discretion for which they are at any time remarkable, is seldom thought of. Chosen by the people, and from the people, they are the mere creatures, as well for evil, as for any substantive good, of the declared will of any assembled number of their fellow citizens ; and at all times the pliant and ready instruments of every influential political leader of the dominant party, whom they are bound to please, at the expense of every other and proper consideration. Whenever their services can really be made useful, they are generally found wanting, in the exertion, firmness, and efficiency, that should begird their appointment. In the riots—the shameful excesses that of late years have marked the character of the republican citizens of these states, they have been found deficient in every essential of faithful public servants ; and in some

instances have given an implied sanction, if not a more direct and positive encouragement to the open infraction of the laws—the wholesale plunder and destruction of private property that has taken place, frequently, within their immediate observation. A friend of ours asked one of these worthies, at a late incendiary fire in Philadelphia, which menaced destruction to a large portion of the city, why he did not interfere, to stay the frightful excesses passing within his view? When he calmly replied, giving at the same time a significant shrug to his shoulders—that “indeed he should long before have done so, but that he did not think the *people*,” (alias, the congregated assembly of licensed burglars, and other lawless incendiaries, then sporting their tricks before him) “would be *pleased*, or *satisfied* at his interference.” The thing went on; disorder, anarchy, and crime ruled the ascendant; several houses were burnt to the ground, after the most approved republican fashion, and as many families thrown destitute on the world’s waste; for the justice and liberality of American law, makes no provision—provides no atonement for these, or similar excesses of the “sovereign people,” but leaves the victim of mob violence and vengeance, to whatever remedy, if any, he may possess.*

* This, until very lately, has been the universal practice throughout the United States. A modification of the principle has however been recently admitted, in some few instances, in Baltimore, and Philadelphia, where some trifling or inadequate compensation has been recovered against the public authorities, especially of this latter city, for loss and injury done by mob

In New York, a more fearful latitude is given to the magistracy, altogether inconsistent with the spirit and character of free institutions:—a stranger in this city can scarcely consider that he is at large, except by the permission, or sufferance of Justice A—, B—, or C—, who, under its municipal laws, may issue his mandate, upon any, or no pretext, for the summary appearance before him of any individual, resident, or stranger, within the limit of his jurisdiction, and call upon him to account, to the “*satisfaction of the said Justice,*” in what manner he supports himself, or procures a livelihood: and in default of the summoned party yielding such *satisfactory* information, as the magistrate in his capricious will may choose to exact, to commit him, or her, to prison, for any period not exceeding *six months*. It is by no means necessary, that evidence of the least impropriety in the conduct of such individual should be adduced, or even a charge of the indirect infraction of any state, municipal, or city ordinance brought against him, to legally warrant the magistrate in his committal:—the mere isolated circumstance of the magistrate conceiving him, and from what this functionary will allege, “his own showing on his examination when brought before him”—and though he may not have replied to a single interrogatory addressed to him, to be an improper person to go at large; or his having failed

violence; though not until the injured parties had been forced to the necessity of expensive legal proceedings, to assert their individual and respective claims.

to satisfy this official of the propriety of his mode of life—and nothing more is necessary—no other pretext is required as a justification ; he is sent to prison, to work out the term of his sentence, without bail, or mainprize—without appeal to any other tribunal, or even being allowed to avail himself of the writ of *habeas corpus*, the boast and safeguard of every Englishman's liberty, which, in this instance, is altogether suspended as regards him. We have often heard members of the American bar, repudiate these monstrous and inquisitorial proceedings, founded, it is said, upon a law, or grant, embodied in some old and antiquated English charter to this city, and when the disjointed state of its society in its early colonization made it necessary ; and since confirmed to its citizens, with all other corporate rights and privileges, under the act of confederacy of the several states.* Attempts have been made to test its constitutionality ; but the abuse is surrounded by so many guards, entrenched behind so many legal barriers, that the means of doing so, are found too far removed beyond the compass of individual effort. It is the legislature that can alone effect a change in this most oppressive law, whilst the sticklers for municipal exaction and arbitrary will, insist upon its positive necessity, especially in such a city as New York, even at

* The Charter, by which this city is secured in its rights and privileges, is one granted by King James II. of England, confirmed by George II. 1730, and by the Governor, Council, and General Assembly, October 14, 1732 : Present amended Charter, passed by the legislature, April 7th, 1830.

the present day, to protect its citizens, as they allege, from the inroads, and innumerable ill consequences of the continued influx of strangers from Europe, as elsewhere:—some of them, no doubt, of uncertain means, and very questionable habits, who generally make this city their first landing, and abiding place, on arrival in America. But they seldom, good easy people, condescend to notice, and never to explain, why it is, that London, always containing so large a number of resident and transient foreigners within its corporate limits, frequently amounting to the entire numerical population of New York—or that Liverpool, with its far increased intercourse with other nations, should not also require some penal and iniquitous law of this kind, to restrain the excesses of their equally chequered population? The question perhaps, after all, is of easy solution, and may receive its reply in the simple fact, that the laws of England, receiving their support from the assent, and concurrent sanction, of an orderly and contented people, are at all times adequate to the curbing licentiousness, and the punishment of crime, without attempting these, or similar encroachments on the well-secured liberty of the subject:—whilst in America, under an avowedly corrupt and profligate system, the laws are seldom recognised as protecting the peaceable and well-conducted, and are found, rather to depend for their due enforcement, on party caprice, or on the chance assent of an unsteady—a frequently turbulent, and uncontrolled population.

The organization of the police, in the Eastern or

Atlantic cities, and to whom an unusual and very extended latitude is given, is generally good; composed of a set of men of keen sharp-sighted intelligence, from whom it were no easy matter to escape, to thwart, or disappoint in the pursuit of their daily business. The head offices of New York, Boston, Philadelphia, &c. are in frequent communication with those of London, Liverpool, Paris, &c. and it is no unusual occurrence, that a delinquent, frequently a debtor, or bankrupt trader from the old world, has scarcely time to set his foot upon the new, than he is arrested upon some charge that has preceded him on his voyage. The law is generally overstepped in these arrests, which are mostly of an experimental kind, and done with the secret object of extorting money, rather than to promote the ends of individual, or public justice.

The police regulations in the interior, are, however, very defective, without any proper organized means of detecting crime, or bringing criminals to justice; society depending on its individual or own resources in the enforcement of the laws. According to M. de Tocqueville, "the lesser details of police, which renders life easy and comfortable, are neglected," while "disgraceful blemishes are seen in complete contrast with the surrounding civilization."

Committees are often formed for the detection of criminals, but are seldom efficient for such purpose, except where the delinquent is considered personally obnoxious to the community, and possesses no local

or partisan interest, by which he is otherwise protected.

The late treaty, concluded between Great Britain and the United States, generally designated the "*Ashburton Treaty*," has somewhat altered the relations between both countries, and placed them, in matters of this kind, (assuming its validity,) on a surer and better understood footing; the laws of each, no longer affording immunity for offences of a heinous kind committed in the other, by protecting the public offender—the murderer, or public robber, from the consequences of his crime on reaching its shores. By the 10th article of this treaty, it is agreed, "that the United States and her Britannic Majesty shall, upon mutual requisitions by them, their ministers, officers, or authorities, respectively made, deliver up to justice all persons, who being charged with the crime of murder, or assault with the intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged papers, committed within the jurisdiction of either, who shall seek an asylum, or shall be found within the territories of the other:"—and provides—"that this shall only be done upon such evidence of criminality as, according to the law of the place where the fugitive or person so charged, shall be found, would justify his apprehension, and commitment for trial, if the crime or offence had there been committed; and the respective judges, and other magistrates of the two governments, shall have power, jurisdiction and authority, upon complaint made under oath, to issue

a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate, to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery, shall be borne and defrayed by the party who makes the requisition and receives the fugitive.”

We still doubt the efficacy of this part of the treaty—the power actually vested in the United States government, to enforce, or carry out its provisions, without the delegated, or concurrent sanction of the individual states. Unlike to Great Britain, the constitution of the United States is a *written* constitution, under which the authority conceded to the Federal Government and Congress is strictly defined, and beyond which it cannot travel.

The 10th article of the amendments to this constitution distinctly declares:—*

“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.” While that part of the Constitution which has reference to the treaty making power of the United States, article 2nd, sec. 2nd, merely says—“ He”

* See Appendix, letter D.

(the President) “shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur.”

Now, we contend, that this authority is restricted to the making such treaties merely, as are of an inferential, or consecutive kind. Such as may be found necessary to carry out the expressly delegated power vested in the Federal Government under the constitution—*and to none others*: were it otherwise, and that the power to surrender up fugitives from justice, under any possible limitation, was inherent in the Federal Government, or belonged to it *per se*—without any express delegated authority from the individual states, there would have been no necessity to have introduced the following as a part of the 2nd section of the 4th article of the Constitution, which says:—

“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,”—which would clearly demonstrate that without this provision being expressly made a part of the original compact, limiting or defining this especial power, there existed no authoritative jurisdiction within the republic—none certainly that the Federal Government possessed, enabling it to surrender up fugitives from justice, even those escaping from the local controul of one State, into any other, or neighbouring commonwealth. Still this provision in the law makes no

mention whatsoever of fugitives from *other foreign, or European States*, or of individuals, being *otherwise than citizens of some one of the numerous states of the republic*.

From all which, our strong conviction is, that the act of the United States Government in entering into any treaty of this kind with Great Britain, was an overstrain of her authority—an interference far beyond her jurisdiction; and that the validity of the treaty in this particular, rests upon a very questionable and insecure basis. It may be, that so long as it is acquiesced in, it will never be called up for investigation; though we entertain but very little doubt, that upon the first appeal that may at any time hereafter be made to the supreme court of any of the states of the republic, in which this part of the treaty is attempted to be enforced, or on subsequent appeal to the Supreme Federal Courts testing its validity, that its entire and perfect nullity, its manifest incapacity to carry out any one of the purposes in this respect, for which it was intended, will be fully demonstrated.

It will probably be said, that this question, so essential to the continuance of that good understanding that should subsist between Great Britain and the United States, has already been determined in the case of Christina Cochran, otherwise Gilmour, a British subject, who being suspected or charged with the murder of her husband in the year 1843, fled from Glasgow in Scotland to the United States; and for whose surrender an application was subsequently made on behalf of the British Government.

Yet, we assume, that the decision of the United States court in this instance, (the first arising out of the treaty,) or rather of the judge who volunteered his unsought-for opinion on the question, is by no means conclusive of the constitutional interpretation to be attached to this lately imposed provision in the American law, and that remains to the present day undecided, by any overruling or determinate adjudication of the competent legal authorities of the country.

The government of the United States having decided on delivering up the said Christina Gilmour, a warrant was issued by the Secretary of State, for this purpose, of which the following is a copy:—

“ Department of State, Washington,
9th August, 1843.

“ *To all to whom these presents shall come,*

“ WHEREAS, Henry S. Fox, Esquire, the
“ Envoy-extraordinary and Minister-plenipotentiary
“ of her Britannic Majesty, hath made requisition in
“ conformity with the provisions of the tenth article
“ of the treaty concluded at Washington, the 9th day
“ of August, 1842, for the delivering up to justice,
“ of Christina Cochran, alias Gilmour, charged
“ with the crime of murder, alleged to have been
“ committed within the jurisdiction of Great Bri-
“ tain; and whereas the said Christina Cochran, alias
“ Gilmour, hath been found in the state of New
“ York, within the jurisdiction of the United States,
“ and hath, by proper affidavit, and in due form of

“ law, been brought before Sylvanus Rapalje,
 “ United States Commissioner for the southern
 “ district of New York upon the said charge of
 “ murder. And, whereas, the said Sylvanus Ra-
 “ palje hath deemed the evidence sufficient to autho-
 “ rise and require her commitment, and hath ac-
 “ cordingly committed her to the jail of New York,
 “ all which appears by a certified copy of the pro-
 “ ceedings transmitted to this department.

“ Now these presents are to require the Marshal
 “ of the United States for the southern district of
 “ New York, the District-attorney of the United
 “ States for the said district, and any other public
 “ officer, having the charge or custody of the said
 “ Christina Cochran, alias Gilmour, to surrender and
 “ deliver her up to George McKay, an officer of
 “ the government of her Britannic Majesty, or any
 “ other officer of said government, duly authorised
 “ by her Britannic Majesty’s said Envoy-extraordi-
 “ nary and Minister-plenipotentiary to receive her
 “ into custody.

“ Given under my hand and seal, at the office of
 “ the Secretary of the United States, on the day
 “ and year herein aforesaid.

“ A. P. UPSHUR.”

The counsel of this ill-fated woman, whom it does not appear exerted himself with any great or becoming zeal in her behalf, or with any very earnest desire to test the constitutionality of these proceedings, contented himself with an application to

Judge Betts of the United States district court, of the southern district of New York, for a writ of Habeas Corpus to bring up the body of the said Christina Gilmour (then in custody,) with a view to quash the proceedings that had been taken against her, but upon grounds that have not appeared.

This application was immediately refused by the learned judge, of whom we have had occasion to speak in a preceding chapter, and on the following declared pretexts, that we reasonably pronounce most inconclusive and unsatisfactory under the circumstances. But hear his own words.

“ In the matter of Christina Cochran, otherwise
“ Gilmour, on application for the allowance of a writ
“ of Habeas Corpus.

“ I am of opinion that the tenth article of the
“ treaty of Washington, concluded August 9th,
“ 1842, is, under the second subdivision of the sixth
“ article of the constitution of the United States in
“ force as a subsisting law of the land, and is
“ accordingly to be observed and executed, by the
“ judicial authorities of the country.

“ I am of opinion that a Commissioner ap-
“ pointed by a circuit court of the United States,
“ pursuant to the acts of Congress in that behalf, is
“ by force of the act of Congress of August 23rd,
“ 1842, empowered to perform the functions pointed
“ out by the tenth article of the said treaty.

“ I am of opinion that it is not competent for
“ a judge of the United States, in vacation, to
“ revise, on Habeas Corpus, the adjudication of such

“ commissioners, as to the insufficiency of the
“ proof of criminality of a party charged before
“ him.

“ I am of opinion that a writ of Habeas Corpus
“ cannot be rightfully allowed for the purpose of
“ inquiring into the legality of a warrant emanating
“ from the Executive branch of the Government,
“ intended to surrender a person duly committed
“ to a Marshal of the United States, to the autho-
“ rities of Great Britain under the provisions of the
“ tenth article of the said treaty, before the party
“ shall be thereby actually transferred and detained
“ in such British custody within the United States.

“ I accordingly refuse to allow the Habeas Corpus
“ prayed for in this case.

“ SAMUEL R. BETTS,

“ United States Judge, &c.

“ New York, August 12th, 1843.”

We conceive the learned Judge in this instance to have evaded—to have shrunk back from the real question at issue, or the responsibility of pronouncing on the constitutionality, or otherwise, of the proceedings now had for the first time, under the provisions of this treaty. He satisfied himself of the existence (until then,) of an uncontroverted and undisputed law appearing upon the statute book of the country, and assuming its entire legality, he acted upon this presumption, as his most convenient course, on a question of mere preliminary observance, in bringing the matter up for investiga-

tion before a competent legal jurisdiction :—for had his Honour in the exercise of a sounder discretion, allowed the writ of Habeas Corpus, the party on whose behalf it was sought for, being then under restraint, and actually in prison under the provisions of the law made for the purpose of carrying out the stipulations of this treaty, and decided on the objections raised against its constitutionality, when brought before him on argument, the entire question, in the event of an adverse decision, would have been carried by appeal, before the Chief Justice and Supreme Court of the United States at Washington, and the law of the treaty power of the United States determined, without being controlled by any past legislative proceedings on the subject, under the prescribed and written constitution of the country; and to which Congress is equally amenable with every other, the constituted tribunals of the Republic; which none can overstep, or in any wise alter or amend, except in the mode prescribed under its provisions.

In this, the American constitution essentially differs from our mode of government. In England, the jurisdiction of Parliament with the assent of the Crown is omnipotent, and against which the Law Courts cannot decide. But not so in the United States, where the supreme legal tribunal possesses the right to set aside the laws passed by the united legislature, if contrary to, or inconsistent with, the written constitution under which the nation is governed. This deed, according to Story, being

the supreme *law* of the land, its infraction comes naturally before a legal tribunal.

We conceive the reasons put forward by Judge Betts of the District Court, for refusing the writ of Habeas Corpus in this instance, to have been a mere evasion of the law which he had sworn to faithfully and impartially administer—an unworthy and discreditable subterfuge—a shrinking from the high and responsible duties imposed on him under the obligations of his office, evidencing, as we submit it does, the very slender protection secured to Americans, or the emigrant stranger, under the dispensation of these most corrupt tribunals. Christina Cochran had committed no offence against the United States, or the majesty of its laws—not even against those of Great Britain, for on her subsequent trial, when brought back to Scotland, she was acquitted. She had gone to America and was entitled to the protection of her person, as of her property, so long as she deported herself as a good and peaceable citizen. Yet was she arrested and committed to prison, under, or by virtue of an authority or asserted jurisdiction, the legality or constitutional propriety of which, it was quite reasonable and just to doubt, and call in question.

The constitution of the United States concedes the privilege of the writ of Habeas Corpus as of right to every citizen, and other free person residing within its territory; and declares, that “it shall not be *suspended*, unless when in cases of rebellion or invasion, the public safety may require it.”

Yet, here is a judge of the supreme government of the United States, in the face and front of these salutary and well defined provisions of the established law of the land—its implied protection against arbitrary rule and individual oppression, ceded to every citizen without any further restriction or other qualification, refusing to allow the writ of Habeas Corpus prayed for in this instance, and only denied as far as recorded facts will sustain the belief, because that the wrong against which the unfortunate applicant complained—the severe injustice intended to her, was not complete in its ramifications, or carried out to the fullest extent of its contemplated injury.

Was ever decision more monstrous—or the incapacity of a judge—the malversation of a high official trust more fully apparent. Had the writ of Habeas Corpus been allowed in the first instance, and an investigation gone into in consequence, it would have mattered very little the interpretation that Judge Betts might have felt disposed to attach to this law, for if adverse, the Supreme Court of the United States would have been fully empowered to revise such decision, and in doing so, to determine the competency of the United Congress to pass any such enactment. As it is, and notwithstanding that the case of Christina Gilmour may hereafter be put forward as a precedent, this question, we still believe, remains undetermined, with every reasonable probability, should the constitutionality of the law be ever hereafter tested, of its being found insuffi-

cient to secure or carry out any one of the purposes contemplated by this section of the treaty.

The second subdivision of the sixth article of the constitution, referred to by Judge Betts, and under which he attempts to justify his recorded opinion, that "the tenth article of this treaty is in force as a subsisting law of the United States," will not we conceive at all warrant such inference. The following is the provision in the law to which he refers.

"This constitution, and the laws of the United States 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."

The "treaties made, or which shall be made under the authority of the United States," here referred to, can only be considered as those which the United Congress are legally competent or empowered to make, or enter upon, under or by virtue of the restricted authority expressly limited to it under the constitution. It would, we conceive, be a wild and extravagant absurdity to suppose it otherwise, or that the combined legislative and executive power with which it is entrusted, instead of being delegated as it has been, for strictly defined purposes, beyond which, in reality, it cannot travel, has been permitted to it, with an extended discretionary authority, to abrogate any fixed rule, or established law of the land, or of creating and enforcing others

unprovided for by the constitution, or the direct or legally* recorded sanction of the sovereign people.

If the law of America, anterior to the treaty of Washington, perhaps better understood as the *Ashburton* treaty, was by any void or oversight, insufficient to authorise the United States Government, to conclude a treaty of this beneficial and salutary consequence, the same law points out the alternative to be adopted, to arm the executive and legislative authority with sufficient means for this, or any other essential purpose ; for it declares, that

“ 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.”

This clause, we apprehend, (article fifth of the United States Constitution), and without further amplification, would lead to the negative conclusion, that without these means should first be resorted to, where the laws were otherwise insufficient, for any further or necessary purpose of legislation, that Congress, possessing no inherent power, enjoyed none, that was not strictly defined—marked out

for its observance, and beyond which it could not transgress.

It is not presumed that this provision in the treaty is intended to extend, or in any manner apply to political offences, though frequently classed as of the crime of murder, or assault, with the intent to commit murder; any interference of this kind being in direct violation of the vaunted protection that America extends to the stranger of every clime, for crimes of this character, committed against the government of their own country. Such at least, is the boast of her citizens, re-echoed through every interminable change of the public press, and which the national self-love has in many instances connected with personal and local advantages to the unfortunate refugee, of which he is seldom, if in any instance, allowed to participate. For our own part, we could never discover, during our residence or sojourn in the country, any trace of the vaunted liberality of our transatlantic friends in this particular; or the enthusiasm with which they are said to receive with outstretched arms, the friendless and unhappy exile, of this, or any other nation, who may have wandered to their shores seeking a refuge—a last asylum or resting place from government persecution, and the consequent of past political indiscretion:—even the luckless and chivalrous Pole, whose fortunes have been dimmed for a season, and whom their dissimulation encouraged amongst them—whom they, for a while buoyed up with promises of grants of land in

the uncleared, or remote districts of the western territory, and afterwards made pay, for every rood they were fool enough to occupy—or of such men in by-gone times as Emmett, Sampson, McNevin, and others, the victims of the late Irish Insurrection, who rather owed their successes in the United States, and their being able to procure the mere necessaries of life, to their own talents—their extraordinary persevering efforts, than to the benevolent sympathies, or extended kindness of their quondam American friends. It is enough, every American thinks, that they allow such men—the expatriated of another soil, to exist, and live amongst them unmolested, and without complaint; to breathe the air, and use the light the Almighty has distributed in common amongst his creatures, without expecting further concessions, to enable them to provide for their wants, and urgent necessities. Oh no!—the general cold-heartedness of their reception; even of those we have ourselves witnessed, the ill-starred neglect—the indifference of every American when amongst them—the stoical unconcern with which they look upon their severest afflictions—their wants and bodily sufferings, and of those too, whom they have encouraged to expect sympathy and kindness at their hands, who were led by their loud and hypocritical cant to seek them in their hour of trouble and misfortune, should be chronicled throughout the world, and sent back to shame them into some degree of consistency, and good feeling. Had those, or the many ill-fated men,

whom a false estimate of the American character, had led to their shores, arrived amongst them in less dependant circumstances—did they possess the means, that could scarcely fail to excite their native cupidity, and early spirit of calculation, they would no doubt have been received with a warm and eager welcome:—but they came amongst them, deprived of the auxiliary of wealth, even of a limited support; the expatriated children of a more generous, and chivalric people, to identify their interests with theirs—to work in peaceful and honest efforts for their future subsistence; and are all but told upon the threshold of their arrival, the theme of endless gratitude they should pour forth in loud and unceasing benediction, because that they are even permitted for a day to unite themselves with their people—to live amongst, or near them—to work out their inheritance by undisturbed toil, and ceaseless industry, and share with them, what they are pleased to call, the many blessings secured by their “enviable, and glorious constitution,” rather than they should be bound neck and heels together, and delivered over to the tender mercies of their former task-masters.

Such, we assert, is the consideration, and general treatment that America extends to the unfortunate and mistaken refugee who may have arrived within her territory; that we quere, if many of the proud and daring spirits, that now wander friendless, and nearly destitute upon her soil, could be induced to outlive the second year of their expatriation, except

to escape the other, and greater ills, that confine them to a land, which necessity alone, has ever compelled them to adopt, as of their country.

Facilities, as we have already observed, are at all times given to British creditors, to recover from fugitive debtors, the claims with which they have been frequently met on their arrival in the country. Strict legal practice, on such occasions, is often put aside, and a rule of expediency substituted instead. The assumed debtor is of course, though often without strict legal warrant, arrested and sent to prison; his entire paraphernalia, or personal property—his money, if it can be got at, are seized in like manner, very often at the instance of some over zealous, or indiscreet agent; and before that he has well had time to draw breath, is assailed in many other modes, with the hope, that by taking advantage of his alarm—his possible ignorance, as also of the people amongst whom he has just arrived, to exact terms from his apprehension, and strongly excited fears, frequently inconsistent with any indebtedness to which he may be liable, and that in his more collected moments he would possibly be disinclined to listen to. This species of kidnapping is immediately followed up, and before that the alarmed or assumed debtor, can avail himself of any legal advice, a proposal is submitted to him for the “amicable settlement,” of perhaps a very questionable debt, or some disputed claim, with which he is oftentimes unjustly charged. If a timid man, he will fall into the snare, and pay any price to regain his freedom. If,

on the contrary, he possesses sufficient hardihood to resist the imposition, he will await the season of his liberation, and trust to the justice and equity of his case for atonement.

If that the money often procured by these exertions, were generally appropriated to the discharge of fair and just debts, which the party might have wrongfully left unsatisfied, there might be some apology for the course taken ; the means under such circumstances might possibly be said to justify the end : but the practice is more frequently otherwise, and the amount so recovered, considerably lessened by local exactions, before any part of it is permitted to leave the country, or reach the hands of those, who may be supposed entitled to receive it.

It must not be presumed from all this, that we would extend for an hour, an unjust protection to the fugitive debtor who may visit America, to avoid the penalty of his past indiscretion, or that the fraudulent or absconding trader should receive, in the United States, a secure and safe retreat, where to revel on the spoils secured by his dishonesty and malpractices. By no means. The ends of justice—the aim of all equitable legislation, is more than partially attained by his expatriation ; the society he has outraged, relieved from the immoral and dangerous influence of his presence, and released from the example and further influence of his misdeeds ; whilst on the other hand, for the recovery of debts contracted in Europe, or out of the United States, the law of America extends to the foreigner, as already

noticed, the same opportunities—the same facilities that it secures to the native citizen, to assert his claim, without recurring to the aid of any unusual, or illegal means for this purpose. It extends privileges, far beyond what are allowed to foreign creditors, under any similar circumstances in England ; admitting the affidavit, true or false, as it may be, of an English claimant—sworn to, and attested out of the legal jurisdiction of the United States courts, as a sufficient evidence and warrant in their proceedings, to deprive an accused, though sometimes an innocent party, of his personal liberty, and to hold him to bail during the protracted pendency of a suit instituted in their courts against him.

This boon to English creditors has often been abused, and made ancillary to repeated, and severe acts of manifold injustice. We have known instances, now on record in the American courts, where perjury in its bleak deformity has been stamped upon the face and front of many such affidavits ; on one in particular, transmitted by an eminent London banking house—sworn to by one of the partners, and forwarded to agents in America, who were nothing loath to act under a commission from these individuals, for the purpose of suing a party on an alleged claim of debt, as then due and owing to the firm—the person so charged, placed in confinement, on the proceedings founded thereon, for an extended period of several months, and when subsequently enlarged, without any remedy secured to him in expiation of the injury. He certainly

possessed none in America, for the perjury being committed in England, could not be criminally proceeded against in the United States ; neither was he able to institute proceedings in an English court of law, for the American rule would not admit of the affidavit, once on the file of the court, to be taken from the records for the purpose of being sent to England, to sustain an indictment against the party, or otherwise. The laws of England deal more considerately, and certainly more in the spirit of impartiality and justice ; for they reject all such affidavits made beyond British jurisdiction, in cases where the freedom, or personal liberty of the subject would otherwise be involved, and in any instance, where a remedy by indictment for perjury cannot easily be had, on the party swearing falsely. But Americans are not quite so chary, or punctilious on these points.

There is still one good feature in American law, the selection of juries by ballot ; but made of little or secondary value, when associated with the abuses that oftentimes exist to neutralise its inherent advantages. Notwithstanding this safeguard, there are still repeated instances, where by the most shameful perversion of justice, and the aiding of the worst crimes by means of the jury-box, the most hardened criminals, after having passed through the stale mockery of a trial, have been again let loose upon the surface of American society. We certainly cannot forget the atrocities so recently enacted in the south, sufficient to appal the most hardened mind, and yet

remaining unatoned for; the frequent burning and destruction of property throughout the country; the repeated burlesque of jury trial, as in the case of the Charleston incendiaries in the following year in the north; or the still later distortion of the law within our own view in New York, in the very unexpected and unjustified acquittal of the miscreant Robinson, the murderer of the ill-fated Ellen Jewett; explaining most fully, and of itself, the *modus operandi*, so well, and successfully put in practice on all such occasions in the United States.

We feel no particular wish to recur to this atrocious and unexpiated crime, beyond what is merely necessary to acquaint the reader with its general features, in explanation of the exceptionable and guilty course, so successfully resorted to by the public prosecutor, in the execution of an important and solemn trust on this occasion; sustained, if not directly assisted, by the equally corrupt and exceptionable conduct of the judge, by whose joint effort, in this instance, and we make no doubt on many other similar occasions of daily practice throughout the United States, the trial by jury in America, in criminal cases, and in despite of every protection, or safeguard, may be considered a nullity—a wretched and miserable mockery.

The dark and silent hour of midnight, when reflection, undisturbed by human tread, might reasonably have pointed out the deep atrocity of his design, and appalled his guilty purpose, was the time chosen by Robinson to deprive of life the

unfortunate being, whom of all others he was in honour, and in common charity, the most bound to protect. Having waited with the deliberate resolve of riper years, until his confiding and unsuspecting victim lay buried in unconscious sleep, he seized that moment to deprive her of a life he could not give, by inhumanly beating out her brains with a hatchet, provided by him for this purpose; and unsummoned—uncalled for, he sent her before her God, to account for her past sins and indiscretions, in many of which he had been the guilty participator.

Whatever may have been the errors of this young female, then scarcely nineteen, beguiled from the care, and tender solicitude of an anxious and afflicted parent, we are bound in charity to draw a veil over the evidences of her past frailty, and to hope her crimes fully expiated before a merciful and forgiving God, in the blood so freely shed by her guilty paramour. The atrocity of the murder, attended with so many appalling and aggravated circumstances, created an universal feeling of indignation and horror. The evidence against Robinson, though altogether circumstantial, was of that conclusive kind, that could not leave a shadow of doubt on the minds, even of his friends; who from his extreme youth, for twenty summers had not left their traces on his cheek, were anxious to believe him innocent. The public voice with one accord, demanded an immediate atonement of his crime:—but justice, “lame as well as blind,” in his especial instance, gave him a lengthened season to prepare a

defence, if defence he could have made. The excitement in the public mind was intense, for there was no second opinion of Robinson's guilt—there could be none; for the facts revealed, would have convicted a legion; yet five or six days were spent in a laboured investigation. The laws, intended for the protection of the innocent, and punishment of the guilty, were perverted—basely prostituted to the cupidity of his prosecutor, and judge. Justice was veiled—and this inhuman monster, reeking with the blood of his slaughtered victim, walked forth in the face of the noon-day sun—unharmèd—unscathèd! Such the *denouement*—for Robinson was wealthy; at least his friends, whose fortunes were freely offered to rescue him from an ignominious death, and save the wretched life he had so justly forfeited to the outraged and abused laws of his country.

It may be asked how all this could come to pass, in such a city as New York, with a jury of rational and enlightened men, indiscriminately selected by *ballot*, and consequently far removed beyond the control of any extraneous, or ruling power. We will reply, by supposing the judge to have received the full and admitted value of any honesty to which he might lay claim—the estimated worth of his very questionable, and acknowledged principles; and also to have received the aid and active co-operation of the District, or Prosecuting Attorney, secured by the same comprehensive means:—the ballot box under the control of this public officer, either filled for the occasion with the names of

citizens, who, it was well understood, would not attend if called upon as jurors, or with the names of others, who though usually punctual in the observance of this essential part of a citizen's duty, had received no notice to be in court, or in attendance for this purpose: all this, coupled with the usage of peremptory challenge, would ensure the difficulty sought for, of procuring from the ballot-box any sufficient number of qualified citizens, to constitute a jury on the occasion. The needy and accommodating judge had already received his cue—conned over his lesson, and in order, seemingly, to remove every unreasonable difficulty to the progressing of the trial, orders a *tales*, or jury to be taken and sworn from the nearest number of qualified citizens within reach. Were the selection even in this instance indiscriminately made, there would perhaps, be but little to apprehend, or find fault with; but on this occasion, where the ingenuity of the public prosecutor was strained to its very utmost, rather to acquit, than to convict the wretched individual on his trial, every temporary expedient of this kind, tending to promote the ends of public justice, was fully, and well prepared against.

The access to the Court-house, before that the hour had arrived for opening the doors to the public at large, was partly under the control of the same public officer; and who no doubt could well explain, how it was, that at an early hour, and before the public were admitted, every chink and corner of the court was filled with "good men and true"—the

immediate and personal friends of the prisoner, or his relations, or those brought together for the purpose ; and who being the nearest on the occasion, were as of course, the first from amongst whom the Sheriff made his selection of the memorable jury, that tried and subsequently acquitted this young man, and pronounced between him and his country, the astounding verdict of—"not guilty"!

But a jury of the especial character of which this was composed, required but few apologies to contrive their verdict in accordance with their wishes. Abundant pretexts were prepared for them on the occasion ; the suppression of evidence, which there was good reason to believe, was in the possession of the district or prosecuting attorney, before at least the termination of the trial ; that if brought forward, would have coerced the jury into some respect for public decency, and dissipated every possible pretence on which to hang a doubt of the positive guilt of this wretched young man ; who also owed much to the tortuous—the disgraceful and highly unbecoming charge of the learned judge, in keeping with a most exceptionable demeanour throughout the entire proceedings. To the exertions of this legal functionary, probably in the fulfilment of his contract, may in part be attributed the scandalous termination of this most scandalous, and melancholy exhibition ; disgraceful to the present state of American society and morals, and pregnant of a most instructive lesson ; convincing the most sceptical of the perfect inutility of relying

upon any human institution, or positive law, however good and unexceptionable it may be, for the proper regulation, and efficient government of society, so long as its distribution is intrusted to those in every way unworthy of our confidence, and unfitted by their innate degeneracy to the due fulfilment of any high or honourable trust: to whom probity is but a name; with whom the first principle of honesty and uprightness is considered a vague and senseless attribute.

It was remarked by *Selden*—‘*That there could be no mischief done in a Commonwealth without a judge, for where the laws are administered with justice, promptness, and impartiality, the remedy for the evils produced by the vices, passions, and irregularities of men is always at hand, and the knowledge of this tends to keep those causes of moral evil in check. On the contrary, where the judges are indolent, of small learning, and want courage and honesty, the law becomes the very reverse of what it ought to be—a shelter to those who offend, a terror to those only who require its aid.*’

Bacon in his advice to Sir George Villiers, says—‘Because the life of the laws, lies in the due execution and administration of them, let your eye be in the first place upon the choice of *good judges*. These properties had they need to be furnished with; to be learned in their profession; patient in hearing; prudent in governing; powerful in their elocution; to persuade and satisfy both the parties and hearers; just in their judgments; and, to sum up all, they

must have these three attributes ; they must be men of courage, fearing God, and hating covetousness ; AN IGNORANT MAN CANNOT,—A COWARD DARES NOT BE A GOOD JUDGE.’

And again:—‘ If any man *sue* to be made a judge, for my own part I should *suspect* him ; but if either directly, or indirectly, he should BARGAIN for a place of judicature, let him be rejected with shame.’

These are principles it were well that every American would calmly and patiently reflect upon—acknowledge their propriety, and become aroused thereby, to the necessity of a speedy and early reclamation of the many and fearful abuses of their present judicial system, that presents so many appalling evidences of abandonment and all former neglect.

CHAPTER VII.

The increase of crime in the United States proportionate to the increase of population and wealth—Mob law—The doctrine of the real or pretended opinions of a majority of the people, though opposed to established law, the governing principle which is to direct their conduct—The frequent outrages on property and human life committed within the last few years in the United States—Essential difference between the character of the riots in the old and new world—Late President Jackson—His maxim, “that every man had a right to interpret the laws as he understood them”—His assumption of “responsibility”—and frequent outrage of the laws of his country while President of the United States—American citizens being themselves “the source and foundation of all law,” they claim a right to over-rule its authority at discretion—Lynch Law in the United States—Its name—Derivation and origin of its practice—Equally directed to the destruction of private property, as of human life—Plunder and burning of the Charleston convent, with particulars relating thereto—The carrying concealed weapons, a general practice in the United States—The Stiletto—The Bowie knife—Appalling murders at Vicksburgh, under the Lynch law system—Particulars thereof—Conduct of the public press in relation thereto—Concluding remarks.

As the Republic advances in population and wealth, so also does it increase in crime, and the impatient and turbulent disposition of its citizens. The established laws of the land, that in by-gone times principally owed their influence, to the support they received from public opinion, rather

perhaps, than from any inherent, or admitted power in the executive to suppress disorder and outrage, have in many instances ceased to afford security, or protection, to property or to life, and are forced to yield to the domineering influence—the insulting dictation of a species of Mob law, for which apologies are even found—ruling with most destructive influence, the destinies of this many favoured land, under the dangerous, and no less generally adopted notion, that the *real, or even pretended opinions of a majority of the People—though it be in opposition to their own law, is the governing principle that should at all times control, and direct their conduct.* Yet, this doctrine, so extravagant in its assertion, and equally dangerous in its practice,—so utterly subversive of every thing like order, or the just influence of a properly constituted government of laws, is even insisted upon by those very Americans who are loudest in extolling the superior excellence of their institutions, and the unerring fitness with which every part of the very complex machinery of their government, is framed and put together—“’Tis true,” they state, “that the laws should maintain their supremacy, but at all hazards, that the voice of an undoubted majority of the people should at all times exercise its legitimate rights.”—Aye! truly—and so indeed do we say, with many others as loud in reprobating their conduct, whenever these rights are fairly and properly insisted on, through their appointed organs—their chosen and legitimate representatives; but not in the extended exposition

of these modern sticklers of this worst species of tyranny, and with whom the exercise of these asserted rights, more aptly means, the privilege to the very populace to enforce the most illegal and extravagant pretensions, by the worst means of violence and crime—by tarring and feathering—by burning and conflagration—by open, heartless, and cold-blooded butcheries, perpetrated almost within view, and in the very hearing of the judicial authorities of the country—by daily and continued assassinations in the public ways, for which redress is never had, and indeed but seldom sought for; by these, and all such like means, is the omnipotent will of the majority of the “sovereign people” to be determined, and which when thus expressed, is to sanction of itself, the numerous and appalling crimes—the otherwise unheard-of atrocities, committed in this land of promise and equal laws, under the oft abused names of “liberty and justice.”

It were, we confess, a wearisome task to wade through the detail of outrage and crime of the few last preceding years, committed under the sanction of the popular will, and now identified with the domestic or internal history of the country—the numerous lives that have been sacrificed to appease the morbid appetites, and infuriated passions of a heartless and fluctuating Mobocracy—or the reckless destruction of private property in pursuance of its behest; proclaiming to the world, an entire social disorganization, a fearful disregard of the usual restraints imposed by law, order and good govern-

ment, and of which the excesses committed at Charleston, New York, Baltimore, Washington, Vicksburgh, St. Louis, Cincinnati, Philadelphia, with many other places, throughout the Union, are fearful examples. It is by such means, if permitted to exist, that the fixed and established rules of American society, must from henceforth be regulated—nay! the lives of individuals be determined—the course of every man's conduct, even towards himself, or to his family, especially defined, and marked out for his adoption, under the dread of incurring the displeasure, and becoming subject to the anathemas of this irresponsible and tyrannic inquisition, that fully conscious of its power, will suffer no interference with its most capricious will, or the uncontrolled exercise of its insatiate despotism.

“There is,” to adopt the language of a modern writer, “a marked and very essential difference between the mobs and riots of the old country, and those that disgrace the new world; that whilst the outbreaks of popular violence in America, which traces its being to as varied causes as the wild caprice and unrestrained passion of man could make them, are frequently the offspring of some private or local grievance, sought to be redressed, some individual wrong unatoned for, some revengeful spirit unsatiated, and are generally levelled at the party, who possesses neither the influence of power, or of wealth to sustain him; popular tumult with us, on the other hand, is seldom excited, except for the attainment of some

concession,—some real or imaginary right, or to assert some principle deemed indispensable to liberty and justice.”

It is not our province, if even within the compass of our abilities, to seek or point out a remedy for these evils; they are deep-seated, and inherent in the American system of internal government, weak and impotent as it confessedly is, in exacting an obedience to the laws, framed for the protection, and proper control of its citizens—administered as they are known to be, with a laxity that directly encourages their violation, and extends immunity to the offender, proportioned only to the daring and deep atrocity of his crime. A turbulent and factious spirit has preserved itself of late years, in every intersection of the country, that scoffs at all order, tramples under foot the supremacy of all law, and only limits its licentiousness to the standard of its uncertain, and vacillating will. *A la lanterne!*—*A la lanterne!* was the cry of the French revolution. “Down with the Senate,”—“down with the judiciary,”—“down with aristocracy,”—“down with the banks, and all monopoly,”—the war-whoop of the more modern revolutionists of the new world, proclaimed from the house-tops, the high-ways and corners of every street, and made the subject—the grateful theme, of every late public disquisition.

It was a convenient maxim of the late President Jackson, for whom, good intentions are claimed by every party, distinctly and openly avowed by him,

that—“*every man had a right to interpret the laws as he understood them.*” This fallacy, no doubt, formed the governing principle of his own conduct and administration, and led him into excesses in the government of the country, irreconcilable with the letter, as well as the spirit of the constitution. Whether the laws were supervened for the substitution of any new experiment, or set aside as unsuited to his purpose, he assumed the measure of every change upon his own “responsibility,” and without any other excuse to sanction the exception. But the seeds of angry discord, of turbulence and crime, were deep-seated and early sown in the social and political system of his country, and scarcely needed the radiated influence of his example to nurture them into vitality and existence; they have since grown to a fearful exuberance, matured with the blood and tears of many a victim, and almost without parallel in the history of the most barbarous ages, to furnish details of similar atrocity.

The country is familiarised with these excesses; men now regard them as of every day occurrence; they are spoken of without surprise, and even endeavoured to be sustained by many of the educated—the more intelligent, and better instructed of American citizens, who assume their necessity, in cleansing the social and political body from the foul excrescences, that in despite of human legislation and foresight, they insist, in support of their position, may sometimes exist amongst them; and

where, they equally assert, no other legislative or human interference can possibly avail. Being themselves the "*source and foundation of all law,*" they conceive they have a right to adopt these, or other means, to any change, or sudden emergency that may arise, needing the influence and example of summary punishment, and where the laws of the country, from their tardiness, cease to have effect, or possibly cannot reach.

But this system is not of late invention; it has been the rule for many past years in the southern states, known under the dark and comprehensive appellation of "Lynch law;" it has of late only, extended its influence or practice to the Eastern, or Atlantic cities, and at the rate that it has advanced, assuming new daring in its hourly progress, bids fair to become at no very distant day, the generally adopted code of the United States; without indeed, that it is at once and speedily checked in its career, by some more decided and better regulated mode of internal government, comprehending an entire remodelling of the present existing laws, or at least their manner of distribution, and substituting others more suited to the wants, the necessities, and peculiar situation of the country. It is weakness, and of an erring kind to disguise the truth—the indisputable and notorious fact, that under the present constitution, the executive power of the government is a cypher, a mere nonentity—its efforts, a positive burlesque in legislation, perfectly incompetent and useless, for any beneficial, or essentially good

purpose, and unable of itself to check disorder, or extend protection against this lawless and iniquitous system, to the humblest and veriest citizen of the republic. It is to the forbearance *alone*, of an inflammable—a vicious and easily excited population, that the country is at any time indebted for the temporary peace and quiet it may enjoy. How long it shall remain undisturbed in this unenviable repose, is an enigma, that “time which casts its shadows before,” can alone unravel..

The derivation of the term “Lynch law,” from the notoriety of the proceedings enacted under its sanction, has become a matter of some curiosity: we have endeavoured to trace its source, but find some difficulty in determining its origin, from the varied statements—each being insisted on, as the correct version of its early parentage: the following account, which is generally credited, appears to us the most consistent.

John Lynch, the terrible judge, was a native of South Carolina, who emigrated to Kentucky shortly after the pioneer, Daniel Boone, had established himself there. The settlers on the “dark and bloody ground,” as Kentucky was then called, were far from any seat of justice; the nearest court-house being at a distance of 450 miles. The appointment of Lynch as a judge, and the first exercise of his jurisdiction, took place in the case of an Indian, who stole a horse from Daniel Boone. The Indian was caught, almost in the act, and Boone immediately instituted a court, and twelve jurors, to try the offence.

John Lynch was elected chief justice. The Indian was tried, convicted, and sentenced to receive thirty-nine stripes, which were forthwith given. The authority thus given to Lynch was retained by him, and trials under "Lynch law" were had, whenever an outrage was committed. Lynch was a daring dissolute fellow, addicted to every species of vice. It has not been alleged, however, that his decisions were partial or unjust. He out-lived Boone, and resided, during the later part of his life, on an island in the Mississippi. The author of the geography of the Mississippi, speaks of him as one of those remarkable men of the "buccaneers of the west."*

* The biography of Boone is entitled to a passing notice, as of one of the most extraordinary, and the most remarkable of the early pioneers of the "Far West," whose privations and extreme difficulties—whose hair-breadth escapes by "flood and field," bid fair to perpetuate his well-earned fame to the latest period, and identify his early history with that of his country. The following particulars of his life, lately published in the United States, are not without interest.

Daniel Boone was born in Virginia, and was from infancy addicted to hunting in the woods. In May, 1769, he set out on an expedition with five companions, to explore the then unknown territory bordering on the river Ohio, and now known as the populous and wealthy states of Ohio, Kentucky, and Tennessee. After a number of escapes from conflicts with bears and wild animals, encounters with Indians, and escapes from storms and floods, the party dwindled down to two persons, Daniel and his brother, who were left in the interior of Kentucky, the only white men in the wilderness. They built a cabin, and spent the winter of 1769-70, alone in the woods, in a secluded jungle, out of the reach of the Indians. They had a

There may be some excuse, we admit, for the early settlers, the pioneers of the far west, in the absence of the law of the land, or of all law, to protect and

small supply of ammunition, and each a good rifle, that ever faithful friend and companion of the western pioneer.

Their rifles furnished them with an abundant supply of food, the country abounding with wild duck, geese, turkeys, deer, hares, rabbits, partridge, woodcock, snipe, &c., and for which it is yet celebrated. In the spring of 1770 they set out on a tour, and explored the valley of the Cumberland river, after which the two brothers returned to Virginia, and organized an emigrating party for the first settlement in Kentucky. In September, 1773, Daniel Boone removed his family to Kentucky, accompanied by five other families, who were soon followed by forty men, who joined the settlement and appointed Daniel as their Captain-General or Governor; but being attacked by Indians, the settlers were compelled to retreat nearer the white population, and finally settled down among the colony at Church river. In 1774 a company of English capitalists employed him to buy lands from the Indians on their account, which he accomplished to the satisfaction of his employers and with great honour to himself. In April, 1775, he built a fort at the Salt Springs, where the city of Boonesborough now stands. Here he sustained several sieges from the Indians, and was once taken prisoner by them while hunting with his men. In 1782 the savages increased their depredations to an alarming extent, when Boone gathered a force of 176 men, and chastised them severely.

During the war with England, Boone's services were alternately given to the colonies on the Atlantic sea-board, and on the western frontier. Whither the enemy consisted of the King's troops, or the forces of the red men, Boone feared them not. Each in turn felt the unerring aim of his rifle, and hundreds fell before him.

In 1798 the Spanish authorities induced him to settle in upper Louisiana, giving him two thousand acres of fertile land,

govern them, in adopting some rule for their own preservation. Severe and cruel as those laws may have been, they were yet preferable to none at all ;

and thither he removed that year with his children and followers, to each of whom the Spanish Government granted 600 acres of land. He settled down for life on this grant, surrounded by a numerous family, and a large company of admiring followers. He continued his favourite sport of hunting, and trapping bears, until the year 1824, when in the month of September, as he was taking aim at a bear, he fell over and expired, being then in the eighty-fifth year of his age.

He died near the old Charette village, in what is now Warren county, Missouri, and was buried about a mile from the town of Matthasville. His wife, the first white woman who entered Kentucky, is buried by his side. Several of the old settlers of Missouri are buried at the same spot, and the grave-yard has grown over with a thicket of briars several feet high, and almost impenetrable. The traveller passes by the spot, and never knows that there lies buried one of the most wonderful men that has existed in the United States. For many years there was not even a tombstone to mark the grave ; but a few years ago a very aged settler of St. Clark's county, named Jonathan Bryan, with his own hands cut out a rough tombstone, about two feet high, and placed it at the head of the grave of Daniel Boone, and that is the only monument that has ever been erected to his memory. Happily for the reputation of the country, a better spirit prevails, and the people of Missouri are now about to raise a suitable monument over the grave of Daniel Boone and his wife.

The memory of Boone is otherwise preserved, by a sculptured piece as large as life, in the rotunda of the United States Capitol, at Washington, being one of four, designed to commemorate the aboriginal character, and some of the prominent events in the early history of the country. The scene of the device is laid in 1773, and is made to represent a fearful contest between Daniel Boone, and an Indian Chief.

and perhaps necessary in the turbulent and chaotic state in which society was placed in those remote districts, where might alone gave right, and the weak became the early victims of the powerful, and the many. But our modern Lynch law code is of a very different cast; called into use for very opposite purposes, and generally enforced in those parts of the republic, where the constituted laws of the country, until these repeated evidences of their utter insufficiency, were held to be supreme: even the mockery of a trial is now dispensed with, and what was once perhaps assumed to be a precautionary, though severe measure of self-defence, has of late years been distinguished as the sanguinary, and penal retribution of mob vengeance—the sudden and unrestrained outbreak of violence, and crime, disturbing the foundations of all social order—disgracing the age in which we live, and stamping reproach upon the nation, where such excesses are for a moment tolerated, or permitted to exist.

The fiend-like character of these ebullitions—the sudden vents of popular violence, is the same in the north as in the south, in the eastern as in the western districts; its aim equally confined to the destruction of private property and human life, attendant with a degree of savage barbarity, scarcely reconcilable with the darker ages from which we have escaped. The mind sickens at the contemplation, and turns with loathing from the dark and fearful catalogue, which even the few last years present.

It is far beyond the limit of our inquiry, to

wander into these details, or dwell upon the incidents that daily occur, under the direction of these self-constituted tribunals, beyond what is necessary to afford the reader a correct illustration of their half savage and demoralizing character, and latent influence on American society. Even in the New England states, generally proverbial in the conduct of their citizens, their love of order, and quiet observance of the decencies of life—mixed up, it is true, with a certain portion of illiberality and religious fanaticism, these excesses have of late years shewn themselves; demonstrative of a yet crude and unsettled state of society, even in these parts, characterised by a cool and deliberate resolve, that bodes no immediate return to the observances of peace and social order, or that obedience to the established laws, so necessary to their due and proper enforcement.

The recent plunder and burning of the Catholic Ursuline convent at Charleston, within about a mile of the city of Boston, in the State of Massachusetts, was precisely of this cast—distinguished by features of the deepest enormity. It had pleased several of the modern peace-preservers of this district to insist, in opposition to asserted facts, that a religious of this convent had been continued an inmate of the establishment against her will, and notwithstanding her own repeated and positive assurance to the contrary. After due deliberation, these men determined, under this assumed pretext, to sack and burn the establishment to the ground. The public authorities of the town, as also of the city of Boston adjoining, were

fully apprized of the intention, for at least a week before the movement took place; but, unwilling we suppose, to place themselves in opposition to the popular will when expressed after this fashion, took no precautionary steps to prevent the outrage. On the appointed day several hundred of these incendiary ruffians calling themselves, *par excellence*, the "People"—"free and independent too"! proceeded to the convent, and in the broad glare of day, and in the actual presence, and with the connivance of several of the public authorities, who as usual dared not offend the "Sovereign Will" by any judicious, or timely interference, and having ransacked and pillaged the establishment of much of its valuable property, and driven near fifty innocent, unprotected and unobtrusive females, whose acts were those of benevolent kindness and christian charity, destitute and houseless wanderers upon the world's broad waste, as well the numerous little children they had in charge, with sacrilegious hands, and the sacred name of liberty on their lips, fired the building in several places, and remained witnesses of the foul and blasted deed, until the entire lay buried in one confused pile of smoking ruins.

The unfortunate and unoffending inmates, for whose protection no arm was raised, for whom no sympathy was excited, and by whom mercy and forbearance was so needlessly evoked, sought temporary refuge with the little children under their care, in the recesses of the garden, and burying ground attached to the building; from whence they were again driven

by these base and cowardly assailants, who rioting undisturbed in the work of destruction they had commenced, completed the iniquitous villainy of their conduct, by breaking open the tombs and cemeteries of the unoffending dead, and with polluted hands, scattering the mouldering remnants of weak and decayed mortality inhumed therein, to the four winds of heaven.

The public press it is true, with some few exceptions condemned the atrocity. The authorities abashed at the consequence of this culpable and tame acquiescence, drew up some whining silly statement, which they sent forth as an apology: several of the more prominent of the ringleaders were arrested, and as if to add insult to outrage, were put through the stale mockery of a judicial trial; but as a well understood consequence, were all—all acquitted, except indeed, one young lad about fifteen or sixteen years of age, (named Marcy,) who was found guilty, and sentenced to some short term of confinement, still lessened in its duration, by the merciful interposition of the Governor, who in humble submission to the sovereign will, so well and forcibly expressed on the occasion, released young Marcy, after a few weeks only of his confinement had been gone through. Those of the conspirators who had been acquitted, became the objects of popular favour, as having suffered persecution in a just and righteous cause. They were carried in triumph to their respective homes, and subscriptions set on foot to reward their patriotism—the firmness and daring of what was

called, their "true American principles." Some of these worthies have been since called to their long account, before a more just and exacting tribunal: but before their death left a valuable and instructive lesson to the State—the record of its disgrace, in the public declarations of their crime, for which they had been tried and legally acquitted, detailing the active and persevering efforts they had made, in the plunder and destruction of the convent.

The property destroyed on this occasion, or otherwise lost to this religious community could scarcely be less than from eighty, to one hundred thousand dollars. Efforts were afterwards made by the goodly citizens of this fair portion of the republic to remove the stain, by moving in the house of representatives for a grant of ten thousand dollars, as a part indemnity for the loss: the question underwent a long and animated discussion, while the feeling and proper sense of the community were best tested by the proposition being ultimately lost by a majority of *four hundred and twelve* to sixty-seven.*

* There is no law at present in force in the United States, if we except the city of Baltimore, where such a law has only very lately been promulgated, securing any compensation to the party injured by mob violence, for the loss or destruction of his property. This provision in the law of England, while consistent with the principles of common justice, gives at the same time to every individual a direct interest in the preservation of the public peace, as well as the property of his neighbour, from wanton or unnecessary outrage. The city of Baltimore is stated to have paid for losses occasioned by mob outrage in the first year (1836) of an introduction of an act of this kind going into operation, a sum of about one hundred and three thousand dollars.

The desperate wickedness of the act, as may well be imagined, created a deep and sensible impression on the minds of the Catholic population of the country; it was, to say the least, a wanton and cruel outrage, a villainous and dastardly outbreak of popular vengeance; and as might very justly be anticipated, aroused every latent feeling of sectarian animosity and bitterness, amidst a large and influential class of the community, that threatened to eventuate in other and most fearful consequences. The town of Charleston had well nigh paid the forfeit of the temerity of its citizens; even the fair city of Boston was threatened with the retaliatory vengeance of a large Catholic population, amongst whom were several thousand Irish emigrants, many of them at the time employed on the canals, and public works of the neighbourhood, and who, ready for an onslaught, were only restrained by the extraordinary, the patient and Christian perseverance of their Bishop, the Right Rev. Doctor Kenwick, and his numerous clergy, from securing, what they conceived, a full and ample atonement.

The better feelings of every citizen revolted at these excesses, whilst the language of the Boston press, with few exceptions, was loud in its condemnation.

“The burning of the convent at Charleston,” remarked the Alexandria Gazette, “would have been a crime of the deepest magnitude, and of the worst example, had it been done for real, and well authenticated offences against the purities of morals, and

decencies of life. But destroyed as it was for imputed misdeeds, which rumour had circulated with malevolent exaggeration, and with unsparing zeal, and which were subsequently proved to have been without the slightest foundation in truth, the crime will ever remain a blot upon the country which not all the rioters can wash out. And here, too, the game of plunder was actively carried on. Things sacred from their very purpose and use, sacrilegiously hunted up and borne away by the defenders of morals, and champions of chastity!—And all this perpetrated in the face of the law, amongst a people renowned for their intelligence and love of order, and no effort made to arrest the incendiaries, or prevent the spoliations of their adjuncts. In this case, as in the case of *New Orleans*, the arm of civil authority *was connivingly withheld*, or only stretched forth when the work of destruction was complete.”

But these iniquities, with a long list of others we could name, are thrown far into the shade, by the atrocities to which the south has been familiarised ; where the worst passion of man’s nature, is the sole controlling guide of the actions of every citizen, and the immolation of human life the sacrifice made to the dastardly and sickly revenge of an outlawed population. Almost every individual in America, more particularly in the Southern States, carries some deadly instrument, or weapon about his person. The stiletto, the dirk, or the bowie knife ;*

* This formidable weapon is said to have been invented by a reckless drunkard, Razin Bowie, after whom it is called, who

some, perhaps, for the murderous and secret purpose of assassination ; whilst many no doubt are compelled

squandered his property, and was subsequently obliged to fly from his native country, the United States, to Texas, for slaying a man in a duel. The fact is well known in Texas, and is thus related by a friend of Bowie's, who was present when Rabin Bowie fought a duel with knives across a table, at the Alamo, a few days before Santa Anna took it :—His first duel was fought at Natchez, on the Mississippi, in the fall of 1834. A dispute arose at a card table, in the middle of the day, between Bowie and a man named Black. The lie was given by Bowie to his opponent, and at the same moment, drawing his knife, (which was a case one, with a blade about four inches long, such as the Americans always carry in their pockets,) he challenged the man to fight, which was accepted without any hesitation, and Black having taken his seat opposite Bowie, at a small square table, the conflict began. It lasted about twenty minutes, during which time both parties were severely cut, when Bowie rose from the table, and, with a desperate oath, rushed upon his antagonist, who immediately fell dead at his feet. The inconvenience felt by Bowie on this occasion, from the smallness of the knife, having called forth the exercise of his debauched and sanguinary mind, he invented a weapon which would enable him, to use his own words, "to rip a man up right away." This task he accomplished during his exile in Texas, and which was the only legacy he could leave his young and adopted republic ; indeed it is all she can shew of her citizen, his body having been burned by the Mexicans, and his ashes swept from the face of the earth by the passing winds. The real Bowie knife has a two-edged blade, about nine inches long, slightly curved towards the point, and sufficiently thick in the back to serve as a chopper, in which way it is very formidable, but not so much so as in thrusting. The blade is covered with a sheath, and, when neatly got up, as some of them are, it forms a pretty ornament enough, when coming from under the corner of the waistcoat, or over the

to adopt this usage, so repugnant to every noble, and chivalrous mind, from the necessity which obliges them to assume a precautionary course of this description, as their best and almost only defence from personal injury and violation. The mere knowledge of the fact, that a man carries concealed weapons about his person, to defend him from attack, and with which to retaliate, if assaulted, often secures his person, perhaps his life, when none of the restraints of order or moral propriety are acknowledged, or the defined laws of the land put in force. Though much we condemn the practice in the abstract, though much we repudiate the notion, amongst a peaceable and orderly community, of the treacherous, and cowardly habit of going abroad secretly armed, more suited to the timid bully—the blackleg—the craven and midnight assassin, than to the good, the peaceable and upright, we nevertheless can make excuses for such of the latter class of citizens, residing in any of the western or southern parts of the republic, with the many and dread examples before their eyes, of the

waistband of a pair of Texian trousers. They are generally of the best Sheffield manufacture, where they are now prepared exclusively for the American market ; and of late years constitute an extensive and important article of British hardware export.

The habit of carrying these, and such-like weapons concealed about the person, became so very general, and withal so alarming in its consequence, that the government of Maryland, in 1836, with a view to put some check to so dangerous a practice, caused a prohibitory bill to be introduced into the house of delegates for this purpose ; which, strange as the fact is, was rejected on a division by a majority of 51 to 17.

most heartless of cold-blooded butcheries, of peaceable and unoffending citizens, in the open day, and in the public streets, of their towns and cities, with scarcely a voice being raised to censure, or condemn the deed, or an effort made to bring the offenders to the bar of public justice.

We shall pass by the repetition of many such scenes within our own knowledge, contenting ourselves with a detail of the more recent outrages at Vicksburgh; affording as it does a tolerable sample of the mode, and fashion, in which such deeds are usually perpetrated, and the Lynch law code put in force in this best of all republics. We take the following from the *Louisiana Advertiser*, which is fully corroborated by every other account we have heard or read upon the subject.

“*Authentic Particulars.* The statement in our paper of Saturday, of the horrible excesses committed at Vicksburgh on Monday last, being in some respects incorrect, we hasten to lay before the public authentic accounts, which have been communicated to us by two gentlemen just arrived from that troubled city, and eye-witnesses to most of the transactions. They state that the excitement is so great in that hitherto tranquil place, that almost all the women have left it, to avoid any future commotion. We have further to state that the additional paragraph in our account, stating that Dr. Bodley had had some quarrel in the gaming house, after having won a considerable sum of money, is altogether erroneous; as we have been assured that Dr. B.

never was known to frequent such places, but on the contrary was strongly opposed to them.

“Some difficulty arose at the public dinner, in celebration of the 4th of July, as too often happens on similar occasions, between Mr. Fisher, who belongs to the volunteer company, and Mr. Francis Cobler. From words they proceeded to blows. Mr. C. having drawn a knife upon his opponent, the company, taking the part of their comrade, seized him, bound him to a tree, and inflicted thirty-two lashes on his person !

“Not considering this sufficient, they tarred and feathered him, alleging that he was a gambler. He entreated them to shoot him, rather than disgrace him in that manner, and begged of them not to let the tar fall into his eyes, as they poured it over his head ; but the person he addressed, instead of complying with his request, struck him violently with a stick across the eyes ! He was then released, and ordered to quit the city within *twenty-four* hours.

“The next day, in order to appear consistent, and continue their work of civilization, (as they called it,) they went forth in military array, to pull down, tear out, and demolish everything appertaining to gambling ; and to tar and feather any that should oppose them !—law or no law, notwithstanding ! Some wished to protect their property, but their hearts failed them, when they saw the state of excitement of the volunteers. One at length determined to stay in Mr. North’s house, to protect

himself from being tarred, and to secure the house and grocery from destruction. He had fastened the doors, but upon Doctor Bodley kicking one of them open, some shots were exchanged; the consequence of which was, that the Doctor was killed upon the spot, and one of the inmates of the house, a person named Cullum, or as we have heard since Helmes, was so wounded, as to have been totally insensible to the subsequent punishment inflicted on his body, whilst suspended with the rest upon the gallows. He was hauled upon a dray, and thrown upon the scaffold, disfigured as he was and covered with blood!

“Three more individuals were taken in the house, the bar-keeper, called Dutch Bill, Mr. Samuel Smith, and Mr. McCall. North, who had previously quitted it, and was endeavouring to make his escape by water, was arrested about a mile from the city and brought back; his hands were tied behind him, and he was obliged to walk with the rest, who had been similarly bound; each having a rope round his neck, which was frequently jerked so violently as nearly to choke them! In this manner they were conducted to the scaffold, which is a permanent building, and executed without further interruption! No cap, or other covering was used, and the unfortunate sufferers presented such a horrible appearance, that the passers by were moved even to tears! Some of them endeavoured to interfere, but were threatened with similar punishment, and obliged to desist!

“The unfortunate men claimed to the last, the privilege of AMERICAN CITIZENS, the trial by Jury, and professed themselves willing to submit to anything their country would legally inflict upon them, but we are sorry to say their petition was in vain! The black musicians were ordered to strike up, and the voices of the suppliants were drowned by the fife and drum. Mr. Riddell, the cashier of the Planter’s Bank, ordered them to play *Yankee Doodle!*—a tune which, we believe, has never been so prostituted before,—and we trust will never be again.* The unhappy sufferers frequently implored a drink of water,—they were refused! Mr. North seems to have had some presentiment of the violence to which they would proceed, as he requested a friend of his, Mr. Mitchell, to protect his family if anything should happen to him.”

“Doctor Bodley’s brother, or Mr. Hest, his brother-in-law, is stated to have cut the rope, by

* Martin, in his history of North Carolina, says that the well known national tune of *Yankee Doodle* was composed by a Dr. Shackbury, who belonged to the staff of the British army in America, out of a frolic and ridicule of the Falstaffian ragamuffin American puritans who volunteered to join the English troops; and he presented it to the officers as a most martial air, calculated to inspire the vilest coward with courage. The joke took, to the no small amusement of the British. Brother Jonathan exclaimed that it was “nation fine,” and in a few days nothing was to be heard in the provincial camp but *Yankee Doodle*. Little did the author then suppose that a tune made for the purpose of levity and ridicule should be marked with such high destinies.

which four of these unfortunate men were launched into eternity. Mr. Wingfield threw the nearly lifeless body of Helmes (or Cullum) from the scaffold, which presented a sight shocking to humanity.

“The volunteer company, consisted of thirty-nine or forty persons, commanded by Captain Baumgard, and armed by the United States for a very different purpose, that of protecting their fellow citizens, and maintaining the supremacy of the laws. Such conduct would disgrace Algiers, and could hardly have occurred in a barbarous state.

“The wife of one of the sufferers, half distracted, at the cruel treatment and murder of her husband, trembling for her own safety, in tears begged permission to inter her husband’s body—it was refused! She was afterwards compelled to fly with her orphan child, in an open skiff, for her personal security.

“The same fate was threatened to any person who should dare to cut down the bodies before the expiration of the twenty-four hours. At eleven o’clock the next day they were cut down, and thrown together into a hole, which had been dug near the gallows, without coffins, or any other preparation, except a box, into which one of them was put.

“Thus ended this disgusting and horrible occurrence. We understand that the magistrates attempted to interfere, but were cautioned, at their peril, not to intermeddle in the affair.”

It is even stated, that while these scenes were enacting, one of the law courts of this State, or of

the United States, was in session in this city, and in the actual hearing of the shouts and plaudits of these ruthless murderers.

Who is there, so hardened in iniquity,—so callous to every feeling of our nature, that can read this detail without his blood curdling in his veins, at the mere recital of this atrocious and fiend-like atrocity, which no force, or strength of language can fairly depict, or loud condemnation sufficiently reprobate, perpetrated in the heart of a country, that insists upon its perfect state of civilization, and nauseates mankind with the everlasting theme of the excellence—the matchless beauty and perfection of its social system—the perfect organization and efficiency of its laws? In what other country under Heaven, could deeds of such appalling wickedness, and unatoned for crime find a parallel—receive a sanction from any portion of the community or come recommended or in part extenuated by long usage, and the frequency of their repetition? for there are men, who still endeavour to palliate these abominations,—who speak of them as coeval with the existence of the country, and who insist upon the fearful necessity of their continuance, as a necessary means of example, in preventing and eradicating crime, when the fickleness of the law would otherwise encourage its perpetration; who connive at these excesses, as essential to the due enforcement of order, and the better regulation of American society, as placed beyond all other control.

This advocacy is not altogether confined to the

South, for the system finds abettors even in the north and west. The *New York Sun*, the leading democratic organ of that city, with a daily circulation of twenty-six thousand, re-echoes the opinion of a large and influential class of its readers, in the following, which is presented as a fair specimen of the reasoning, by which these fiend-like atrocities are endeavoured to be upheld.

“ *The code Lynch.*—The comments and animadversions with which most of our city editors, and indeed those of other places, have accompanied their accounts of the recent remarkable administration of justice, according to the criminal code of Judge Lynch, in Vicksburgh, and other parts of Mississippi, and the South, are calculated to give to the people of the North, a very incorrect and unjust opinion of that renowned system of jurisprudence, and to identify it in point of character, with the reckless and indiscriminating operations of northern mob law, or rather of mobs *without* law or judgment. The true character of that code, so high in favour at the south, is however, far from being so licentious and uncivilized, as the current opinion of the north has set it down. The mobs at the north are composed, at least nine parts in every ten, of the lowest, most ignorant, and most abandoned portion of the population; the executive authority of the code Lynch, on the contrary, are invariably those citizens, who constitute the *most wealthy, educated and influential portion of the community*—such as would be selected by their fellow citizens, as *suitable men to be intrusted*

with their best interests. Neither do the successors of Judge Lynch rush blindly and without judgment upon scenes of violence and bloodshed ; and though the progress of retribution from the arraignment to the punishment of the offender, is oft-times none of the slowest, still we doubt much, whether the united judgments of a Lynch tribunal, are not quite as apt to hit on the right side of justice, to decide correctly between guilt and innocence, and to mete out to the convicted a righteous measure of punishment, as are some other justice seats in favour amongst us at the north—and least of all as much so as a certain semi-weekly criminal tribunal of this city, (“the Recorder’s Court, or Court of Sessions”) where testimony is never known, save on the side of the prosecution, where a jury never sits, and where the *ipse dixit of one man*, constitutes the law, the judgment, and as we have before now seen, even the testimony.

“The Lynch laws are of no modern adoption, but, on the contrary, claim priority to the constitution of several of our States. They were the result of a looseness of legislation, that left the lives, property and rights of the people without sufficient guards, and the extreme laxity of the officers of the law, in enforcing its few and incompetent provisions, either through fear of their popularity, which is not unfrequently the case further north, or some other cause equally cogent.—That this remissness, both on the part of the lawmakers and its ministers, should have driven the people to take the guardianship of society

into their own hands, cannot be wondered at—especially if it be remembered, *that even in this city it is no small restraint that prevents our citizens from frequently purifying with their own hands, the moral atmosphere from those deep rooted vices, which have been winked at and tacitly encouraged, till their enormities exceed the bounds of forbearance, and have gained strength and influence, which renders the present superficial administration, of our more superficial laws, a bye-word and a reproach.*”

But these principles, we still believe, find but a faint response amongst the enlightened, the educated, or more sober thinking of the community, who nevertheless form but a small—a very small minority, amongst the large bulk of the present population of these states. The public press, wherever removed from an apprehension of the consequence of a free expression of any adverse opinion to the public sentiment, generally united in reprobating these atrocities, and with the energy, and in the language befitting the occasion. “We cannot even at this distant day,” writes the Alexandria Gazette, from which we have before quoted, “look back upon the tarring, and feathering, and hanging of the gamblers at Vicksburgh, without asking if the perpetrators of these dark deeds, were really and truly men of flesh and blood like ourselves. The bare idea of seeing some half dozen men cruelly and inhumanly tortured with scalding pitch, and afterwards strung up to the gibbet, without trial, or even the mockery of trial, in a civilized country, and in a land of laws, strikes

the mind with terror, and the feelings quail at the thought. But to see men tortured, and thus put to death, for an offence so venial, and so universal as that of gambling; and to hear their heart touching and wrath subduing entreaties for mercy, made the sport of ruthless murderers, is enough to call down the vengeance of Heaven. Time may roll over in its course, the fertile valley of the Mississippi relapse again into a wilderness, the Father of waters itself go dry; but this transaction will stand forth through all time to come, and challenge a parallel for its enormity. The offence of the victims lies buried with their bones—the matchless cruelty of their fate will remain a bye-word and reproach.”

“It is believed that one hundred instances might be adduced, of individuals being shot down in the streets, in this country, and no punishment inflicted on them who have done it. We boast of having no exclusive privileged class; but it is a violation of truth to utter it, so long as your gentleman murderer is permitted to go at large unwhipped of justice, and the poor thief confined in the dungeon.”

From these and many other recorded instances, now forming a part of the domestic history of the United States, it were no longer possible to disguise the truth—the plain intelligible fact—demonstrated by every succeeding day’s experience, of the entire supremacy of the people, or rather of the very populace over all law, order, or properly defined government; originating as we verily believe it does, in the extreme feebleness of their republican institutions—

their manifest incapacity to control the masses, or limit the excesses of an otherwise licentious, corrupt, and unrestrained population, but more especially, in the essential nature of the elective principle introduced into every department of the internal government of the country, which places the entire executive authority at the mere will and beck of an oscillating and heartless mobocracy. It were impossible, we assume, that these excesses could ever take place, or continue for a season, were the laws but properly and efficiently administered—if punishment was the certain consequent of crime, and the mere will of the many to cease legitimizing the most daring acts of wickedness and insubordination. The extreme weakness and incapacity of the executive in this respect—its utter inability to protect the peaceable and honest citizen, or to punish the guilty, has heretofore lent an undue sanction to these enormities; and though Americans in their foolish pride, and affected notions of superiority, are loath to attribute these every day scenes of iniquity and brutal outrage to this self-evident and very palpable cause, that extends immunity to crime, in proportion to its atrocity and daring, will in the end, find their only hope in a return to any permanent state of social order and of peace, in a total reconstruction of their present form of government, and an entire remodelling of the institutions under which they live.

CHAPTER VIII.

The late Rebellion in the Canadas—Fixed hatred of Americans to British name and British influence—Papineau and McKenzie parties—The Hunters' Association—Proclamation of President Tyler directed against them—Their organization and extended ramifications—The late Canadian border troubles—The burning of the steam-boat Caroline—The character and undefined nature of American international law—The Federal Government and State of New York at issue on important legal questions arising out of these proceedings—The Act of the late Session of Congress 1841 and 1842, entitled "An Act to promote further remedial Justice in the United States Court," intended to supersede the jurisdiction of the several States in matters of this concern and invest same in the Federal Government—The unconstitutionality of this Act demonstrated, rendering it inoperative and void—Jurisdiction belonging to individual States to take cognisance of offences committed against their soil and territory, in no wise affected by this Act—The great international importance of the principles involved in the case of the Caroline—The yet probability of future difficulties arising there-out between England and United States—Trial of M'Leod—His want of firmness and moral courage—Views of President Tyler declared in his annual message to Congress in 1841—Dissent of the Governor of New York from the principles advanced by President Tyler—The yet embarrassing and unexplained condition of American international law in this respect.

WERE the consequences of this anomalous condition of domestic government, confined in its immediate influence to the citizens of these States, who

must be supposed to hold the remedy in their own hands, and from whom any change in their domestic legislation can alone emanate, it could scarcely come within the province of any other people to except to whatever they may choose shall regulate their social system, or otherwise interfere with whatever municipal rule, they may think proper to adopt for their especial government, that more immediately belongs to their own supervision, and with which no other people can reasonably interfere. But their position is rendered somewhat different, when the peace and harmony of other nations become affected by their social disorganization—when the safety and well-being of bordering states become menaced by the lawless incendiarism—the continued and unrestrained violence of their citizens, over whom their municipal laws possess no immediate influence, or are neutralized, in the impotency or utter incapacity of the general government to enforce them.

These “salutary demonstrations of public opinion,” as they are generally called in the United States, if confined to the American soil, might very well be left to the American citizen for ultimate correction. But the zeal of our transatlantic neighbours finds some difficulty in restricting its sympathies to their own citizens, or confining their exertions within the reasonable limit of their own territory. The settled forms of a monarchical government, in close proximity to their northern shore, are too restricted in their notion—far too circumscribed, for the enjoyment of that universal freedom of thought and

action, which rests in the exemption of all control, beyond the paramount authority of the mere transient opinion of a turbulent and unsettled population, and which the abettors of this system inculcate, as the supreme authority in all matters of civil government. Hence, many of the lamentable and sanguinary conflicts, that characterized the late unfortunate outbreak in our Canadian possessions in 1837, which humanity must ever deplore, and which if not altogether owing to the promulgation of these, and such like extravagant opinions, are mainly indebted to American sympathy and exertion, in nurturing into some kind of vitality and form, as well for their further, though short-lived existence.

To the energetic measures adopted by the British Canadian Government in 1837, is in great part to be attributed the very sudden and unexpected development of those plans of insurrection, though scarcely then matured, and that involved these provinces in open rebellion with the mother country. The friends of anarchy and disorder throughout the United States,—the numerous citizens in every part of the republic, whose fixed hatred to British name needed no other stimulant, to take part in any popular commotion directed against British supremacy in these colonies, were equally taken by surprise, and were found in every way unprepared for this sudden emergency. There existed no previous sympathy, or concert between them and their Canadian neighbours, that might

otherwise have induced the latter to seek support from the United States, or come prepared to this struggle for their independence, with whatever of assistance the deep-rooted jealousy of their American friends, might have brought to their aid. The outbreak was sudden and unexpected, without sufficient of organization, or matured judgment to render its success even problematical; for there existed between the disaffected French Canadians of the lower province, headed by Papineau, their declared leader, no possible identity of feeling, of principle, or motive with their American neighbours, at least, infinitely less so, than with the loyal British of these provinces, who were altogether opposed and arrayed in direct hostility to their pretensions. Neither was there any fellowship, or intimate communion subsisting between them, and the McKenzie party in the upper province, who were excited by other motives, and urged on by very different anticipations.

The public mind in the neighbouring States, had scarcely recovered from the surprise that these sudden and unexpected events had excited, when advances were made, by the entire American border population. Money, arms, ammunition, and warlike stores, were offered in the promotion of this newly projected scheme of Canadian Independence, that suggested to the American, a wide and productive field for his cupidity, and the improvement of his fortunes, by the chance means that an insurrectionary movement of this kind

was so likely to bring with it. It was in vain that the American executive counselled its citizens to abstain from all interference between the subjects, and government of a neighbouring and friendly State ; or, that its ministers, or other officers, were directed to suppress and bring to punishment those of its citizens offending in this respect. Their efforts were controlled by the force of public opinion, which soared above all law and public order, and limited its excesses to the extent only, of its means to do mischief. The public stores, and United States' arsenals along the frontier, were broken open and plundered of their contents ; whilst, in despite of proclamations, and every other precautionary measure of the Federal Government, artillery, ammunition, and warlike stores of every kind, of the national property of the United States, were carried off to the insurgent forces, that were speedily joined by numerous volunteers from all parts of the American continent.

The signal failure of McKenzie at Toronto, had somewhat dispirited his followers, who soon after took up a position, which they fortified, at Navy Island, in the Niagara river, from where they were subsequently dislodged by the British forces ; being reduced to nearly one half of their original number, by desertion, or the abandonment of their friends, on ascertaining the hopelessness of further exertion. The entire soon after dispersed, wending their way to the United States, dispirited and disappointed, to concoct new schemes, and devise

means for some future and better arranged effort in securing the future independence of these provinces ; and which soon after gave birth to a society, or organization of American citizens, along the entire northern frontier, under the name of the "*Hunters' Association* ;" with branches in the several States, bound together by a solemn oath, not only to assist in the formation of Republican institutions in all parts of the world, but never to relax in exertion, until such time as they should succeed in wresting from the power of England, every possession or foothold belonging to her on the North American continent. It was this strong feeling of a most malevolent disposition—of uncompromising and rancorous hostility to British pretensions, which pervades so large a proportion of the American public, that gave unity and direction to the proceedings of this body, and enabled it in a short while to extend its ramifications, not merely along the entire northern division of the American confederacy, but into every other intersection of the country, and to class amongst the most active and resolute of its members, many of the most influential and leading men of the United States.

The general misapprehension that existed, and still continues to exist, amidst the bulk of the British population, and from which our rulers are scarcely exempt, as to the extent and acerbity of American dislike,—the extreme jealousy with which nearly every citizen has always regarded our interests, or national pretensions, had considerably underrated the

formidable tendency and power of this association, until their plans became so far matured—their objects so easily discernible, as to call forth the interference of the Federal executive, in a Proclamation addressed to the nation, and directed against their further continuance; offered no doubt as a concession, considered to have been due to the remonstrance of the British Government, made through its representative; though its efficacy will scarcely be insisted on by those best conversant with the United States, in the suppression of this formidable coalition, or in any reasonable diminution of its members. Still, this manifesto of the American President has not been without some beneficial consequences, if only in its tendency to enlighten those, who before would not see—in convincing the incredulous in such matters, and guaranteeing to the world, and to the British public in particular, the undisputed reality, of the existence of a wide spread and formidable organization; certainly, far beyond the power, and it mayhap be considered, equally beyond the actual desire of its own Government to suppress; directing its entire struggle and measures of hostility against British interests—in secret, and with that firm and decided purpose that will never rest, until made sensible of its incapacity—its utter weakness, when opposed to British rule—to the force and efficacy of British bayonets.

The Proclamation of President Tyler is of value on this account; as such we submit it for the reader's consideration.

*“ By the President of the United States
of America.”*

“ A PROCLAMATION.

“ WHEREAS it has come to the knowledge of the Government of the United States, that sundry secret Lodges, clubs, or associations, exist on the northern frontier ; that the members of these Lodges are bound together by secret oaths ; that they have collected fire-arms and other military materials, and secreted them in sundry places ; and that it is their purpose to violate the laws of their country, by making military and lawless incursions, when opportunity shall offer, into the territory of a Power, with which the United States are at peace, and whereas it is known, that travelling agitators from both sides of the line, visit these Lodges, and harangue the members in secret meetings, stimulating them to illegal acts ; and whereas, the same persons are known to levy contributions on the ignorant, and credulous, for their own benefit, thus supporting and enriching themselves by the basest means ; and whereas, the unlawful intentions of the members of these Lodges, have already been manifested in an attempt to destroy the lives and properties of the inhabitants of Chippewa in Canada, and the public property of the British Government there being. Now, therefore, I, JOHN TYLER, President of the United States, do issue this my Proclamation, admonishing all such evil-minded persons of the condign punishment which is certain

to overtake them ; assuring them that the laws of the United States, will be rigorously executed against their illegal acts ; and that if in any lawless incursions into Canada, they fall into the hands of the British authorities, they will not be reclaimed as American Citizens, nor any interference made by this Government in their behalf.

“ And I exhort all well-meaning, but deluded persons, who may have joined these lodges, immediately to abandon them, and to have nothing more to do with their secret meetings, or unlawful oaths, as they would avoid serious consequences to themselves. And I expect the intelligent and well-disposed members of the community to frown on all these unlawful combinations and illegal proceedings ; and to assist the Government in maintaining the peace of the country, against the mischievous consequences of the acts of these violators of the law.

“ Given under my hand, at the city of Washington, the twenty-fifth day of September, A. D. 1841, and of the independence of the United States the sixty-sixth.

“ JOHN TYLER.

“ By the President,

“ Daniel Webster, Secretary of State.”

When a nation puts forth a manifesto of this kind, enjoining its citizens to peace, and the observance of amicable relations with neighbouring States, we are bound to give it credit for good

intentions and to believe in the sincerity in which such sentiments are expressed. But beyond this, we attach very little importance to any American state document of this kind; knowing as we do from the experience of past history, its utter and acknowledged incapacity to control the action, or conduct of any of its citizens, or afford the slightest guarantee to foreign States, of any ultimate suppression of the disorders of which it may complain, or against which it may be more immediately directed. To the American, it is always rather a matter for irony—or jest; or perhaps of approval, according as he may believe his schemes the better concealed, by a supposition in the efficacy of any such protestation, to be enforced by the threats, or influenced by the counsel which it may inculcate; or perchance, otherwise looked upon by him as a piece of state jugglery, to which nations are sometimes wont to resort, the better to conceal their own secret inklings, and divert mankind from the real objects which they themselves desire or contemplate. Certain it is, that this proclamation of President Tyler had but little influence in repressing the disorders against which it was ostensibly directed, of checking the rancorous and malignant spirit that had given them birth, and which awaits only its opportunity to display itself in a more perfect organization, on the first occasion that may promise it success.

In May, 1838, the first lodges were formed; and rapidly extended their various ramifications, into every intersection of the United States. Their

object will be best understood from the form of oath administered to their members. It is as follows:—

“ I —— do swear to do my utmost to promote republican institutions and ideas throughout the world; to cherish them, to defend them, and especially to devote myself to the propagation, protection and defence of these institutions in North America. I pledge my life, my property, and my honour to the Association. I bind myself to its interests; and I promise, until death, that I will attack, combat, and help to destroy, by all means that my superior may think proper, every power or authority of royal origin upon this Continent; and especially never to rest till the British tyrants cease to have any possession or footing whatever in North America.

“ So help me God.”

The organization of the Association is said to be divided into three principal branches—the political, military, and financial; which three branches are again subdivided into many sections. The classification of the members is as follows:—1. A Grand Sasanen, or Grand Master—(Chief President). 2. Grand Eagles—(Presidents of the different States.) 3. Eagles—(Chiefs of Counties). 4. Grand Leaders—(Chiefs of Districts). 5. Grand Hunters—(Chiefs of Townships). 6. Chief Hunters—(Chiefs of Lodges). 7. Hunters.

The Supreme Lodge may be called the Executive, and consultative council of the Sasanen; but in order to give a correct idea of the organization of

the whole, it may be necessary to state the different ranks and classifications. An inferior lodge is formed of twenty to thirty common hunters, having for a head, a chief hunter; twenty to thirty of these chief hunters, form the lodge of a grand hunter; twenty grand hunters, form the lodge of a grand leader. The grand leaders are members of the council of the eagle, whilst two or more eagles have consultative votes in the direction of the society under the grand eagle in each State.

By the rule of the society, every member of whatever rank is obliged to provide himself with a rifle, or musquet, a sword or dagger, and have always in his habitation forty charges of powder; he is obliged to pay the following contributions:—common hunter, two cents per week, or a dollar per year; a chief hunter, six and a quarter cents per week, or three dollars per year; a grand hunter, twelve and a half cents per week, or six dollars per year; a grand leader, twenty-five cents per week, or twelve dollars per year; an eagle, thirty-seven and three-quarter cents per week, or sixteen dollars per year; grand eagle, fifty cents per week, or twenty dollars per year; Sasanen, one dollar per week, or fifty dollars per year: besides a dollar is paid as entrance money, and a dollar, on the election of any rank.

The whole of this sum is kept at the disposal of the Supreme Council, and is generally used, partly to provide arms and ammunition for the poorer members, who cannot afford to buy them themselves; to support newspapers and publications, edited in the

interest of the Association; in paying emissaries, lecturers, postages, and accumulating deposits of arms, cannon, and so forth.

The number of lodges in the last year were as follows:—Maine, 99; Vermont, 107; New York, 283; Michigan, 54; Wisconsin, 7; Illinois, 21; Indiana, 14; Ohio, 86; Pennsylvania, 49; Kentucky, 11; Virginia, 21; Maryland, 16; Delaware, 2; New Jersey, 17; Missouri, 39; Iowa, 3; Louisiana, 11; New Hampshire, 78; Massachusetts, 89; Rhode Island, 15; Connecticut, 68; Lower Canada, nearly the whole of the French population are organized in lodges; Upper Canada, 84. There are a few lodges in New Brunswick, and a few scattered in other parts. The numbers of lodges in the States not mentioned may amount to from 50 to 100. The number of members taken at the minimum may be fairly calculated at eighty thousand able bodied men, and there are not fewer than twelve thousand voters in the Association. The funds, donations, extra contributions, and a rigid economy in 1839, 40, and part of 41, had so much increased as to save above three hundred thousand dollars as a reserve.*

* An American correspondent of the London Morning Chronicle, who appears to be well acquainted on the subject, has presented, through its columns, much useful and very interesting information, from which we have already quoted, and now subjoin the following remarks connected with these Societies, that will amply repay the reader's perusal:—

“After the evacuation of Navy Island, and the several

We cannot refer even thus lightly to the border troubles of the late Canadian insurrection, without more particularly alluding to the most important

attempts upon Lake Erie, the patriots of both parties appeared to have been entirely discouraged. On the arrival of Lord Durham in Canada, by his conciliating policy, and his general and nearly universal amnesty, the rancours began entirely to disappear. But some secret influence, some power that could be felt, but not seen, counteracted the best exertions, the most philanthropic acts, and the soundest policy of his Lordship. As we do not propose to write its history, it may be sufficient to state, that it was about this time that we can trace the beginning of what afterwards was called the Hunters' Association; whether it originated in New York, or Vermont; whether the McKenzies, the Nelsons, the Coats, were its principal founders; whether the Baron Frattelin, or the Chevalier de Lorimer, at whose suggestion it was formed, we cannot say. Neither can we say whether it originated in the spontaneous will, and wish of its founders, or whether, at the very outset, it owes its origin to foreign influence.

“ Sir George Arthur, the late Lieutenant-Governor of Upper Canada, was the first who succeeded in discovering the existence of this band; and it was to his judicious measures, that the very formidable plan that was to have been carried into effect in the fall of 1838, was defeated. But disunion amongst the unionists, more than British bravery or foresight, was the real cause of its proving abortive. The reader must know, that the only point on which all the branches of this association agree, is *hatred to Great Britain*. Apart from this, no strong bond exists amongst them. The great proportion of the Canadian Hunters, agree only with the Americans, as far as hostility to England is concerned. They wish to throw off English supremacy, without having any desire to become Americans.

“ Papineau, Morin, Vigor, are the leaders of this party; and it includes nearly the whole of the Lower Canada sections, with

features in the sequel of these disturbances, as between Great Britain and the United States. The seizure, detention and subsequent trial in the state of New York

the exception of the Coats and Nelson parties, which are for a union with the United States, and have the most partisans in the districts of Montreal, and on the border of the river Richelieu. Again, amongst the Americans there exists a difference of opinion as far as union is concerned. They all want the free navigation of the Saint Lawrence, and of the Saint John, the Northwest territory, and the whole of the country to the west of the Rocky Mountains; but they are not *prepared to say*, that a northern set off for Texas will not be necessary. Why then not take Texas into the Union? say the Southern Lodges.

“At the elections, the watchword is given from the chief, and it is here that this Association threatens to become most mischievous and dangerous; and it is most likely that they will succeed in getting the ascendancy in all the eastern and middle States. Regarding this body only in a military point of view, one is struck at the first moment by their large numbers; but yet, it would be a very bad calculation, to suppose that their physical strength corresponds with their numbers. The writer is of opinion, that, with the utmost exertion, the Association could not at any single point, concentrate two thousand men; and that it can be only imposing, as auxiliary to some well pronounced movement. Its other weakness consisted in a great want of military leaders, or rather, of military talents; this want was felt at the beginning; and consequently one of the first thoughts of the leaders, was to engage foreigners, officers of experience. A Colonel St. Martin, was the first that made his appearance upon the frontier; he was a man somewhat advanced in life, and was reported to have been a Colonel in the French guard; but he quarrelled soon with Doctor Nelson the younger, and disappeared as he came. He never took any remuneration, but on the contrary advanced something to the military funds of the patriots. Some Poles of an inferior rank were also engaged,

of a British subject, Alexander M'Leod, on a charge of murder, and arson, alleged to have been committed by him, in concert with others, acting under

but they were only birds of passage; till, in the middle of the summer 1838, the plan was formed to make a determined and unanimous effort on the whole frontier. Rendezvous for officers were opened in New York, Philadelphia, Boston, &c. The Polish Colonel, Von Sultz (a Finlander by birth, the son of Colonel R——.) was to direct as chief of the staff, the operations in Upper Canada, whilst for Lower Canada the French Canadians insisted on having only French officers, and at last they appointed Monsieur Charles Hindenlang, a French officer, one of their brigadiers. The Commander-in-Chief of all the forces, patriots, and hunters, was to be assumed by Doctor Nelson nominally, but in reality by a Polish or Hungarian officer of some talent and ability. Jealousy, disunion, and treason, or rather embezzlement by some leading members, rendered the whole proceeding farcical. Von Sultz after having, lion-like, fought for three days against a force ten times his superior, with a heroism worthy of a nobler cause, was taken and hanged with all his officers. Hindenlang surrendered, exposed in a most forcible manner the infamous conduct of Coat and Nelson; and in spite of a most noble defence, and a thrilling appeal from the pen of General Bradish, was hanged haranguing the people in the most enthusiastic manner, the people ending with a shout of "Vive la liberté—Vive l'indépendance Canadien!" The writer of this knew that both Sultz and Hindenlang were only enthusiastic dupes, and that persons infinitely more guilty, who fell into the hands of the British authorities, escaped scot free. The escape of the political prisoners from the citadel at Quebec, one of the strongest places in the world, shews how extensive and how general the adhesion to the hunters' interests was. The three principal prisoners were thirty-four days in the upper town of Quebec, while the whole garrison was visiting every corner of every room, house, cellar, and even every coffin. Many a time

the orders and immediate instructions of the British Canadian Authorities, in the capture and burning of the American steamer "Caroline."

they were obliged to change their quarters seven or eight times a day, and in spite of the tremendous reward they were not betrayed. Since the failure of the movement in 1838 the Council of the Hunters came to the decision of waiting for occasions, and of making as many as they could, in order to acquire a better organization, and be prepared for any event. They resolved to extend and increase the number of lodges, and to organize intercourse and political connexions in Europe. Papineau and Leveque being in Paris, it was proposed to appoint them plenipotentiaries, and in fact Papineau was even received by Marshal Soult in private audience; but Mr. Papineau spoiled the whole by speaking to the old sword of liberty, constitution, democracy, &c. instead of appealing only to "French feelings," "French interests," "French connexions," and submission to "French will," and "loyalty to Louis Philippe." He was very much blamed for being such a bad diplomatist. Whether he was cashiered, or yet keeps his place, we are not in a position to ascertain. To England an Irishman and Scotchman were sent, Mr. E—— and S——g, to see what could be done with the Chartists. We have heard a great deal about the report of these two gentlemen, which we cannot repeat, as we have no proof in our hands, and to reveal only some part of the truth would commit some persons very deeply. It was at their suggestions that subscriptions to the Irish Repeal fund were begun in America, which of course will increase considerably if the Council of the Hunters should approve of that peaceable mode of sympathising agitation. The question is very often asked, is it true that Russia, or any other power, encouraged the Canadian rebels and American sympathisers? To give a positive answer would be a difficult task, but one thing we know, that 50,000 dollars, 5,000 rifles, some cannons, and a large amount of ammunition and provisions were offered, through a foreign agent, by two

This affair, so nearly implicating both countries in open hostilities, and notwithstanding its importance, has ceased to possess any very great interest in the

foreign mercantile houses in New York or Philadelphia : this we know to be a fact. We could tell something more on this point, but as her Majesty's Government did not think fit to divulge any facts, so it is our duty not to do so.

“ This last year (1842) the lodges were uncommonly active ; two plenipotentiaries of the highest rank in the class were sent to Europe, particularly to engage professional military men, and officers of talent and experience. One entered on his mission in Bremen, in Germany; but after making several arrangements, even packing up things and freighting a ship, his funds failed—that is say, the person to whom they were intrusted, converted them to his own use ; and as the thing was so *cautiously arranged* that no *evidence* could be procured by the “bloody English,” the treasurer could of course laugh in the face of his Excellency, the plenipotentiary. However, the Bremen authorities began to suspect something wrong, and requested his Excellency to leave the territory of the republic ; he remained some time in Munster, in Westphalia, but, as we hear, he obtained but few recruits and fewer friends. The last place we heard of him was at Antwerp and Rotterdam, where he was scheming on paper the freight of a ship, for emigrants, to be carried to the State of Maine, on credit of course.

“ We are often asked who is the grand Sasanen, who are the grand Eagles? It is really impossible to state this positively, but we may hazard an opinion that the actual chairman of the Committee of Foreign Affairs of Congress (Caleb Cushing) *knows* something about the matter. In one of his last lectures at Springfield, Massachusetts, he states, *that it is the duty* of every American to co-operate for the expulsion of British influence and authority from that continent. Governor Fairfield, of Maine ; Governor Mason, of Michigan ; General Bradish ; Colonel Thomas ; the Hon. Senator Williams ; Lieut.-Governor

public mind, from a belief, (an erroneous one we contend,) that the law of the United States having undergone a revision on questions of this doubtful tendency, a security is thus given to the British Government against every possibility of their recurrence.

It is very true, that the United States Government, aware of the extreme difficulty of its position—the void that exists in the Federal constitution, precluding every reasonable control of the Federal Government in cases arising out of border collisions, such as the burning of the *Caroline*, with the extreme difficulty of preserving future amicable relations with Great Britain, without some better defined and easily understood legal principle, releasing the separate states of the Republic from judicial interference in all such matters,—and that yielding to the necessity of effecting some change, passed an act in the last congressional session, entitled “An Act to promote further remedial Justice in the United States courts,” which was intended to supersede all power or authority, hitherto exercised by the local or State tribunals, in cases similar to that of the *Caroline*, and to place all future, and such like transactions under the exclusive control of the Federal government, and law-courts of the United States.

It was quite time, we admit, that some better

Bradish, of the State of New York ; General Clark ; Wolfred Nelson ; L. J. Papineau ; Charles Pierre Bonaparte ; W. L. McKenzie, and others, are the gentlemen who perhaps could best inform us what are their respective connexions with this association.”

understanding in cases of this kind should have subsisted between the American Government and foreign nations ; especially with Great Britain, whose peculiar position on her northern frontier, had made her a party more immediately concerned ; and that no intricacy, or difficulty should again arise from the anomalous character, or undefined nature of American law, that permitted the authorities of New York, a mere intersection of the Republic unknown to foreign States, to arraign a British subject on a capital charge, for acts committed under the immediate sanction and authority of his Government, and which had directly assumed their entire responsibility.

It would appear, that as far as an Act of Congress could effect a remedy, that such has already been accomplished ; and that a law, as we have observed, has passed both houses, and received the sanction of the President, removing all authority, or apprehended jurisdiction in such cases, from the local or state tribunals of the country, to the supreme court of the United States. We say, *as far as an Act of Congress can effect such change* ; which appears to our judgment — (assuming the law as laid down by the supreme court of New York in the particular case of M'Leod, and to which we shall hereafter refer, to have been the correct constitutional law of this State— fully recognized at the time by the Federal Government, and which secured to her, certain rights and immunities, equally, and individually belonging to every other State of the Republic) — as removed far

beyond all Federal interference ; and which we would feel some anxiety to hear explained, how any mere Act of Congress can possibly amend, or alter. With us, such questions are of a very different caste ; the more especially, as our lower house of Parliament is supposed to represent the people of these realms, where every individual is declared to be present, to approve, or dissent from any alteration in the laws of the country, as he may consider of public advantage ; and which, with the House of Lords, and sanction of the Crown, are omnipotent in all such matters. But we are led to think very differently of the extent of authority vested in the United States Congress, under the Federal Constitution, as also of the rights and privileges appertaining to the separate and individual States ; which are supposed to have continued to them in their first and original extent, all that belongs to distinct and separate sovereignties, except where a jurisdiction is expressly delegated to the general Government, under the original compact that has bound these States together as members of the same republic.

The charge of Judge Gridley*—the further decision pronounced by the supreme court of the State of New York in the case of M'Leod, would bespeak, that the right which this State then exercised, however improperly, as against foreign nations, in arraigning the subject of another government, as in

* The judge before whom M'Leod was arraigned and tried at Utica, in the State of New York.

this instance, before its legal tribunals, if ever belonging to its jurisdiction, or recognized as such by the laws of the United States, does not appear to have been abandoned or transferred to the supreme Government; that by a direct acquiescence, had in the fullest manner recognized the existence of such right, as exclusively appertaining to the individual States, though urged by the protest and repeated remonstrance of the British Minister, to an opposite, and more decided interference.

It is perfectly inconsistent, and irreconcilable with the principles, as well as the letter of the American constitution, that the Federal Government of the country, or Congress, which is a part of its organization, can of its free will, and by a mere act of its own, assume to itself rights and immunities, detracting from the privileges of the separate States, and heretofore exercised, or enjoyed by them respectively, however advantageous to the general good:—whilst it is equally clear, that any such assumption, is of itself *legally inoperative and void*, if adopted without the direct and concurrent sanction of these States, whose rights are thus intended to be transferred to another and separate jurisdiction.

Should such be the case, and the laws of the United States, we apprehend, are perfectly clear and intelligible on this head, it requires no very great sagacity, or any very intimate acquaintance with American jurisprudence, to perceive the result of the late arrangements concluded between Lord Ashburton on behalf of Great Britain, and the United States;

or rather, as to what becomes of the late Act of Congress, which assumes to provide for, and invest the sole control of all, or any case of a similar character, with that of Alexander M'Leod, growing out of the "Caroline affair," that may perchance again take place at some future day, and that under this revision of the United States law, would appear to remain as yet unsettled between the two countries, without even an earnest of effecting any future change in their organization as respects such matters.

Under these peculiar circumstances, the affair of M'Leod though of recent date, is still one of unusual interest and importance to the British public; as indeed to the people of the United States—involving questions of international law of the highest consideration to both countries, that remain yet unsettled, and that it is possible will be made to act as a precedent on any future similar occasion, should such occur, or where the same principle may be called in question.

Also—With regard to the power assumed by an individual State (the State of New York) known only to the Government of England as an integral part of the American Republic, to redress of herself, and independent of her Federal connection with the other United States, any real or supposed injury committed against her soil or territory, or for any infraction of her local or municipal laws by a foreign power.

And further—With reference to the enforcement

by such State of such assumed right, with the acquiescence of the United States Government, and with whom only, foreign nations acknowledge any subsisting political relations.

It may be well to premise, in recurring to this subject, that the actual rebellion in Canada in 1837, as already shewn, was speedily suppressed by the valour and energy of the troops, line and militia, employed on the occasion. Not a single rebel was in arms in this province, when an organized band, under McKenzie and Van Reausellar, of one of the oldest and most respectable families in the State of New York, composed of Canadian refugees, and partly of American citizens, and armed from the United States arsenals, and within the United States frontier, took possession in the open day of an island lying in the Niagara river, belonging to the British Crown, and where they also transported artillery, arms, and ammunition, also of the United States property; receiving continued reinforcements, and from which position, with these means, they continued to play upon the inhabitants of the Canadian frontier at a distance of scarcely six hundred yards. Also on boats passing up and down the river. A steamboat the "*Caroline*" was employed, chartered from some citizens in Buffalo for the express purpose of conveying reinforcements, arms, ammunition, and provisions to this band, and was so employed throughout the day of 20th December, taking shelter near the American shore soon after night-fall. It was considered

necessary by the officer in chief command of the militia force of the Upper province, Colonel Allan McNab, to capture or destroy this steamer, for the purpose of preventing all further supplies to the insurgent party on the island. A body of men under his immediate instructions, and commanded by Captain Drew of the British Navy, soon after night, attacked and captured the vessel, lying moored on the American shore ; but being unable from the extreme rapidity of the river, to bring her across to the Canada side, they were compelled to set fire to her, and allow her to drop down with the current. It appears that in this struggle an American citizen (Durfee), was killed.

The entire affair soon became a subject for diplomatic communication between the two Governments; the United States demanding an adequate compensation for the destruction and loss of the *Caroline*, as also some atonement for this abuse and invasion of its territory, as an independent nation. But before the British minister could enter on the consideration of the various international questions comprised in the demand, a circumstance occurred in their further development that had well nigh involved both countries in a calamitous and sanguinary war, in the seizure and imprisonment of a British subject, (Alexander M'Leod) within the territory, and by the authorities of the State of New York, on charges of arson, and murder, made against him on behalf of the "Sovereign people" of this commonwealth, as being ac-

cessary to the burning of the steamer *Caroline* and death of *Durfee*, (he being pronounced as one of the party in the expedition under the orders of Captain Drew), and of which this State assumed a right of judicial interference; such acts being declared by her as an infraction of her municipal laws, in which she claimed to exercise a sole and undisputed jurisdiction, independent of all, or any other interference whatsoever. This determination of New York was immediately followed by a distinct avowal of the aggression by the British Government, assuming all the responsibilities of the act, and accompanied by a demand made upon the Federal executive, for the instant liberation of M'Leod—"It is well known," declared Mr. Fox the British minister at Washington, in his official note to Mr. Forsyth, American Secretary of State, "that the destruction of the steamboat *Caroline* was a public act of persons in Her Majesty's service, obeying the orders of their superior authorities. That act therefore, according to the usages of nations, can only be the subject of discussion between the two national Governments. It cannot justly be made the ground of legal proceedings in the United States, against the individuals concerned, who were bound to obey the authorities appointed by their own Government."

Mr. Forsyth, in his reply, after stating the anxious desire of his Government to maintain amicable relations between the United States and England, said—"It is, then, with unfeigned regret

that the President finds himself unable to recognize the validity of a demand, a compliance with which you deem so material to the good understanding which has hitherto been manifested between the two countries.

“ The jurisdiction of the several States which constitute the Union is, within its appropriate sphere, perfectly independent of the Federal Government. The offence with which M'Leod is charged, was committed within the territory, and against the laws and citizens of the State of New York, *and is one that comes clearly within the competency of her tribunals. It does not, therefore, present an occasion when, under the constitution and laws of the Union, the interposition called for would be proper, for which a warrant can be found in the powers with which the Federal Executive is invested.* Nor would the circumstances to which you have referred, or the reasons you have urged, justify the execution of such a power, *if it existed.*”

Such were for a time the declared opinions, the expressed determination of the American Government under the Presidency of Martin van Buren, unsustained by any former usage or law of nations, or even the principles that have frequently governed the conduct of the United States on similar occasions.*

* It is with our American neighbours, one thing to *preach*, and another thing to *practise*. We best point out the inconsistency and disingenuous conduct of the American Government,

The Report of the Committee on Foreign Relations, to the American House of Representatives then in session, fully supported the views of the American President, and taking it in all its parts, might well have been considered a war report; and had it expressed the sentiments or opinions of the American people, would have led to a conclusion of their desire, indeed their determination to force on a rupture with Great Britain at all hazards. But such was not the case—America was wholly unprepared at this moment for any such emergency; stricken in her means—bankrupt in all her resources, she was too enfeebled for such an effort. Even Mr. Pickens, Member of Congress for South Carolina, and chairman of this committee, knew well the dangerous ground on which he ventured, and the dissent with which such a proposition would be received by the Senate, and more sober thinking of his fellow citizens. But the coalition to which Mr. Pickens and the majority of his committee belonged, (the ultra-democratic party of the then administration), was on the eve of being replaced in power by General Harrison and the Whigs or Federalists; while the opportunity was too favourable to let pass of creating unusual difficulties and embarrassments for their successors, not to seize upon it as a God-send, and as one that

by submitting for the reader's perusal a memorandum of instances in which the United States have pursued enemies or alleged criminals on neutral territory.—See particulars in Appendix (marked E.)

could not fail of adding to their many other perplexities. Such we believe to be the general character of American patriotism—such the love of country that flickers in the breast of the generality of American Statesmen, who are prepared to make these, or any other such sacrifices, for the promotion, or mere temporary advancement of whatever political party they may chance to be allied to; or for the disquieting those, who may for the while be opposed to them in the government of the country. Such conduct strangely contrasts with the proceedings of the British Parliament whenever the well-being of the nation is in anywise concerned. Even on this occasion, when receiving notice of the refusal of the American Government to surrender M'Leod, a British subject, who had been thus illegally seized, and held individually responsible for the formally avowed acts of his own Government, all party feeling was at once forgotten, and merged in the one universal desire, to sustain to the very uttermost, and by all means within the grasp of British power, the menaced honour and interests of their one common country.

Further instructions were at once sent out to the British Minister at Washington, who had previously addressed a communication to Mr. Forsyth, American Secretary of State, (in reply to his letter of 26th December, and in which the former application for the release of M'Leod was refused), which regretted this refusal, and intimated that the ill-treatment of M'Leod would lead to the most *grave*

and *serious* consequences. He reiterated to the American minister that the attack on the *Caroline* was made in pursuance of orders from the colonial authorities, approved of by the British Government:—that the *Caroline* was a piratical vessel, and was but nominally within the jurisdiction of the United States: that the authorities of New York had been unable to maintain their jurisdiction, at the place where the *Caroline* was attacked, or even to prevent the pirates from carrying off from that place, the cannon belonging to the State.

The formal announcement of the British Minister was not without its proper effect upon the conduct and decision of the Federal Government, which soon after admitted the principle contended for by Great Britain, and intimated this altered view of the American cabinet to the Government of the State of New York. But “state rights”—state jealousies, and the insulted sovereignty of this confederated portion of the Republic, rebelled against the notion; and insisting upon *its reserved power under the Constitution*, to try all cases of aggression within its own limits, denied the interference of the Supreme Government in the premises. M'Leod, who had been removed for better security to Utica, protested against the jurisdiction which was thus about to try him on a charge of a capital felony. He was brought up on *habeas corpus* before the judges of the Supreme Court of the State of New York, when having challenged the competency of this tribunal, or of this State, on the grounds assumed by the

British Government, and now sanctioned by the United States Executive, his plea or challenge was unanimously overruled, and M'Leod thereupon remanded to stand his trial.

It is a matter on which public opinion has been much divided, how far Great Britain has been justified to herself in submitting with such exemplary patience to this trifling with her dignity,—her honour,—and that position she is bound to maintain amongst the nations of the world, in abstaining to inflict a summary and well-deserved chastisement, on this self-inflated and petty State,—unknown to this country, in any recognized official or diplomatic character whatever; and which a respect only for the Federal authority, that had condemned and repudiated her interference to the British Government, guaranteeing the entire personal safety of M'Leod, whatever should be the issue of these proceedings, has, we believe, saved from a consequence, which her conduct had thus so wantonly provoked. M'Leod was soon after brought to trial, and having proved an *alibi*, was acquitted.

The result occasioned but little surprise in America, much less in England, where such an event was anticipated, from the virtual guarantee of the American Government ensuring M'Leod's safety at all hazards.

With this issue we should not perhaps find fault, but rather hail the occurrence, as removing a cause of near hostilities between the two countries. Yet, it is impossible to feel satisfied at the result, to fore-

see what may eventually be the consequence of these proceedings, or the future difficulties that may arise from this very complex state of American legislation, against which no remedy has as yet been applied, or guarantee presented to the world against its further unseemly interference. A blow has been struck that cannot end with this trial. A principle of right subversive of all international law insisted on by this isolated intersection of the Republic, and carried out with a calm and settled purpose to its fullest limit in these proceedings that is pregnant of strife, and must at no distant day, under any similar emergency, become instrumental in forcing on a collision between the two countries.

We cannot put out of sight, from its very important bearing on the question, the charge of the presiding Judge (Gridley) to the jury on this trial,—the suppression or designedly blinking the most important matter at issue in these proceedings, wherein the prominent grounds or plea of defence put forward by M'Leod, (the judgment of the supreme court having already affirmed the murder of Durfee,) “excusing in the individuals the act charged against them—first, because done in self-defence, and again because the entire transaction had already become the subject of recognition between the two Governments, so as to deprive this court (the Supreme Court of the State of New York) of jurisdiction over the offence”—were overruled. The killing of Durfee, even under the circumstances in which his life was forfeited, having been declared “murder” by the unanimous decision of the Supreme Court ;

the only question that the learned judge directed should be considered on the trial of M'Leod was, "whether the prisoner was one of those embarked in the enterprise in which such life was taken; for it followed that all engaged in it were guilty of the same offence." It were not necessary that M'Leod's arm should have dealt the blow; it was sufficient, according to the learned judge's exposition, that he was present aiding and abetting the proceedings. With this explanation his Honour continued:—"Then comes the question—the important question on which you are to pronounce. Is Alexander M'Leod guilty of that murder?" And to this did the jury turn their minds, regardless of every other consideration, or whatever consequences might result from their decision, should the evidence before them by possibility admit of a verdict in the affirmative.

But this, beside the question of the rights of a foreign and independent state, opposed to rebels in arms against its legitimate authority, aided and assisted by the citizens of a friendly power, who, as in this instance, were removed beyond the control of their own government, and in which, a proceeding that, under other or ordinary circumstances, might be classed as of a criminal tendency, became legitimized and perfectly defensible, from the several and concurrent circumstances by which it was surrounded,—relieving the actors or parties concerned from all individual or legal responsibility whatsoever. The very act of the *Caroline*—her connection with the rebels op-

posed as belligerents to British authority in British waters, piratically trading with them, and assisting in the transport of munitions of war, and other stores, took from the parties implicated therein, the protection and rights which otherwise belonged to them as citizens of an independent and friendly State.

Of Alexander M'Leod we may perhaps be permitted to speak ; for after all he was but a man—a mere man—and may be excused for whatever pains he may have taken to save a very worthless life. Such perhaps is human nature—the instinctive feelings belonging to man's weakness, to which it may be unreasonable to charge M'Leod for not forming an exception. Yet what a noble and distinguished position was his. His cause was his country's cause—her interposition in his behalf, proceeding on an utter disregard as to his guilt or innocence. The entire responsibility of his acts, whether in the burning of the *Caroline*, or slaying of her crew assumed—unreservedly assumed by Great Britain, who stood prepared, armed with a nation's might, to avenge the first overt act, that menaced either his freedom or his life, in pursuance of any decree pronounced against him. It is a subject for regret, that he did not feel more impressed with the national importance of his high and ennobling position, or that he lacked upon such an emergency, the firmness and moral courage to protest when brought up for trial, against the usurped authority, which had the temerity to ar-

raign him, and on public grounds to refuse to plead to the indictment under which he was charged—resting his defence in the hands of his country, that watched with eager and jealous eye every proceeding taken against him. But the entire was a cheat upon the world—a wretched piece of American State jugglery, to which M'Leod under an apprehension of his personal safety—the possible sacrifice of his life, had ingloriously lent himself; as the means to more easily extricate his accusers from the dilemma, into which their inordinate vanity and self-love had betrayed them—the difficulties which their hardihood and folly had well nigh brought upon the country.

Still, does this end the prospect of future controversy with the United States, or determine the principles of international law for which Great Britain contends? By no means, it rather adds to the mutual embarrassment of our position and the difficulties that the near proximity of the Canadas, the turbulent and unrestrained character of the American population, with their known efforts to grow up dissensions between our Canadian fellow subjects and the authority of the law under which they are governed, will no doubt at some near day occasion; while the farce played off at Utica will be made to serve as a precedent in all such matters, requiring the same legal interposition, and very possibly in cases, where the difficulties of a mere identification of an individual, or a misapprehension as to his conduct, may not present the same facilities of escape.

It is certainly true, that no power exists in the executive administration of the United States, or of the other States, as with the Crown of England, to cause to be entered a *noli prosequi* for the purpose of staying proceedings in criminal prosecutions, and that whatever may be the desire of the executive in this respect, it is restrained in its ability to adopt this practice by the restrictions to which it is subject under the constitution. But an appeal from the final decision or judgment of a State Court, in *a case as that of M'Leod's*, is impliedly declared to exist by President Tyler, who succeeded General Harrison in the administration,* and who, in his annual message in opening the Congressional Session of 1841, states—

“ Yet there (in Great Britain) no more than in America can the chief executive power rescue a prisoner from custody, without an order from the proper tribunal directing his discharge—the precise stage of the proceedings at which such orders may be made, is a matter of municipal regulation exclusively, and not to be complained of by any other government. In cases of this kind, a Government becomes politi-

* This venerable man was raised to the Presidential chair, by the suffrages of the Whig or Federal party, on the 4th of March, 1841, and on the 4th of April following departed this life, at the seat of Government in the City of Washington, being but one short month in office. He was succeeded by the Vice-president, John Tyler of Virginia, who, according to the provisions of the Constitution, became, in consequence, President of the United States.

cally responsible only when its tribunals of last resort, are shewn to have rendered unjust and injurious judgments in matters not doubtful. To the establishment and elucidation of this principle, no nation has lent its authority more efficiently than Great Britain. Alexander M'Leod *having his option either to prosecute a writ of error from the decision of the Supreme Court of New York, which had been rendered upon an application for his discharge, to the Supreme Court of the United States, or to submit his case for the decision of a jury, preferred the latter, deeming it the readiest mode of obtaining his liberation, and the result has fully sustained the wisdom of his choice.*"

Still do we firmly and conscientiously believe that no such appeal in point of fact exists ; nor would such interference of the Federal Government be tolerated for an hour by New York, or any one of the other twenty-five States forming this confederacy, notwithstanding the language of President Tyler, in the ambiguous phraseology in which this part of his message is set out. The reply of Governor Seward of the State of New York, to an application from the Federal Government touching this matter is sufficiently clear and comprehensive, of the feeling with which it may be supposed any attempted innovation of this kind would be received by the majority of the people throughout the Republic. The following, taken from his annual message to the Senate and House of Assembly of his State, Jan. 1841, speaks his own version of the affair—

“The Government of Great Britain, soon after formally avowed the aggression, and reiterated the demand for the discharge of the accused. The late executive of the United States on this new and more formal presentation of the case, conceded that, according to the laws of nations, the prisoner could not be held responsible for his supposed participation in the aggression.

“The President further declared that he would direct the prosecution to be discontinued if it were pending in a Federal Court, and intimated to me, that if, for want of power or other cause, I should decline to enter a *noli prosequi*, the general Government would provide counsel for the accused, and suggest a removal into the Supreme Court at Washington, if a conviction should occur. These views were also adopted by the present chief magistrate of the United States. After due consideration, I informed the President that *now as before* the object seemed to me *to belong to the judicial tribunals of this State*, and submitted that their proceedings ought not to be embarrassed *by any interposition, either of the Federal or State authorities.*”

The controlling influence of the Federal Government, including the authority exercised under the jurisdiction of its several Law Courts, is extremely circumscribed, and limited in its interference to those cases, to which it is immediately restricted, under the delegated powers expressly marked out by the United States' constitution; all others being reserved to the several States: the 10th article of the

amendments thereto providing—"That the powers not expressly 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."

The appellate jurisdiction of the United States' courts, from proceedings taken in the law courts of any of the several States is strictly defined by the Act, 24th Dec. 1798, being an Act "to establish the judicial courts of the United States," and in which no authority can be found to justify, or in the remotest degree warrant an appeal from a judgment, or final decision of a State Court, *in cases similar to M'Leod's*, though the contrary might be inferred from that part of the message of President Tyler, that we have quoted in relation to this subject. Indeed, so perfectly satisfied did this functionary appear to be of the entire inadequacy of the law in this particular, its incompetency to carry out, under its provisions, the measure of M'Leod's ultimate liberation, in the event of his being found guilty on the trial, that he deemed it necessary to bring the subject in official form before the consideration of the country, with a view to amend the law of the United States in this respect, in the following appeal to his fellow citizens:—

"I cannot fail, however, to suggest to Congress the propriety, and in some degree the *necessity* in making such provision by law, *so far as they may constitutionally do so*, for the removal at the commencement, and at the option of the party, of all such cases as may hereafter arise, and which may

involve the faithful observance and execution of our international obligations, from the State, to the Federal Judiciary. This Government by our institutions is charged with the maintenance of peace, and the preservation of amicable relations with the nations of the earth, and ought to possess without question, all the reasonable and proper means of maintaining the one, and preserving the other. Whilst just confidence is felt in the judiciary of the States, yet this Government ought to be competent in itself for the fulfilment of the high duties which have been devolved upon it under the organic law by the States themselves."

That some such law is necessary to enable the United States to maintain its position among the nations of the world, free from the contingent—the dangerous and alarming results, that any sudden incident, or border difficulty of this kind, may unexpectedly create to disturb its relations with foreign powers, must appear obvious to every American citizen, as it certainly does to the dispassionate and peaceable of all classes at this side of the Atlantic. That no such law at present exists, notwithstanding the late Act of Congress, to which we have referred in an early part of this chapter, we deem equally clear; or even such a one, as can be appealed to, as an expedient of "*last resort*," to stay the consequence that we have so lately seen, it were even possible may result, from the pretensions claimed, and exercised, as far as it were practicable, in the late instance, by New York.

That M'Leod's life was perfectly safe, from the

moment that the British Government made known its resolve to determine their future relations with the United States, by the issue of the proceedings taken against him, we firmly believe; though we feel but little interest in determining the means by which this consummation was brought about. The same causes, however, may not again so easily operate to the same end, or become available on any future or similar emergency, whilst both nations, so long as the laws of the United States continue in their present uncertain position, remain exposed to the same chances—the same uncertainties, and the same risk of being wantonly forced, on some future occasion, into some sudden hostile collision with each other.

CHAPTER IX.

Religious toleration in the United States—No connection in America between Church and State—Each individual contributes to the support of the church to which he may belong—Infidelity general in the United States—Immorality of the American people—The parent the frequent instructor of the child in wickedness and crime—Dissimulation and an entire disregard of truth characteristic of the entire population—General apathy in religious matters—Mode generally adopted of paying the clergy—The existing laws for the due enforcement of contracts between the clergy and their respective congregations—Frequent litigation as to church property—Church building a good money-making speculation—Unusual number of religious sects in the United States—Numbers of churches, ministers, &c.—Shakers' Society—Their tenets, and extraordinary religious observances—Author's visit to a Shaker settlement—Particulars, including an account of their church service—Immorality very generally prevalent in the United States—The exceptional conduct of the females of the middle and subordinate classes—Their early education—Habit and pursuits—Marriage—its exemption from all restraint by statute—Regarded purely as a civil contract—Frequency of Divorce in the United States—Mode in which Divorces are usually effected—Facilities of obtaining a Divorce under almost any circumstances—A remarkable scene between a friend of the author's, and a native citizen—Drunkenness in the United States—Forgery—The adroitness and tact with which it is committed—Gambling—Its general practice.

ALL religions are tolerated by the laws of the United States, and recognised without favour or distinction of party—the new world presenting an example to the old, in the capabilities of a nation,

though of the usually unsettled and variable materials of which the United States is composed, continuing itself without any subsisting connection between church and state. Here every man is allowed to worship his Creator, according to the dictates of an approving conscience, in whatever form most suited to his early instructed notions, and without being held accountable to his fellow men in his belief. Each individual contributes to the support of the church to which he may belong, without entrenching upon the pockets of his neighbour, or filching from his hard earnings, to sustain in worldly and anti-apostolic affluence, the idle and intolerant—the frequently persecuting ministers of an opposing and dominant creed. Sectarian animosities are nevertheless found to exist in America, as elsewhere. It is not because transplanted to another soil, that the Presbyterian is the less selfish and illiberal in his notions—the Episcopalian, the less insolent and domineering in the assumed superiority of his recent faith—or the unlucky Catholic, the less persecuted, because no longer subject to the legal proscription that marked his inferiority in the old country. The same passions and prejudices—the same injustice and illiberality—the same intolerant and anti-Christian spirit, that has so often betrayed itself—set man against his fellow man, and embittered all social intercourse in the old world, are often found to exist in the same prurient state—in the same freshness and energy, among our descendants in the new. Yet, notwithstanding all this strife—this seeming

earnestness of religion, and the strict observance of its outward forms, there is no country where infidelity is more generally diffused amidst the bulk of the population, stalking through the land, accompanied, on the other hand, by a revolting and unbecoming fanaticism, of which, without much of hypothesis, it may be called the twin sister. It is from this poisoned and vitiated source that a large proportion of the American youth are nurtured, and taught to estimate the rewards and chances of a future life—who learn from these instructions to deride at revealed religion in its most simple form, or to use it only as a means to the attainment of some worldly or secondary purpose. Profligacy and crime are of its early adjuncts; and whatever may be said to the contrary—whatever may have been declared or written upon the subject, immorality and vice have, and still find a congenial and grateful soil throughout every part of the American Union. It is, perhaps, only here that we can recognize the parent as the tutor of his own offspring, instructing him in a war upon mankind—teaching him by precept, as by example, that honour is a word of senseless meaning that should be chased from his vocabulary—probity, an exploded dogma in his business transactions with the world, and that faith with his fellow men, the mere folly of childish inexperience, is only to be respected where the advantages are manifest, or otherwise, where no opportunity is found to force its limits. It is only here, indeed, that artifice and cunning are of the

admitted ingredients in every man's business intercourse, and the proficiency of the son, extolled and rewarded by the parent, in proportion as he may be able to trick and over-reach him. This it is, that, in the modern and perverted language of every American, is considered a fitness to deal with mankind—an earnest of capability to make one's way amidst the mazes and difficulties of American intercourse, and necessary in the peculiar, or “go-a-head” system, as it is called, which is the life and being of every trader or man of business to indulge in. To this, in fact, we can trace the dissimulation—the notorious and abominable disregard of truth that distinguishes the generality of the people of these States in their dealing with the world, whenever they can in the least promote or serve their object by its means. It is almost incredible, the *nonchalance* with which an American will draw upon your credulity, even in the most trifling affairs of life, and the effrontery with which he will hazard the most impudent and barefaced falsehood to serve his purpose, even for the short-lived term of a single day. For our own part, we have learned by our experience in the country, to discredit almost any statement made to us by our transatlantic friends, where we conceive the parties to have any—the remotest interest to deceive, and where the declarations made to us may not happen to be sustained by concurrent facts, within our own positive knowledge and experience, or the corroborative evidence of those on whom we could otherwise rely.

There is, withal, a certain apathy or indifference in religion in America that perhaps exists nowhere else; each citizen following pretty much his own inclination in this respect: and it is no uncommon occurrence to find several individuals of the same family, even to the father, mother, and their offspring, sustaining opposite principles, as members of separate and opposing creeds; each attending, without interruption from the other, to their several modes of worship, and without this diversity of opinion and pursuit producing any unpleasantness or discord between them in other matters.

As in the United States every one follows his own religious inclinations, and with unrestricted care his temporal concerns, without legal proscription or hindrance from the state, there is consequently neither lay patronage, tithes, or church rates to interrupt the harmony and peace that should subsist between the people and their spiritual teachers, who are supported rather on the voluntary principle, by contributions from their respective congregations—from the rent and taxes of the several pews in their houses of worship, and in some instances from the revenues derivable from the property belonging to some few of their churches, than by any state or government provision. The law, however, takes care to enforce the performance of any contract made between the pastor and his flock; and compels the payment to him, as to any other servant, of any stipulated salary, so long as he may continue to exercise the functions, and

perform the parochial duties of his situation, under any arrangement concluded between him and his congregation. At the same time, that the statutory regulations of most of the states, enables the several religious denominations to appoint trustees, who are thereby constituted bodies corporate, for the purpose of taking care of the temporalities of their respective congregations, and for other objects thereby declared. Were it otherwise, the property that is possessed by the numerous sects and religionists in the United States, would very soon become jeopardised—originating an endless source of contention—of claim and counter-claim, between the various offshoots or occasional dissentients, and the orthodox, or steadfast members of each creed. Even as it is, and though restrained by this salutary provision in the law, we have witnessed several severe and protracted struggles of the kind, especially in the States of New York, and New Jersey, where a large amount of church property was in litigation, (principally in the latter state,) and made the more remarkable, as between two rival denominations of the Friends,—the “Hicksites,” and orthodox Quakers, into whose ranks an extensive schism had made its way.

Church building is often found to be a good money-making speculation in the United States. It frequently happens, that when a capitalist has no other profitable means of turning his spare cash to account, he either sets about erecting a shambles, or building a church: the one in aid of the temporal

advantage, the other in uphold of the spiritual welfare of his friends and contributors. In the latter case, he has only to throw his wits around—ascertain where there may happen to reside the greater number of fashionable and pretty women, for church-going in America is regulated as much by fashion as any other everyday amusement, and having chosen a good location, erect something neat and unique in its kind—engage the services of some clergyman, no matter of what particular religious persuasion, provided he is both young and good-looking—submit the seats, or pews for competition to the highest bidder, as he would the butchers' stalls in the market, and the chances are two to one, that he will immediately double the amount of his first outlay. The pews in the new Presbyterian church in Mercer Street, New York, were thus put up for sale, while we were in that city, and realised 47,100 dollars, with thirty per cent advance for choice; thus yielding *ninety* per cent over the original cost, which scarcely exceeded 33,000 dollars in the entire.

It is reasonable to suppose, that where, in a spirit of toleration, all religions are alike permitted—where infidelity finds its openly avowed supporters among the masses, and blasphemy stalks unreproved through the land, exempt from official notice—from private, or judicial interruption,—that society should be divided in its moral and social elements, and separated into a variety of distinct and opposing creeds; that assume an outward and visible form,

according to the crude and unsettled notions of every wild enthusiast, that with mistaken zeal, and an overstrained measure of self-confidence, assumes to be the chosen of some sudden inspiration—through whose instrumentality mankind is to awake from the sleep of all former unrighteousness—by whom we are to be released from the darkness of preceding ages, and through whose spiritual care and guidance we are promised to reach Heaven by some shorter, more congenial and expeditious route, than has hitherto been revealed to our weak mortality.

We will not undertake to record a particular or special notice of the hundred and one different sects into which these goodly people are divided: many of them are of to-day, and change their hue with every returning sun; but content ourselves with the following exposition, comprising a summary of the principal religious denominations throughout the Republic.

The Protestant Episcopal Church comprehends 24 dioceses, including the eastern diocese of Maine, New Hampshire, Massachusetts, and Rhode Island—23 bishops; 1199 ministers; about 56,000 communicants, with a population of nearly 700,000.

Methodist Episcopal Church—has six bishops, who have no particular provinces or districts; but each one, is bishop of the church throughout the whole of the United States, and they spend most of their time in visiting the different parts of the country: Conferences, 32; travelling preachers, 4,147; local preachers, 8,298; members of society, 1,157,249.

The Roman Catholic Church includes—21 dioceses; 1 archbishop; 17 bishops; 8 bishops elect; 611 churches and chapels; 461 stations; 634 clergymen; 19 ecclesiastical seminaries; and 261 clerical students. The first Catholic bishop in the United States (John Carroll, DD. of Baltimore,) was consecrated in 1790. The Catholics increase rapidly, mostly by emigration from Europe:—they number about 1,500,000.

Episcopacy prevails mostly in New York, Pennsylvania, Maryland, Virginia, and South Carolina; and is supposed to be gaining ground in the New England States. Pure Episcopacy in the United States is of the character of a perfect ecclesiastical monarchy—the bishop being the head or executive chief over all the clergy of his diocese. It is, in the language of a late American authority,* far more adapted to the genius of republican institutions than it ever was in England, even before the Houses of Convocation were abolished; for in the United States, the annual state conventions consist of *lay* delegates, as well as clergy, the bishop presiding; and the general convention, which meets once in three years, is composed of all the bishops in the Union, who form the upper House, and of the *lay* delegates and clergy from all the different dioceses, who constitute the lower House. Yet, notwithstanding, the bishops exercise great authority over

* “America and her Resources,” by J. Bristed, pages 412-13.

the diocesan clergy, and possess very considerable power in regulating and governing the Church.

Presbyterianism, by the same authority, is in its government a purely representative republic in the United States ; its ecclesiastical tribunals throughout all their gradations of church sessions—presbyteries—synods, and general assemblies, are composed of an equal number of clergy and *lay* elders, whose votes have all equal efficacy, and who transact their business on the deliberative floor, much in the same manner as the United States' congress, and States' legislatures. In the "*Independent congregational churches*" all is carried by universal suffrage, in each separate congregation, there being no ecclesiastical tribunal to which may be referred the graver matters of doctrine and discipline, but all being submitted finally, and without appeal to the votes, male and female, of each single audience. In such a system it is almost impossible to prevent the departure from old, and the introduction of new doctrines ; and accordingly many of the Independent churches have passed gradually from Calvinism through the intermediate stages of Arminianism—Arianianism and semi-Arianism, into Socinianism or Unitarianism, or, as Doctor Priestley calls it, Humanitarianism, because it denies the divinity of Jesus Christ, and considers him merely "as a frail, peccable, erring man."

Old School Presbyterians — include, 2,156 churches ; 1523 ministers ; and 166,487 communicants.

New School Presbyterians.—Churches, 1494 ; ministers, 1,263 ; communicants, 120,645.

Cumberland Presbyterians. — Churches, 570 ; preachers, 300 ; and 60,000 communicants. The Presbyterians principally occupy the middle and southern States.

Baptists.—Churches, 8,383 ; ministers, 5,398 ; and 611,527 communicants. They abound throughout the western States.

Six Principle Baptists.—Churches, 17 ; elders, 22—total numbers, 3,055. These Baptists are chiefly in Rhode Island.

Seventh-Day Baptists.—These differ from the regular Baptists in no material feature, except in the strict observance of the seventh day, as we reckon time, instead of the first, or Lord's day. They are to be found chiefly in Rhode Island, New York, New Jersey, and a few churches in Pennsylvania, Virginia, and Ohio. They include—churches, 59 ; ministers, 46 ; licentiates, 23—total, 6,077.

Free-will Baptists.—Churches, 1,165 ; ministers, 776 ; licentiates, 150—total, 61,327.

Church of God.—(Baptists) Churches, 125—ordained or licensed ministers, 83—total, 10,000 ; chiefly to be found in Pennsylvania, Maryland, and Ohio.

Reformers.—(Campbellite Baptists.) This class are estimated at 2000 congregations ; Bishops, or Elders, and Evangelists, 1500 ; and communicants, 175,000. Their baptisms in one year are supposed to equal 20,000.

Christian Connection.—(Unitarian Baptists) Conferences, 42; churches, 650; preachers, 782—total numbers, 35,000.

Orthodox Congregationalists.—Principally in New England, New York, and north-western States, include, churches, 1,420; ministers, 1,275; and communicants, 202,250.

Associate Reformed.—Churches, 530; ministers, 293; communicants, 45,000.

Dutch Reformed.—Churches, 279; ministers, 271—total numbers, 31,241.

German Reformed.—Churches, 750; ministers, 191—total numbers, 75,000.

Evangelical Lutherans.—Churches, 1,232; ministers, 501; communicants, 146,300.

Moravians.—Churches, 22; ministers, 24; members, 6,600.

Methodist Protestant Church.—Includes 22 conferences; 1,300 travelling and local preachers, and 60,000 members.

Reformed Methodist Church.—Conferences, 5; preachers, 75—total, 3,000.

Wesleyan Methodist Church.—Conferences, 6; 300 travelling, and 300 local preachers, and 20,000 members.

United Brethren, (German Methodists).—Conferences, 9; bishops, 3; circuits, 120; churches, 1,800; preachers, 500; members, 15,000. The methodists are principally confined to the interior of the Southern States, though more or less scattered over the Republic.

Evangelical Association.—(Germans called All-brights). Preachers, 250; congregations, 600; and 15,000 members.

Mormonites.—Ministers, 250; congregations, 400; and 58,000 members.

Reformed Mormonites.—They have a number of churches in Pennsylvania, New York, Ohio, and Indiana, all of which have pastors and deacons.

Unitarian Congregationalists.—Churches, 300; minister, 250; members, 30,000.

Universalists.—One general convention; state conventions, 13; district associations, 62; societies, 918; meeting-houses, 576, and about 500 preachers.

New Jerusalem Church.—(Swedenborgians)—Churches, 42; ministers, 30; and about 500 members.

Quakers or Friends.—500 churches, and about 100,000 members, mostly in the middle States, where they are as remarkable as in all other parts of the world, for their frugality, and a mild benevolent conduct. They have always taken a particular interest in the abolition of negro slavery.

Shakers.—Churches, 15; ministers, 45; and 6000 members.

Funkers.—Churches, 40; ministers, 40; and 3000 members.

Jews.—Are thinly scattered over most parts of the republic, except indeed in the New England States, where the most adroit, persevering and imperturbable Israelite would find it no easy matter to procure a decent livelihood.

But a great many of the religious sects and de-

nominations that we have noticed in the foregoing, are also with many others to be found in England ; where the imaginative and unrestrained notions of its church going population, have ever and anon, and with the same facility, by some other, or recent divination, discovered some new and less perplexing route to Heaven—some other improved and easy mode of working out their spiritual salvation. The sect or society of *Shakers* may be classed as among the exceptions ; for though of pure English origin, it is at present only known to the world as a religious community in the United States. From the strange peculiarity of their religious tenets—their observances and very unusual mode of worship, they perhaps claim on this occasion, more than a mere cursory notice.

In the lately published statements of the rise and progress of this very singular society—their principles and religious practices, they are represented to explain their origin, of which they say, That after the ministry of *Jesus Christ* and his apostles, on earth, a delusion from the true spirit of Christianity took place ; the spirit of Antichrist gained the ascendancy, and commenced his dark reign, which continued for the space of 1260 years. The churches became the churches of Antichrist, and assumed the authority of persecuting the true witnesses of God, wherever they could be found ; and thus “the power of the holy people was scattered ;”—that by what is called the *Reformation*, his kingdom was divided, and the way opened for

men to enjoy their long lost civil and religious liberty. About this time "a remarkable revival" of religion took place in France, which excited great attention, and the subjects of it were wrought upon in a very remarkable manner, both in body and mind. Persons of both sexes, and all ages were subjects of this excitement, and they uttered the most solemn warnings against those false systems of religion, and that Antichristian power which has exercised dominion over the minds of men, and pre-dicated their certain downfall and destruction.

About the year 1706, a few of those persons who were known by the appellation of French Prophets, went over to England, and preached with such zeal and effect, that in a short while they became very numerous. They however founded no regular societies, nor established any churches; consequently they were not known as a distinct, or visible sect.

In the year 1747, a number of persons endowed with the same spirit, united themselves into a small society in the neighbourhood of Manchester, in England, under the ministry of James and Jane Wardley. This society practised no form of worship and adopted no creed, or rule of faith, but gave themselves to be guided, as they believed, entirely by the Spirit of God. "Sometimes after sitting awhile in silent meditation, they were seized with a *mighty trembling*, with violent agitations of the body; they received the appellation of *Shakers*, which has been their common name of distinction ever since. Although this name was originally

given by their enemies in derision, yet they consider it as descriptive of their doctrine and practice, and also in conformity with several passages of Scripture which speak of a *shaking* of the heavens and earth.”

This small society continued to increase in numbers until about the year 1770, “when by a special manifestation of divine light, the present testimony of salvation, and eternal life was fully revealed to *Ann Lee*, and by her to the society. As this extraordinary woman is more immediately considered the founder of this sect, she is called by way of eminence, when speaking of her, *Mother Ann*. Her biography is carefully preserved, which states her to have been the daughter of *John Lee*, born in Manchester, England, in the year 1736. Her parents being poor, she had no education, and consequently could neither read nor write. In the year 1758 she became acquainted with James and Jane Wardley.

Ann Lee, having, as she believed, “received a spiritual revelation directing her to repair to America,” communicated it to the Society, and those who were able and willing accompanied her. They embarked at Liverpool 19th May, 1774, and arrived in New York on the sixth of August following. In September 1776, Ann Lee with her few faithful friends, took up her residence in the woods of *Watervliet*, near Niskeymann, about seven miles north-west from Albany. The place was then a wilderness, but by indefatigable industry they prepared an independent and comfortable settlement,

where they could enjoy their faith in peace, amidst the tumult of war in which the country was then involved.*

It was to this peaceable and secluded spot that our curiosity led us in the summer of 1837. We were also anxious to judge from personal notice, rather than from vague and coloured statements made to us, of a people whose sincerity—extended benevolence and charity, all must acknowledge—whose unobtrusive and peaceable conduct, all must admire, however wild and repulsive their religious notions, or absurd their form and mode of worship may appear to those, instructed in the observance of another belief.

Our visit was made on a Sunday, within a few moments of the church hour, and after passing through a street, or way, separating some ten or a dozen detached wooden dwellings, running parallel and facing to each other, that formed the village, reached the church or meeting house, that was easily distinguished from the rest, by its white painted exterior, the others being of a dark sombre brown colour, perhaps, the better in keeping with the grave and moody cast of the quaint and sedate people who inhabited them. There were two portals to the church, one intended for males to enter by, the other, set apart exclusively for females. We passed onward through the former, and were immediately shewn by one of the Brotherhood in attendance, to

* Peculiarities of the Shakers, New York, 1832—pages 9, 10, 11, and 17.

a vacant seat on one of the forms set apart for the accommodation of the "worldly people," many of whom, attracted very possibly by the same curiosity as ourselves, had come from a considerable distance to be present at these ceremonies.

The church, or meeting house, consisted of one neat oblong room, somewhat about seventy-five or eighty feet long, and perhaps about fifty feet in breadth. Seats were carefully arranged on one side for the visitors, and at each end for the members of the society, who soon after entered in parties of some three or four at a time, assuming their respective places, each in his turn as he came in; while the sisterhood, saddened and dejected, glided softly onward to the seats allotted to them at the opposite end of the building. The dress and contour of the entire was of the most primitive cast, bearing some resemblance to the more precise of the orthodox quakers of the old country; especially the females, who wore upon their heads small snow-white muslin caps, made after the same mode, and aprons of a similar texture, that in keeping with an equally unpretending dark coloured stuff dress, made up of the scantiest materials, gave a perfect uniformity of appearance to the entire. At length, the last of the party arrived and took their seats in silent congregation with the others, the men at the one end, the sisters at the other, with demure and downcast eyes—their hands piously clasped and resting on their knees, where they had spread a neat white handkerchief, that each had carried with

her to the meeting, folded and crossed over the left arm, as they silently passed along.

The solemnity of an austere silence was at length broken in upon by a simultaneous move of the entire body, without any apparent notice, though with such sudden and one accord, as must have proceeded from some well understood signal apprehensive to themselves. Each took the place previously assigned to him, forming two compact bodies of different sexes, of about seventy in either, drawn up, with regular military precision in rows of about ten each; the males facing the others in opposite lines, enlarging the centre or neutral ground between both, in nearing the part of the church, where nearly two hundred strangers were sitting as lookers-on.

The contrast in the outward appearance of each party was immeasurably great. The men, the very prototype of good health—ruddy and well cased, some of them young and even good-looking, and all apparently happy. The females, on the other hand, emaciated, dispirited and melancholy—apparently struggling with their inclinations in the strange mode of life they had chosen for themselves. They were certainly not handsome; their general features, with the exception of a few old matrons, in whom the traces of former good looks had not been altogether effaced, of a most repulsive character, increased in their ugliness by the formal set covering of their heads, enjoined upon each, without reference in its aptitude to their peculiar features.

The entire had now taken their places, with hands devoutly clasped—thumbs crossed, their eyes resting upon the ground—the sisters, each with their white handkerchief again folded in oblong form, and crossed upon their left arm as when they had first entered. A profound silence had spread over the entire assembly. Our apprehension became excited, while with a painful, half reluctant curiosity we watched the first series of the proceedings. At length one of the elders stepped forth from the front rank, facing the strangers who were lookers-on, and commenced in a staid puritanical tone, to address the meeting,—“Brethren and sisters, I feel moved to speak to thee a few words. This is the Lord’s day—a holy and sanctified day, set apart for religious purposes. It becometh us to observe it with due decorum, and use it for that end. We have received blessings from the Lord, and have found favour in his sight, and should therefore praise him with thanksgiving.” The last word had scarcely sounded upon the ears of the congregation, when immediately, a loud shout was raised, that almost shook the very ceiling of the building. Each seemed to vie with those around, and to perform his own part to admiration—screaming, rather than singing to the fullest amplitude of their voices, that which was probably intended as the first, or introductory hymn of their service. Anon, and all was again silent; when another of the elders stepped forth from the front rank, and in the fulness of excited zeal began to address the “Brethren and

sisters assembled," and endeavoured to impress upon their minds, the extreme good fortune that had multiplied and showered blessings around them. They had sought the Redeemer in their solitude, and found him. They alone had fulfilled the divine precept of the gospel, in their self-denial and abandonment of the world—the world's lusts—its depravity and sinfulness, and they were now in a state of grace; and by the renunciation and self-atonement they had practised, had attained an holy state of perfection. "It is thus," continued the speaker, "that our salvation is ensured beyond all reasonable doubt, and death despoiled of its many terrors." They cared not when they should be summoned to their last dread account, as they were always ready to meet their God, to receive their reward in the happiness that is secured to them in the next life; for theirs was the religion of Christianity—"Aye, the very essence of true Christianity." Thus he went on, in a pharisaical and self-approving strain, the brethren and sisters listening with devout and fervid attention. The assembly was again silent. After a few moments' pause, the entire broke forth in another hymn of loud and boisterous music. At its conclusion, a third speaker came forth from the same rank as the other two, and stepping forward a few paces towards that part of the meeting-house occupied by the visitors, who were eagerly watching every strange evolution of these strange proceedings, commenced to address them as follows, "Brethren and sisters, I feel moved to speak to thee

a few words; but it shall be a few words, as I do not intend to address thee long. There are many amongst you this day, who have come here from various remote districts of the country, excited by curiosity, to see and witness our religious observances. We wish to treat you with courtesy; but in return we think we are undeserving your scoffs and ridicule. We observe many of you laughing and whispering, and forgetting that decorum that should be observed in a house of religious worship. Our form of prayer may appear strange to you; no doubt it does, for it differs materially from that of the worldly people of this life. But we think we are right—we conscientiously believe that we are following the strict precept of the gospel, and consider that we are at least entitled to your forbearance.”

Having administered this gentle reproof, by the bye, somewhat deserved, yet, as we rather thought for the purpose of restraining the risible propensities of the children of Baal, who were about to witness the strange exhibition which so soon after followed, this pious brother resumed, by calling on the fraternity to join him in loud *hallelujahs* and praises to the Lord, for the manifold blessings, and spiritual advantages they enjoyed. To praise him with music, and in the *dance*; for the Scripture saith,—“ Oh! clap your hands all ye people;” “ Shout unto God with a voice of triumph;” “ Sing unto the Lord a new song;” “ Sing his praise in the congregation of the saints;” “ Let the children of

Zion be joyful in their King, let them praise his name in the *dance*." The return of the prodigal son to his Father's house, which was celebrated with *music* and *dancing*, was adduced as a proof, that under the gospel dispensation it is to be observed; all are invited in on equal terms to share the fatted calf and lamb; "Be stripped of your old garments of sin, and be clad with the robes of righteousness; come in with your repentant prodigal brother, and worship God in the dance."

After a short pause, the order of their standing was broken up. The men took off their coats, fat, lean, young, and old, which they hung in proper place around the church; and thus disencumbered, in their shirt sleeves, and short jerkin covering, after the fashion of the times of our King Charles of blessed memory, prepared for some mighty effort of the Spirit; they again resumed their places, and immediately after broke forth in one loud and simultaneous movement in the dance, their backs all turned to the auditory, (the strangers present,) whilst about a dozen of the sisters, who were placed on one side, performed in the most discordant sounds, the duties or purposes of an orchestra, to whose shrill, yet lively music, the entire party danced most merrily; joining chorus in the song—advancing—turning—and dancing back again; all with the same step, and with a remarkable precision, so much so, that the right and left feet of the entire were alternately on the ground, and raised in the dance at the same moment; while

they beat time to the song, both with their feet in the step, and by loud clapping of their hands. Suddenly, the figure changed into one large extended circle, within which about a dozen of the sisterhood were placed, who led the song, to which all moved round simultaneously in a swinging half dance—half march; their hands and arms raised in horizontal line with their elbows, flapping up and down before them, or beating time, as they became more and more excited to the wild piercing music of the orchestra.

A loathing and unpleasant feeling seizes upon the mind; we could have wished the proceedings at an end, or that we had remained away, and gratified our curiosity in some other seeming: but there was no time for serious thought, none that would allow us to reason upon the absurdity or wickedness of the exhibition. Round and round they still moved in the same fixed pace, with the same constrained and laborious effort, slapping and beating their hands with violent gesticulations, until the very building shook to its ceiling. At length a pause—a calm dead silence ensued; whilst each, on bended knee, supplicated for the forgiveness of mankind, and the extension of divine mercy to the other children of this world. But the last act at length drew near; by a sleek, sober, fat-sided-jolly-looking personage, one of the elders, coming forward a few paces from the ranks, that had been again formed, to address, as he termed them, “some of the worldly children of Adam” who were present, and to whom

he felt inwardly moved to speak a few words. Advancing towards the strangers, he continued :—
“ You have witnessed my friends this day, our religious ceremonies—you have come from distant parts to see them ; but I dare say, there is not one out of the many who are present, who does not turn them into ridicule in his own mind, and laugh at them in secret. But in this manner has the doctrine of faith and christianity, the doctrine of CHRIST been received. When our Redeemer came on earth there were but very few to believe in him, compared with those who considered him an impostor. The Jews refused to admit him as the Messiah. When the Apostles preached christianity, those who believed in the Christian Revelation, were few in comparison to those who discredited the gospel. We are not then surprised you should think so of us ; but such are mere words to which you have listened. We tell you, in the assurance and full confidence of truth, that we have found God ; we have secured to ourselves the means of grace and eternal salvation ; we are cut off from all sin, and ensured in our redemption. The world gives, I repeat, mere words for your belief ; I give you more—I give you myself as evidence of what I say ; we all come forward to attest the truth in our own persons. If you touch the world you are defiled ; and the gospel teaches, if defiled, you cannot see God, or enter heaven. We have quit the world, its lusts and temptations, and now enjoy that happy and perfect state of grace that secures us our salvation.

The Scripture tells us that we should renounce the world, take up our cross, and follow Christ. We have done so, and behold the result ! (and here the speaker wiped away with his shirt sleeve, a sea of perspiration from his fat and ruddy face) ; and though you say that man falls involuntarily into sin seven times a day, we tell you that such is not the case, and that we have shielded and protected ourselves against such a calamity, by the course of life, and the religion we have adopted. If you come, we shall receive you, and admit you to a share of those spiritual blessings which God has preserved to us, his children." The speaker continued for some time longer in this strain of self-gratulation and entreaty ; and after expressing his fears, that all the rhetoric he could make use of, would fall listlessly on his hearers, the strangers to whom they were more immediately addressed, concluded in the same solemn tone, by announcing to the congregation, that " the meeting is now dismissed." The brethren and sisters slowly retired. Wearied from all that we had witnessed, we were glad to escape from the scene, to recover our consciousness of a more rational existence, and breathing the pure air of heaven, to find ourselves once more in the world, amidst the forms and associations to which we were accustomed.

These people are of a peaceable and most industrious turn. By patient industry alone, they have succeeded in changing the features of a dark and unproductive wilderness, into a rich pasturage, and

thriving farms. They live in common, each with his particular duties assigned to him, and without individual property being recognized in the community. The entire labour in some useful calling, and in the pursuit best adapted to the peculiar talent of each, for the general good ; while the profits derivable from their joint exertions, are carried to the credit of their general account. Celibacy is strictly enjoined ; though some digressions in this respect, and to the great scandal of the community, have sometimes occurred within the sanctuary of their simple retreat. The study of medicine, and of the diseases and complaints incidental to the human system, forms a considerable part of their leisure occupation—the culture of medicinal herbs and simples of all kinds occupying a large portion of their time. A laboratory is attached to each establishment, while their prescriptions for almost every ailment incidental to our weak mortality, are put up in neatly assorted packages, and sold by agents of “ Shaker medicines ” in almost every town and city of the republic. They are, to take them “ all in all,” and apart from their religious observances, as industrious, orderly, and peaceable a body of citizens, as are to be found within the limits of the United States.

There is seldom any very great restraint imposed upon the youth of America, whose precocious intellect, brought forth and exercised at an early, and somewhat premature age, and otherwise encouraged under the republican institutions of the country,

has generally made them impatient of parental authority or control. They launch forth into excesses at an unusually early period in life, and indulging in dissipation to an extent almost unknown in the old country, induce numerous and complicated ailments, that in such a climate as that of America, readily impair and sink the constitution, laying the foundation of premature old age.

The frequency of consumption in the United States may partly be traced to these causes. The bills of mortality of the City of New York, for the five years, preceding the year 1836, states the entire number of deaths, within that period, at 36,632; of which 6587, something more than one, of every six of the entire, died of consumption; whilst one half of the gross number of deaths in 1835, over twenty years of age, were of this fatal disease.

We wish that we could speak of the general conduct and habits of the other, and certainly the more amiable sex, in the tone, and with that kindly forbearance that we would most desire, as being altogether free from reprehension. The strict, moral, and exemplary deportment of the higher classes of American females, is at all times most commendable; and if without its due and proper influence on the temper, morals, and general conduct of American society, such will probably be attributed to the very restricted social intercourse that usually subsists between the sexes — the reserve — the stand off manner, and distaste that characterises the native American, who will seldom spare

time to admit of any relaxation from the more serious business reflections with which his mind is always preoccupied, to indulge in the rational, the often instructive, and pleasing remission of female society.

Incontinence in the marriage state among this class, is of rare occurrence. But married females in the United States, very soon change their outward person, and scarcely assume the cares and anxieties of wedded life, than the years of a frequently laborious and monotonous existence, multiply with fearful rapidity, leaving their traces to mark with something more than a mere fanciful precision, their severe and rugged footsteps.

Marriages take place much earlier than in England, being exempt from all constraint by statute; the offspring seldom so numerous. Providence, no doubt, has wisely ordained this indulgence, and exempted the American female from a consequent, to which her constitution is generally unequal. Female beauty in the United States is short-lived; it blooms at a very early age, pleases for a while, and captivates, but soon becomes evanescent; leaving but a wreck behind, and the mere traditionary tales of its former possession.

But there is another class entitled to our commiseration and utmost sympathy; the young female, the daughter of the shopkeeper and mechanic; a class that is far beyond the same order of society in England; who, but partly educated, and reared under the same imperfect limit of restraint as the

males, are at a tender age exposed to the contagion of bad example in their unusually early and constrained intercourse with the world, frequently occasioned by the efforts they are compelled to make for their support and necessary sustenance. The moment they are enabled to work, and can exert their faculties to any useful purpose, they are sent abroad to seek employment, in some one of the numerous trades to which American females are usually accustomed; and are from thenceforth only entitled to a place within the domestic circle, as they are able to contribute to a proportionate share of its expenses. So perfect an understanding exists on this head, that when the female arrives at an age that enables her to exert herself after this mode, she ceases to be an object of parental anxiety, or consideration,—is no longer considered entitled as of course to any indulgence, or those other advantages she might reasonably expect to derive from her parents, circumstances, or position in the world. When with this is considered, the difficulty of realizing by female industry and labour, the merest necessities of life, the thoughtlessness and love of dress, which is almost inherent in every young person, with the infectious and demoralizing influence of bad example—the many temptations to spend money, with the few guards and restraints to which females are subject in the United States, it is scarcely surprising that morality should be at a very low ebb, and female impropriety (to speak in milder phra-

seology) amongst this class, unfortunately of frequent and very general occurrence.

Marriage is regarded throughout the union as a purely civil compact. There is no mystical rite, no set form of words, or staid observance necessary, to constitute its validity; no particular class of persons appointed to preside at its ordinance; and requires the assent merely of the contracting parties, who may have the ability to contract, and nothing further; but when once the obligation is fairly undertaken, cannot be dissolved, except by legal intervention.

Though marriages are less frequent, according to the number of the population, than in the old country, divorces on the other hand, are far more numerous; and from the legal facilities that are every where given to dissolve the marriage tie, even on the merest pretext, are supposed to exceed two thousand annually throughout the republic. The same disabilities that control and make void the marriage obligation in England, are generally recognized, and admitted by the State laws; such as a prior marriage, want of age, want of reason, and the absence of consent of parents, or guardians. The other usual causes of divorce, are impotency, previous marriage, adultery, wilful and malicious desertion, and absence by one, from the habitation of the other, without any reasonable or justifiable cause for the space of *two* years; or, where any husband shall have, by cruel or barbarous treat-

ment, endangered his wife's life, or offered such indignities to her person as to render her condition intolerable, or life burdensome, and, therefore, to have forced her to withdraw from his house and family.

Jurisdiction in such cases is always confined to some one or other of the local courts:—in New York, to the Court of Chancery; in Pennsylvania, the Court of Common Pleas in each county; from which an appeal lies to the Supreme Court of the State, within one year from the date of its final adjudication; and according to some such practice in the other States. Upon application by petition of any citizen, setting forth the grounds upon which the interference of the court is prayed for, a libel immediately issues. An intimation is given to the opposite party by subpœna, if within the legal jurisdiction; or, if not, by notice, published in some of the local papers of the district. An investigation follows, and the parties, should sufficient cause be shewn by the libellant, or in default of appearing by the accused party, judgment is pronounced, relieving both from all future matrimonial restraint and obligation.

But the local laws of many of the states require, that the petitioner, as a preliminary to his, or her application for relief, should be a citizen of the State in which such petition is presented. This provision is however very easily met, by the party assuming some temporary domicile within its local jurisdiction, and peaceably residing therein, for

some short while, not exceeding twelve months in any instance; and which will secure to him the immunities and local rights of citizenship. In some few of the States, particularly in those of the southwestern, lately added to the confederacy, a somewhat different course is pointed out to the party seeking a divorce—by petition to the local legislative body, which will thereupon scarcely fail to pass an act declaring the petitioner divorced, a *vinculo matrimonii*, in case the wife should not appear within three months to put in a *caveat*, or on her appearing, does not shew sufficient cause against the order. And as the unconscious wife may possibly be some thousand miles off at the time, perhaps anxiously waiting the return of her truant husband, he is compelled, as one of the necessary formulæ to be gone through, deemed a sufficient restriction in all such cases, to publish a notice of this his application in some local print for three months, which paper, it is very possible, never passes the boundary of the State, or if it does, never at least passes within the most distant probability of her ever seeing it. At the expiration of this dread and anxious period of suspense, of hopes and distant fears, the former married, but now freed man, may come forth like a bridegroom from his chamber, in that delight, and sweet ecstasy of joy, that occurrences of this kind are too often wont to impart, to improve upon the experience he has acquired, and where we must be permitted to leave him, until, by some better instruction, he may

arrive at a somewhat nearer, and more intimate understanding with the world, and with himself.

This ready mode of legislating in such matters, is not altogether confined to the south, and western states, but is also the practice in some of the oldest settled portions of the Republic, increasing the number of similar examples in every succeeding year; and by this means creating incentives to matrimonial infidelity from the ease—the exceeding facility with which the onerous and serious obligations of married life, are thrown aside, and got rid of. Even in the Catholic State of Maryland, these excesses have doubled in their number within the last few years. In the year 1836, every petition to the legislature of that commonwealth is reported to have been complied with, until the Senate, with the hope of checking these examples, and to relieve the State from the grievous scandal of this demoralizing system, proposed a law, making it compulsory, in the future passing of any Bill of divorce, that two-thirds, at least, of each branch of the legislature, should concur in the prayer of the petition: but the House of Delegates, refusing their assent to these restrictions, the former mode of disposal is still persisted in. This includes cases, where no real, or proper cause for divorce in fact exists—where advantage is taken of a lax and imperfect mode of legislation, to sever by a revulsion of this kind, the most sacred obligation to which we can be bound in this life, regardless of the difficulties,—the misfortune entailed upon the numberless innocent parties who are constrained

to abide the merciless decree, that deprives them, in some sudden fit of petulant and angry quarrel, otherwise of immaterial consequence, of perhaps a parent, or a protector, and sends them forth houseless and destitute upon the world; a state of mere temporary disagreement, that without this additional incentive—this new encouragement thrown in upon the frequently excited passions of domestic strife, would very possibly in many cases subside into a happy and peaceful reconciliation, — of patient sufferance, if not of quiet and reasonable contentment.

Neither are we such determined advocates for this fixed organization,—that immutable and decided state of domestic and social arrangement, that would debar the many who are aggrieved in the marriage state, from some just legal protection, or redress. Where the temper, habits, and disposition, are so entirely dissonant, so determinately opposed to every hope of any permanent reconciliation, or mutual endurance, we can see but little reason to expect any ultimate peace or happiness; indeed it is far safer, as to consequence, to sever the tie in the very outset, by some decided measure of this kind (taking care to preserve the interests of any children there may be), than to drag through an existence, with not only the wearisome and concomitant evils this state usually produces, and with those strong and irreclaimable feelings of personal dislike, altogether irreconcilable, and equally destructive to our future individual peace

and welfare. We would neither make a jest of the marriage vow—the very many obligations it imposes, by adopting the American code of divorce on the one hand, or having ventured in the leap, be constrained to live in the consciousness of an undeserved, an unredeemed and misplaced confidence, with a nature, temper, and disposition, so totally irreconcilable with our own, as to preclude every, the most distant hope of peace, or future happiness on the other. There are bounds to human endurance, while the end and aim of married life is for ever lost sight of, and the objects that it contemplates, rendered no longer attainable by such means.

The British Parliament has perhaps acted wisely in restricting its legislation in such matters ; as it generally requires the verdict of a jury establishing the guilt of the party against whom a divorce is prayed, as some warranty for their interposition. The States legislatures, or other local tribunals in America, are not quite so fastidious in this respect, though they generally expect that some grounds will be shewn, at least some *prima facie* evidence of criminality advanced, as a pretext for their interference. When a divorce is sought for, and desired by both parties, excuses of this kind are easily attainable. If no real cause exists, the parties are not always over nice or fastidious in the means they may resort to for this purpose. We state the following as an instance, recorded to us by an especial

friend, whose strict veracity we have never had occasion to doubt under any circumstances.

Calling in one day, in the summer of 1837, on this gentleman, a Mr. D——, we found him pacing up and down in the inner office of a wholesale establishment, in Pearl Street, New York, venting his displeasure in strange incoherent mutterings, at what he termed, the effrontery and unpardonable insolence of a well dressed, and tolerably fashionable looking American, of about five and thirty years of age, whom we met leaving the store as we were about to enter. We felt some concern for our friend; but perceiving his anger to subside, and eventually to give way in an immoderate fit of loud laughter, we ventured our inquiry as to the cause of these strangely opposite feelings that appeared to have so unusually excited him. Our friend assented to our entreaty, and recalling our attention to the individual we had met quitting the establishment as we entered, went on to state, that this person had called upon him, as he said, “in a matter of pressing and grave importance.” Mr. D—— conducted him into his private office, where the following rather odd scene took place; the stranger assuring our friend, that he was exceedingly happy to have this opportunity of speaking with him in private—to ask his kind and friendly aid in an affair of some delicacy and moment to him. Mr. D——, who was all suavity and politeness, begged to know in what particular way he

could be of the least service. The stranger, who had assumed a confidence in his mission, assured him with much of seriousness, that of all men, he (Mr. D—) had the most in his power—his future happiness—his life—his all was in his hands; at the same time taking a tolerably accurate survey of our friend's dimensions, who was a tall man, somewhat near six feet—of good proportions, and reasonably handsome in his person; his healthy florid look bespeaking him a native of the old country; and proceeded to say in something louder than a half whisper-tone, whilst ever and anon he looked around to assure himself that no other party were likely to disturb their privacy, that he had called—and here he paused for a moment, until the attentive ear, and manner of Mr. D— again encouraged him to proceed; that in short he had called at the desire and particular request of his wife, who was young, and as the world would probably admit—well looking, if not handsome. He again paused, while Mr. D— again assured him, in his usual kind and bland manner, that he would indeed be exceedingly happy to do ought that might lay within his power that could either serve him, or his wife. Just so—just so, responded his friendly visitant; so indeed Mrs. — (mentioning his wife's name) assured me, and that she was very certain you would be most happy to assist us in our present difficulty: for I will tell you, added he in an under, or more subdued tone, she has often seen you, Mr. D—, particularly on Sundays, when passing our house on

going to church; and as I have allowed her to make her own choice—to consult her own taste and fancies altogether in the matter, she has requested I would arrange the affair with you with as little delay as possible.

Our friend, who was rather uninstructed in the ways and mysteries of fashionable life, or the incidents or secrets of American society, was rather dull to comprehend, and who, good easy man, never for a moment contemplated, that immorality, or improprieties of any kind, were intended to grow out of this arrangement, betrayed some anxiety that his American visitant, should come more immediately to the point, by a full disclosure of his object; and who encouraged by the earnestness with which the request was made, at once explained—that unfortunately, Mrs. —— (his wife) and he, did not live quite as harmoniously or contented in their situation, as married folks were generally wont to do; their intimacy was irksome—their temper and tastes dissimilar—their society disagreeable to each other, and in short, that they had both determined upon an immediate and final separation. A divorce, Sir—a divorce, (raising his voice to a higher pitch), nothing else, Mr. D—, can ever satisfy us.

Mr. D— looked, as he felt, unusually serious:—his general good sense—the portion of worldly prudence for which he was remarkable, at once pointed out the impropriety of an interference in the most thorny and intricate of all questions—the quarrels of married life:—yet, he thought as he

was thus appealed to, he might venture a few words of friendly admonition; and pointing out the evil consequences of disunion, urged his friend to return immediately to his wife; to endeavour by a kind and generous forgiveness, and the practice of a mutual forbearance for the future, to end, or at least to mitigate the evils of which he complained, and thereby supersede the necessity of any legal interposition in the settlement of their disputes. His visitor, however, was not quite so easily put aside. It required something more of philosophy, and a more convincing argument than our friend could call to his assistance, to dissuade him from a purpose so near to his heart. His mind, he said, as also his wife's, were fully made up upon the subject—their entire future course already marked out, and nothing—nothing short of a divorce—an absolute separation would ever satisfy either. Mr. D— had nothing further to add, beyond his extreme regret, that there had been any cause he had conceived, sufficient to justify any such proceeding as he now contemplated. Cause—any cause to justify!—rejoined the American. No, no; there's the difficulty—the perplexing position in which we are both placed. There is as *yet* no cause—at least, no *legal* cause, to warrant an application of the kind. I saw the difficulty—my wife saw the vexatious and perplexing dilemma in which we were both placed, and for that reason am I now here on a special mission to you, Mr. D—, hoping you may obviate it. It is now in your

power to make us both supremely happy ; and concluded this strange recital of his woes and suffering, by a pressing invitation to Mr. D—, to pay both him and his wife an early visit.

The mist that at the outset had clouded our friend's perception, gave way to a more intelligible solution of his very unexpected position, and who having at length suspected the project, in which it was intended he should assume a principal part; rose from his seat, indignant at the insult offered to his character and virtue ; and inquired from this consistent and considerate husband, if it were really possible he could be aware of the nature of the proposition he had thus addressed to him—or of the fact, that should have exempted him from insult—that he was himself a married man, with a wife and several children. Certainly—most certainly, explained his new acquaintance. I am aware of all this—so is my wife. Nay!—it was on this very account, above all others, that she first mentioned you to me, being sure of your discretion, in not taking any advantage of this proposition, beyond what is now offered to you. Our friend could restrain himself no longer, but advancing a few paces, beckoned his visitant to the door, through where he was making his exit, muttering to himself—and complaining of the unreasonable and unneighbourly conduct of Mr. D—, as we were about to enter. It is needless to say that our friend's vanity was neither flattered, nor his self-respect in any manner increased by this very extraordinary interview.

Marriages, contracted in England by parties who afterwards emigrate to the United States, are sometimes made subject to inconvenience, if disavowed by either on their landing; the laws generally in force throughout the Republic, requiring under such circumstances a legal attestation of such marriage, under the seal of the Archdiocese of Canterbury, before that they will enforce its obligations. Of this, many heartless and unprincipled individuals take advantage, and who cannot, without such evidence, be charged with the crime of bigamy, in the event of fraudulently contracting any other, or second marriage.

Drunkenness is a vice with which the American can scarcely be charged, though generally speaking, a much larger quantity of spirits of all kinds, in proportion to the population, is used, than in the United Kingdom, or perhaps by any other people in the world. The child scarcely quits his mother's breast in the United States, than he finds a congenial substitute, either in the raw material, or in some of the nauseating compounds of "mint julaps"—"brandy, or gin sling"—"eggnog," and the variety of "cocktails," of which ardent spirits form the principal ingredient. The great variation in the climate—the excessive and debilitating heat of summer, with the extreme severity of the winter months, in the middle and northern States, no doubt encourages this general inclination of the American to continue tippling, which he usually commences at his first rising, and to which he recurs

at frequent intervals of the day, until the hour of his retiring to rest. Every inn—every hotel, or public house—every grocer's store, which are generally located at the corner of every street—every place of public resort, whether for business, or amusement, has a bar-room in some way attached, and well supplied with foreign and domestic spirits of every description, wines, &c., for which there is at all times, and at all hours of the day, a demand. Notwithstanding, but few drunken men are ever met with in the streets, or public ways, while seldom any irregularity or breach of the public peace owes its origin to this abasing and demoralising indulgence. The fact is, that the American is of all others the most selfish in his potations, and has not even the pretext, or apology of a social tendency or nature, to palliate or excuse him. His vice in this respect, is a lonely—a solitary and debasing one, indulged in secret, and very often by stealth.

Wines are not in such general request as the nature of the climate, and the necessity of a generous mode of living would possibly imply. There are comparatively but few convivial parties to incite or encourage its use, except perhaps amongst foreigners, who may be unwilling to abandon or throw aside all former habits in this respect.

The estimated value of foreign spirits, which is usually of a very low priced kind, imported into the United States, averaged for each of the three years ending 1840, 1,769,968 dollars. But besides

this supply, there are also large quantities of rum, principally distilled from molasses—and also whiskey distilled from rye, manufactured in the country, and in general consumption; in which capital to the amount of 9,147,000 dollars is invested, giving employment to 12,233 of the population. The best whiskey is made in the State of Pennsylvania, in the district watered by the Monongehela, from which it takes its name, and is in general consumption throughout all parts of the Union. The better description is sold wholesale, at from 37 to 40 cents. or from *1s. 6d.* to *1s. 8d.* per gallon.

Forgery is also of very frequent occurrence in every part of the United States; contrived with that sagacity and shrewdness so characteristic of the people—and with an ingenuity and daring in which they surpass in crimes of this character, all other nations of the world.

Gaming, especially in the south, is also a habit very general amongst the population—is frequently carried to an extreme—and adopted by many, especially in the southern States, as an acknowledged means of support. Several there are, now considered respectable in American society, who have acquired their wealth by this means, that for years past has been a fruitful source of crime among the population.

CHAPTER X.

Education in the United States—Its universal encouragement—Elementary knowledge secured at the public expense—Remarkable deficiency in the higher branches of Education—Number of incorporated Colleges and Academies in the United States—No distinction made as to Religion—Want in the American system of Education—Literature of the United States—American Copyright Law—Present state of the Fine Arts—Periodical and Daily Press—Its recklessness and extreme debasement—Aggregate number of Newspapers published from the year 1775 to the present date.

NOTWITHSTANDING the present debased state of morality and religion in the United States, of which we have endeavoured to present a somewhat faithful portraiture in the preceding chapter, there is still, perhaps, no other part of the civilized world, if that we except the Prussian and German States of the European continent, where universal education is more encouraged, or has made more rapid advances amidst the bulk of the population—disseminating its influence throughout every, even the remotest part of the Republic. Elementary schools are everywhere established, supported at the expense, and under the careful supervision of each State, where gratuitous instruction in all the useful branches of education is separately afforded to the youth of both sexes, and which is sought after with a strong and increasing avidity by every description and class of persons. That “knowledge is

power," is an axiom that seems to be well understood by every American, as necessary to fit him for the enjoyment of whatever of rational liberty he may possess, and in securing to him the other temporal advantages he may hope to derive, from his assiduity and exertions in the world.

It is unusual to find any native-born, however humble and unpretending in his sphere of life, who cannot both read and write. To these advantages, are we to in part attribute their extraordinary intelligence in all business affairs—their aptitude in accommodating themselves to every change of circumstances—to every unexpected or new position in which they may be placed, that distinguishes the American people above every other nation in the world; with that remarkable perception—that sagacity and quickness, with which they adapt themselves in acquiring an intimate acquaintance, or knowledge of any business, to which they may apply their energies:—their inventive and extraordinary mechanical turn, unsurpassed by any other people, and that promoted by this auxiliary, is called into hourly requisition by the restricted means of supplying the wants, created by the inadequacy of manual labour in every part of the Republic.

While elementary instruction is so generally and liberally diffused among the humbler classes, there is still a lamentable deficiency in all the higher branches of polite literature—of sciential and sound classical information, remarkable even in the more

respectable of American citizens, apart from those intended for the professions; and which divests American social intercourse of that high intellectual character—that ease and refined polish, for which the higher grades of European society are so remarkable. The time appropriated to study in England—the years of boyhood, almost of early manhood, set apart for the progress and completion of a course of collegiate studies, are generally estimated as otherwise of too much value to the American, who, by the time that he might expect to pass through this ordeal, has possibly arrived at the meridian of his experience with the world, and tasted of the ills and difficulties with which his progress is oftentimes beset. He seldom finds leisure from the same unremitting and ceaseless effort that distinguishes his whole life, in adding to his worldly store by the acquisition of new wealth, to devote either to study, or the encouragement of any mere literary pursuit; and rather considers the season set apart for the acquirement of a classical and enlightened education, beyond the purposes to which it may be made ancillary in promoting his onward progress in the world, as taken from his resources, and the time that he considers, might be by far more profitably spent in other occupations. On this account, we seldom find the American spending much of his youth in literary cultivation, or his mind improved by instruction, beyond whatever he may possibly derive from that which is generally termed in this country, a good commercial education, and

that after all, perhaps, better accords with the nature and general character of his intended pursuits, and the position, in which he very probably may afterwards find himself placed in the world. Females in the main are better instructed, and frequently make Greek and Latin a part of their studies; while they generally have more time at their disposal to appropriate for this purpose.

The Eastern, or New England States, are remarkable for the encouragement they afford to literature, and the comparative number of well-educated men they produce beyond all other parts of the Republic. They still preserve the tone and literary taste of the original colonists, who were men of intelligence and information, and who acted on the just and comprehensive principle, that has been adopted in those States where they had first settled, as also in the States successively planted by them, and since added to the Union, that the education of the community should be carried on at the public expense, and under its direct supervision.

The University of Harvard, in Massachusetts, stands preeminent, and at the head of every collegiate institution in the United States—was founded so far back as the year 1638, and with Yale College in Connecticut, founded in 1700, sustains the highest literary reputation of any of the Universities.

There are ninety-two incorporated colleges in America, including seventeen universities; twenty-eight medical schools; thirty-seven theological schools, and eight law schools. These latter are

much less frequented than schools for the study of the professions. The earliest institution of this kind of any note in the United States, was Lichfield in Connecticut, which had in the period from 1798 to 1837, 730 students. It is now discontinued.

Of colleges in the United States there are—seven under the immediate direction of the Baptists; five under the Episcopalians; eight under the Methodists; and eight under the Catholics; while the prevailing religious influences of the remainder are said to be, of those that are in the New England States, Congregationalists; of most of the others, Presbyterians. Norwich University, Vermont, is an institution recently established by the Universalists.

There is no distinction on account of religion recognised in any of these colleges or universities—no proscription on account of faith; every citizen is admitted to an equal participation in their advantages, no matter his belief. The toleration that is uniformly extended to all, has made them very unwilling to quarrel among themselves as to any particular creed; and we consequently find the Baptist and Presbyterian—the Catholic and Universalist—the Protestant and Socinian, each seeking literary information at the same fount, and for the while forgetting the religious distinctions that subsist between them; uniting in one kindly interchange of feeling, and striving with each other in the cultivation of their minds and improvement of their education.

Theorists may perhaps complain of this mode

of imparting instruction to youth, and exclaim against the principle as of dangerous consequence—calculated to engender a very culpable remissness in all religious observances, and to interfere with that fixedness of belief, regulating those essentially Christian principles, that should form the ground work on which, hereafter, all our actions with mankind should be based: for it is often the case, that the indifference to which this liberalism has given rise, has followed the student into the world, and made it from thenceforth a mere matter of convenience—of secondary consideration to him, as to what creed he should pin his faith, or in what church or conventicle, on any, or each alternate occasion he should select, in which to offer up his prayer and thanksgiving to the Most High.

We do not profess ourselves a sufficient casuist to determine the advantages, or on the other hand, the disadvantages, that may be said to result from this mode of intermixed education; though strongly impressed with the opinion, that in whatever form literary instruction may extend its influence upon society, it ceases to impart the benefits—the good we hope to derive from it in our improved social condition, or more intimate relation with the world, when not based upon a sufficient moral and religious foundation. In no other country under heaven do we hear of the same extent of crime—of a character such as forgery, and the aggravated cases of fraud and over-reaching, that depend at least upon a partial and otherwise imperfect education for this

successful accomplishment, as in the United States ; assuming a degree of boldness—an excess of daring to which education, unapproved by religious instruction, lends its powerful and most essential aid. Nay, we need scarcely travel beyond the limit of our own country, to procure evidence of this influence upon the actions of mankind, and the insecurity which it presents, in our varied and daily intercourse with the world. An analysis of the description or class of crime, and character of the arraigned parties at any of our assizes, or gaol deliveries, will readily satisfy the correctness of this position, and point out the necessity of extreme caution, in whatever instruction is proposed for the guidance and improvement of our own population.

How often may we find nearer home a result we have always considered most deplorable,—originating in what we believe to have been an ill regulated system of education amongst the lower classes of the people, unassisted by any good or sufficient moral instruction,—which has neither made the recipients the more happy or contented in their station, urged them to increased energy in the improvement of their condition, or in anywise constituted them more useful members of society. On the contrary, whilst it has generated a deep seated and lasting discontent, it has inspired an entire distaste for all exertion in many of the subordinate situations of life in which a wise and all-seeing Providence has placed so many of his creatures, without in the least inspiring their emulation, or exciting any increased effort in im-

proving their means or position in the world : and it is too often the case, that, taken from a sphere in which they might otherwise become eminently useful to themselves and to society, they are reduced to a more circumscribed and abject state, and in the end let loose upon the community to practise every species of fraud, every variety of crime, within the range of their improved capabilities, or to depend upon the charity of friends, or any other chance means for an uncertain and precarious subsistence.

The defect that appears in the American system is this want, this neglect, to combine with a sound and useful scholastic education, such proper religious instruction as would constitute it of real advantage to the possessor, improve his capacity and means of rational enjoyment, his capabilities of availing himself of its aid in promoting his fortunes and advancement in the world, besides otherwise amending his condition as an useful member of the great family to which he in common belongs. The late Lord Chief Baron, (Lord Abinger,) in his charge to the Leicester Grand Jury in the spring assizes, 1838, complaining that education, as at present conducted in England, had increased instead of diminished crime, made the following pertinent remarks, to which every reasonable and thinking man must assent. His Lordship observed,—“ That in looking over the calendar he perceived the proper description of education of the prisoners,—those who could read and write well, those who could read and write imper-

fectly, and those who could not write at all. In the list there were only three persons who could not read and write out of a calendar of twenty persons; and the doctrine which was lately promulgated was,—give the poor education and you destroy crime. This had not turned out to be the case with the calendar before the court, for we had found that most of the desperate robberies and burglaries were committed by persons who could read and write well. Now, though he could never discourage educating the lower classes of society, he would still boldly affirm, that education, if not founded on religious and moral principle, instead of becoming a blessing to the poor would in the end turn out a curse. To give a sound education to the poor, moral and religious instruction must accompany it. The receiver must be well made to know, not only the moral duties he has to perform, but the religious ones. Education without religious instruction, would not control the strong passions of the human race, and he had only again to repeat, that the various calendars throughout the circuit, had plainly convinced him that it would be far better to leave the poorer classes of the community in ignorance, than to give them an education, which had not for its ground-work our revealed and blessed religion.”

The following table of the present state of education in the United States, is taken from the census recently completed by the general government, and exhibits a comparative view of the number of white

persons over twenty years of age in the different States who cannot read and write.

State of Connecticut	one to every five hundred & sixty-eight;
„ Vermont	one to „ four hundred & seventy-three ;
„ New Hampshire	one to „ three hundred and ten ;
„ Massachusetts	one to „ one hundred and sixty-six ;
„ Maine	one to „ one hundred and eight ;
„ Michigan	one to „ ninety seven ;
„ Rhode Island	one to „ sixty-seven ;
„ New Jersey	one to „ fifty-eight ;
„ New York	one to „ fifty-six ;
„ Pennsylvania	one to „ fifty ;
„ Ohio	one to „ forty-three ;
„ Louisiana	one to „ thirty-eight and a-half ;
„ Maryland	one to „ twenty-seven ;
„ Mississippi	one to „ twenty ;
„ Delaware	one to „ eighteen ;
„ Indiana	one to „ eighteen ;
„ South Carolina	one to „ seventeen ;
„ Illinois	one to „ seventeen ;
„ Missouri	one to „ sixteen ;
„ Alabama	one to „ fifteen ;
„ Kentucky	one to „ thirty-three and a-half ;
„ Georgia	one to „ thirteen ;
„ Virginia	one to „ twelve and a-half ;
„ Arkansas	one to „ eleven and a-half ;
„ Tennessee	one to „ eleven ;
„ North Carolina	one to „ seven.

We believe we are quite justified in stating, that the literature of the United States—that which may be considered purely American—is, with some few exceptions, of rather a mediocre, or second-rate character, and by no means in keeping with the general intelligence and talent of the population. It has considerably improved within late years, in

the number of new books published in the country, though still indebted to the reprint of many English standard publications, to supply the deficiency in the home production.

The aggregate number of published works, is very considerable, amounting to about twelve hundred annually; comprising about sixteen hundred volumes, the cost of which may be estimated at near one million seven hundred thousand dollars. Boston, New York, Philadelphia, and Harford, furnishes nineteen-twentieths of the total number.

In most cases, the edition of one, and the same work, is larger and more frequent in the United States, than in any other country. Many reprinted English publications have passed through three or four editions, while the publishers of the original in England, have but one. In one instance, the sale of a book in America amounted to 100,000 copies, whereas in England, only four editions of 1,000 copies each, were disposed of.

It appears from recent calculation, that in the relative proportion of native and imported literary productions published in the United States, that in American literature, the scientific and practically useful predominate, and that works of imagination are chiefly derived from foreign sources. The school books are most all written or composed in the United States; and some idea of the extensive business done in them may be formed from the circumstance, that of some of the most popular compilations in geography, from 100,000 to 300,000 copies have

been sold in ten years ; so that in many instances, works of this kind produce a permanent income, as well to the author as the publisher. During the last five years, the number of American original works in proportion to reprints, has more than doubled.

A copyright given to authors of any map, chart, book or books, he or they being a citizen or citizens of the United States, or residing within the same, secures to such author, the sale, or exclusive right and liberty of printing, reprinting, publishing and vending such map, chart, book or books, for the term of fourteen years, from the recording the title thereof, under the Act of Congress, May 31, 1790. But this privilege does not extend to foreigners being residents, or living beyond the legal jurisdiction of the United States at the time of publishing such map or work. The right conceded by this Act, may be renewed for fourteen years longer.

The third section of the same Act, precludes the introduction of the same work, &c. or any part or copies thereof into the United States, if printed or published beyond the limits thereof, and declares such work, &c., if imported, forfeited to the author ; and further imposes a penalty of fifty cents, or two shillings and one penny sterling, for every sheet or copy so imported, one moiety thereof to go to the author, the other moiety to the United States, provided that the action to recover same is commenced within one year from the time of committal of the offence.

And a supplementary Act of 1802, April 29th, entitled, an Act for the Encouragement of Learning, extends the same advantages that are given to authors, to those who "shall invent, and design, engrave, etch, or work, or from his own work and inventions, shall cause to be designed, engraved, etched, or worked, any historical, or other print or prints;" and who "shall have the sole right and liberty of printing, reprinting, publishing and vending such print or prints, for the term of fourteen years, from the recording the title thereof in the clerk's office, as prescribed by law, for maps, charts, book, or books, &c. And on performing all the requisites in relation to such print or prints, as are directed in relation to map, chart, book, or books, in the 3rd and 4th section of the Act to which this is a supplement, and shall moreover cause the same entry to be truly engraved on such plate with the name of the proprietor and printer, on every such print or prints as is hereinbefore required to be made on maps or charts."

This law has been most oppressive in its consequences to foreign, particularly to English authors, who are placed at the entire mercy of the American publisher in the reprint and circulation of their works throughout the Republic. Many of the popular productions of English literature scarcely issue from the press, when they are republished and extensively circulated throughout the Union, and being freed from the restrictions that are imposed on all English publications, are sold at a very consi-

derable reduction on the price at which they are originally produced in England. It is frequently the case, that the packet that takes out any lately issued work from England, brings back the reprint on her return voyage; and we are even assured, that on one occasion, of the first appearance of one of the late Sir Walter Scott's very popular novels, an American edition was published in New York, and in actual circulation, within little short of eight and forty hours, after the proof sheets had first arrived in the country. Were arrangements made with an English and American publisher, that the first edition of any forthcoming work should appear simultaneously in New York and London, the interests of both publishers would be equally preserved by the arrangement; while the author, by securing to any one publishing house in the United States the first supply of the entire American trade, might be thus able to dispose of this short lived monopoly in the sale, of at least the first American edition of his work.

The exertions of Mr. Sergeant Talfourd, the distinguished author of *Ion*, and of other literary productions of modern date, have been lately directed both in his place, and out of Parliament, to effect some improvement, and to secure for authors the safe protection of an international copyright law, and that whilst American works should be preserved from piracy in England, that the same measure of advantage should extend to the works of English authors in the United States; a class of men who are espe-

cially aggrieved by the operation of the present system, and whose complaints have already found their way across the Atlantic. In the hope of inducing the American Congress to take into consideration, the especial grievances complained of, an address was presented by the Hon. Henry Clay to the United States Senate in the session of 1837, signed by fifty-six distinguished authors of Great Britain, in which they state, that they have been long exposed to injury in their reputation and property, for the want of a law, by which the exclusive right to their respective writings may be secured to them in the United States;—that for the want of such a law, deep and extensive injuries have of late been inflicted on their reputation and property, and on the interests of literature and science, which ought to constitute a bond of union and friendship between the United States and Great Britain; and that deeply impressed with the conviction, that the only firm ground between nations, is a strict regard to simple justice, they earnestly request the Senate of the United States, in Congress assembled, speedily to use in behalf of the authors of Great Britain, their power of securing to the authors, the exclusive right of their respective writings.

They state that their property is injured by the fact, that the profit arising from a sale of their works, which are reprinted in the United States, are wholly appropriated by American booksellers, not only without the consent of the authors, but even contrary to their express desire; and that their

reputation is liable to be injured by the mutilation or alteration of their works, while their names are retained, and they are made responsible for works which they no longer recognize as their own,—grievances under which they at present possess no redress.

They maintain, that the want of such protection as they ask, is injurious to American authors, by preventing their obtaining a fair remuneration for their labours; and also to the American public, by being furnished with mutilated or imperfect editions, instead of the complete productions of the several authors.

The memorial was referred to a committee, consisting of Messrs. Clay, Preston, Buchanan, Webster, and Ewing, of Ohio. An address from American authors, recommending the passing of such a law, has also been presented, from which it is to be hoped that some beneficial legislative consequence may result, in the future protection to be afforded to this exceedingly oppressed and ill-requited class of men, and that may preserve to them, in common with every other citizen, the well earned reward of their industry and labour.

Principally connected with education, the morality and social improvement of the general people, is the periodical literature—the public and daily press of the country; which gives a mind and character, a tone of interest, to all that is passing around us, and that, in despite of the abstraction from the busy scenes of this life, the seclusion to which we

may have retired, still continues us in the world, associated with its forms and ideas,—its advancement and increased civilization. It is the mirror in which the passions and prejudices of mankind are reflected and brought within our every day observation; the medium through which we become familiarised to occurrences otherwise beyond our travel and inquiry; and when conducted with ability and a proper share of literary talent, unshackled by unnecessary restrictions, and in the observances of a due decorum in its intercourse and outward relations with the world, may be considered as a safe and sure index of a nation's happiness and welfare.

Yet, do we strongly incline, from all that we have read and witnessed in the country, to the opinion so often expressed by contemporary writers, that there scarcely exists any such thing in reality in America, as a "free and independent press;" and to divest what is so called of its tinselly and extraneous covering, the mere imaginary good with which it is sometimes adorned, it will be found, at the present day, as lean in every honest pretension, as restricted in its influence or capabilities of sound useful instruction, as at any past period of its history; having diverged to a state of miserable and degrading vassalage, of mean and pitiable subserviency to the caprice or political purpose of some one or other of the rival parties in the State, or else acknowledging its existence as a mere trading, marketable, money-making concern, for the end and purpose of contributing to the pecuniary re-

sources of its immediate owners. In neither case is it possible to recognize it, as the strong arm and bulwark of a nation's liberty, the safeguard of its rights, though guaranteed in its perfect freedom by the law of the land. The public, or commonweal, is seldom thought of, amidst the many other considerations that control its proceedings; neither is public morality or virtue promoted by its example. Self-interest, outweighs in its estimate, every approved or just consideration, and is the shrine at which its orisons are made,—to which the national good is sacrificed with a most unbecoming recklessness, whenever clashing with the private objects or political designs of its immediate patrons, the parties who control its conduct, and prescribe its rule as conditional to their support. Its opinions carry but little weight, without its motive, or rather want of motive, or personal bias in the sustainment or advocacy of any principle it may choose to assert, is well ascertained and understood; and for any real or imaginary purpose of substantive good, may be said to be restricted to the mere record of the various merchandise offered for sale in its advertising columns, in each market where a newspaper may happen to be published. Its licentiousness is proverbial, and perhaps, is carried to a greater excess than in any other country on the face of the globe. Crimination and recrimination are in the strict order of its daily proceedings, and generally continued in that abusive, intemperate, and vituperate language,

that has lowered the press of America beneath the level of any other.

It is only necessary for any man of character or reputation, whose former acts have been of beneficence and kindness, to start into public life, and avow the conscientious opinions that constitute his political creed, than he is assailed with a loud and universal shout, abused in every unmeasured form by a debased and hireling press, sustained by whatever party is opposed to him in politics; a press that will give no credit for any good motive or honest purpose, or permit for one short-lived hour the free exercise of an opinion adverse to its own. War, interminable war, is its watchword—extermination, its war-whoop: all is deadly hate, the most implacable hostility; and for the gratification of this, and a malevolent party bias, every engine, both foul and fair, is set in motion; calumny and misrepresentation assail him at every turn; his private affairs, the domestic arrangements of his fireside, even of years gone by, are dragged before the public with a most unbecoming and unreasonable acerbity, and the bitterest wrongs heaped with unsparing hands upon his head.

Nationality, is a principle unknown to its morality, that seldom concerns its outward practice, on which its public conduct is seldom based: notwithstanding, its most exceptionable acts are usually heralded before the world under the names of “liberty and justice.” The most daring and dan-

gerous of executive innovations are not merely passed by or tacitly acquiesced in, but even lauded as the exposition of high-wrought patriotism and public virtue. The legislative and judicial proceedings of every-day practice, the overstrained abuse of official authority, in utter derision of any thing like public opinion or the established law, is tamely assented to, and the assumed purity of these tribunals, reasserted with a plausibility and affectation of truth, it were treason to the "sovereign people" to gainsay, or under any circumstances to bring in question. The uncleanly and cankerous sores, the unseemly excrescences that have grown upon the national system, are represented as of the effulgence of its beauty, the indisputable evidence of the superior excellence of the superstructure that Americans have raised with so much care, that are commended to public approval with a most obsequious and disgusting submission, provided the evil-doers to whom they may trace their origin, are of the party with whose interests or measures they are in any manner identified.

The reports of all public proceedings are curtailed, altered, or so transfigured in their publication to suit the ends and uses of party—so utterly unlike all that they are supposed to represent, as to afford no indication—no certain opportunity by this means, of ascertaining public opinion, if that such can be said to exist in the country: even the legislative debates, including those of the general Con-

gress, that from their very nature should be exempt from mutilation, are forced through the same unseemly process—worked up in the same crucible, and from the same cause, made to undergo a similar emasculation. To at all understand their proceedings it will be necessary to refer to the published reports of some two or three journals of opposing politics, as each paper seldom undertakes to do more than to publish in a condensed form, the speeches of its own party, almost without reference, or allusion to those of their opponents.

It is easy to surmise, the pernicious and demoralising tendency of a press of this character, over the mind and general conduct of a people, such as we recognize in the United States; who are seldom controlled by any well-defined or fixed principle—directed by any just or ennobling feeling, or ought, save the promptings of their own free and unrestrained will, in their deportment and general observances throughout life.

There is no country in the world where newspapers so much abound as in the United States. Scarcely a town, or village, that has not its diurnal, or weekly publication. But many of these, are sorry concerns—conducted with less than mediocre talent, and are, in fact, either mere vehicles for advertising and puffing off the latest arrival of new goods in the market, a talent in which Americans surpass every other people, or else, with the latent purpose of aiding some political party, when they

very soon become the disseminating vehicles of the most embittered feelings of animosity within the circle of their immediate influence.

As an advertising medium, they are found necessary in the conducting of almost every branch of business throughout the country, and in which their principal usefulness is developed. There are some few, that form exceptions in the talent and industry with which they are conducted; but they are the few green spots in the vast desolation that every where else surrounds them, to which the mind can seldom revert, without being impressed with the most painful contrast. There is no stamp duty—no advertising tax—no legal interference of any kind to control, or limit speculation in this species of property, which is usually carried to the extreme, that precludes every reasonable and fair remuneration to the publishers, as would enable them to meet the necessary cost of conducting a mere political paper, with any fair prospect of success.

Newspapers are of cheap purchase in the United States; the cost of a daily paper averaging from eight to ten dollars—a weekly paper, from one to three dollars per annum. Encroachments have been made on these prices, within the last few years, in the larger cities, in the establishment of a cheap daily press, the cost of each paper being about one half-penny—scarcely sufficient, we should imagine, to pay for the paper on which it is printed; and that restricts the profits to whatever is derivable from the advertisements, of which they always command a fair share, in consequence of their en-

larged circulation. The New York Sun, which was the first of the kind started in the United States, has frequently declared its circulation, at from twenty-two, to twenty-six thousand copies daily.

There were published in 1775, in the British Colonies, now the United States, but 37 newspapers; in 1810, 359; in 1828, including other periodicals, 851; and in 1834, 1265.

The number of daily newspapers in 1810 was 27; in 1834, 90; in 1839, 116. Journals in 1810, 26; in 1834, 130.

The following table is formed from returns made to the Post Office Department, and which sets out the number of newspapers, magazines, and other periodicals, published in the United States, July 1st, 1839.

Maine	41	South Carolina	20
New Hampshire	26	Georgia	33
Vermont	31	Florida	9
Massachusetts (at Boston, 65)	124	Alabama	34
Rhode Island	14	Mississippi	36
Connecticut	31	Louisiana (at New Orleans, 10)	26
New York (at New York City, 71)	274	Arkansas	4
New Jersey	39	Tennessee	50
Pennsylvania (at Philadel- phia, 71)	253	Kentucky	31
Delaware	3	Ohio (at Cincinnati, 27)	164
Maryland (at Baltimore, 20)	48	Michigan	31
District of Columbia, (at Washington, 11)	16	Indiana	69
Virginia (at Richmond, 10)	52	Illinois	33
North Carolina	30	Wisconsin	5
		Iowa	3
		Missouri	25
			<hr/>
		Total	1555

Of the above, 116 are published daily, 14 tri-weekly, 39 semi-weekly, and 999 once a week. The remainder are issued semi-monthly, monthly, and quarterly,—principally magazines and reviews. Many of the daily papers also issue tri-weeklies, semi-weeklies, and weeklies. Thirty-eight are in the German language, four in the French, and one in the Spanish. Several of the New Orleans papers are printed in French and English.

The fine arts have not yet discovered any very congenial soil in the United States, where painting and sculpture receive no very encouraging or adequate support, and are seldom valued in competition with the more substantial things of this life. American genius is, however, as exuberant and abounding, and quite equal to that of Europe, and would bloom with the same effulgence, and shew forth with the same lucidity and talent, were it encouraged by the same means, or nurtured into vigorous and active existence by the same liberal patronage it receives with us. But American taste is not yet sufficiently advanced, refined, or intellectual, to appreciate the finer works of art, or to attach any sufficient value to their possession; and is quite content to receive instead the præmial and early academical efforts of the young student of the French and German school, which are purchased up by continental speculators, and shipped in large consignments to the United States, where they generally meet a ready market at moderate or reduced prices.

We shall now close these remarks by submitting

the following abstract of the laws in force throughout the several States of the Union for the encouragement and support of education within their separate limits.*

In the *State of Maine*.—Every town is required by law to raise annually for the support of common schools a sum equal at least to forty cents, or about one shilling and eightpence sterling, for each person in the town, and to distribute this sum among the several school districts, according to the number of scholars in each.

New Hampshire.—Common schools are established throughout the State, and for their support a sum amounting each year since 1818 to \$90,000. is annually raised by a separate tax. The State has a literary fund amounting to \$64,000. formed by a tax of one-half per cent. on the capital of the several banks chartered by the State. The proceeds of this fund, as also an annual income of \$9,000. derived from a tax on banks, are appropriated to aid the support of schools.

Vermont.—Common schools are supported throughout this State. The money raised by the general law for the support of schools at three per cent. on the grand list, (the valuation for taxes,) would be about \$51,119-00, and about as much more is supposed to be raised by school district taxes. The State has a literary fund, derived principally from a tax of six per cent. on the annual profits of the banks.

Massachusetts.—Common schools are well supported throughout this State. The laws require that every town or district containing fifty families, shall be provided with a school or schools, equivalent in time, to six months for one school in a year; containing 100 families, twelve months; 150 families, eighteen months; and the several towns in the State are authorised and directed to raise such sums of money as are necessary for the support of the schools, and to assess and

* Principally taken from the compilation of Bishop Davenport, American Almanack, &c. &c.

collect the money in the same manner as other town taxes. Each town is required to choose annually a school committee of three, five, or seven persons, to take the general charge and superintendence of the public schools.

Rhode Island.—Increasing attention has of late been paid to education, and the State now pays annually for the support of free schools the sum of \$10,000, which is divided amongst the several towns according to population.

Connecticut.—This State possesses an important school fund, which was derived from the sale of lands, reserved by Connecticut, in the State of Ohio, and which amounted on 1st April, 1829, to \$1,882,261. The income of this fund, which has since then very considerably increased, is appropriated to the support of primary schools. This fund in 1844, amounted to \$2,044,354.

New York.—On the 2nd of April, 1805, an act was passed, appropriating 500,000 acres of the public lands, the proceeds of which should go towards the establishment of a permanent fund for the support of common schools, the interest of which to be added to the principal until the annual income exceeds \$50,000, when it was to be apportioned amongst the schools. This was the commencement of the common school fund. From 1810 to 1821, the fees received by the clerks of the supreme court beyond their salaries and expences, were also added to the school fund; and the whole sum derived from this source amounted to \$77,474. The common school system of New York was established by an Act of the Legislature of June 19th, 1812, and the first distribution of the income was made in 1814.

From the annual report of the Superintendent of Common Schools, January 15th, 1844, it will appear:—

That the 59 counties of which the State consists, are divided into 897 towns and wards, and these again are subdivided into school districts. Of the 59 counties, all, with the single exception of Lewis, have appointed county superintendents. The total number of children between the ages of five, and sixteen, residing in the several school districts, exclusive of the City of New York, is returned at 607,996; while the aggregate number of children of all ages who have attended school for a longer

or shorter period, during the period ending January 1st, 1843, is reported at 610,354. In the City of New York it is estimated, that there are 75,000 children between the ages of five and sixteen; and of these, 47,428 have attended school for a longer or shorter period during the last year. This swells the aggregate number of children under instruction in the schools of this State, for the year reported, to 657,782; an increase of 50,000 over the number returned the preceding year.

The number of male teachers in the winter schools is stated at 5,170; of female teachers, at 635. In the summer schools there were 1,024 male, and 5,699 female teachers. During the winter, the average monthly compensation of male teachers, exclusive of board, has been \$14,28; that of the females \$7. In the summer, the male teachers received, on an average, \$15. per month, the females \$6.

There are 9,368 school houses in the State; 969 of brick or stone, the remainder of logs, or framed wood. Of these 3,160 were in good repair; 2,870 in comfortable condition; and the remaining 3,319 "unfit for the reception of man or beast."

The common school fund on 30th September amounted to \$1,975,093. and there belong to it also 357,824 acres of land, valued at \$178,412. The amount of public money expended in all the school districts in the State, during the year reported, was \$660,727, and the amount contributed by the people in these districts was \$509,376. making in all nearly \$1,100,000. expended in the payment of teacher's wages, and the purchase of books for school libraries.

New Jersey.—This State has a school fund, which in 1842 amounted to \$344,495.63. which is all in productive stocks, yielding an interest on an average of about 5 per cent. A tax of half of one per cent. on the amount of the capital stock of the several banks, subscribed and paid in, is also appropriated in this fund.

Pennsylvania.—The ordinary appropriation of *school money* is \$200,000. payable to the districts in the ratio of their taxable inhabitants. In addition to this, the legislature, in 1837, made a school house appropriation of \$500,000. to be distributed in 1838.

The condition on which the districts receive their portion of the State appropriation, are, that they accept the school system, and assess a tax at least equal to their proportion of the appropriation. The whole number of school districts on the 1st of June, 1842, exclusive of the city and county of Philadelphia, was 1,113; the number of accepting districts paid during the year, 905; the number that reported, 861. The whole number of schools in reporting districts, is 6,116. The total amount of expenditure in 1842 was \$255,852.92.

By an Act of 1838, there is an annual appropriation of \$1,000. made to each incorporated university and college, which maintains four professors, and instructs at least one hundred students;—also to each academy, and each incorporated female seminary, if fifteen pupils are constantly taught in either, or all of the following branches, viz. Greek and Roman Classics, Mathematics, and English, or English and German Literature, an annual appropriation of \$300.; if twenty-five pupils, \$400.; if forty pupils by at least two teachers, \$500.

Delaware.—This State has a school fund of \$183,000. the income of which, with taxes on tavern licences, &c. is divided among the free schools. About \$20,000. are thus obtained, and the districts raise an equal or greater sum by tax or voluntary contributions. There are 182 public schools now in operation (1843), in which 6,148 scholars are taught. Provision is made by law for a free school within every three mile square of territory. The number of white children in the state, between five and fifteen years of age, according to the census of 1840, is 14,801.

Maryland.—The Maryland school fund is composed of the free schools' fund, derived principally from the tax levied on bank stock, and in this State's share of the surplus revenue received from the United States. The free schools' fund is equally divided among the several counties and the city of Baltimore; and the portion which fell due to each in the year 1838, was \$1,341.36, a greater amount than in any previous year. The interest on the surplus revenue for the year 1838, was \$36,118.76, of which the sum of \$1000. is appropriated to the

indigent blind of the State; and the remainder is distributed, one-half equally among the several counties and the city of Baltimore, and the other half among the same according to population.

Virginia.—Education in this State is much neglected, especially amongst the lower classes; academies and common schools are nevertheless established in several towns. This State has a literary fund, created in 1809, which amounted in 1840, to \$1,413,555.6; income, \$102,590.46; appropriation, \$98,296.64. All escheats, confiscations, and derelict property; also, all lands forfeited for the non-payment of taxes, and all sums refunded by the National Government for the expences of the late war, have been appropriated to the encouragement of learning. The sum of \$15,000. per annum is settled on the university of Virginia; the sum of \$45,000. is appropriated to the support of primary schools; and the residue forms a surplus, held in reserve by the legislature, and distributed occasionally at its discretion among the colleges and academies. Number of primary or common schools, 3,068; poor children, 46,069; number sent to school, 25,963. The price paid for instruction for each pupil is from two and a half to four cents a day.

The primary or common schools are for the poor only. The sum of \$45,000. is apportioned among the counties in the ratio of their state taxes, and managed by commissioners appointed by the county courts. The commissioners are required to seek out, in their respective counties, those children whose parents cannot pay a teacher, and enter them in some cheap neighbouring school. But not much more than half of such children are actually sent to school, and these not more than seventy days in a year. Great reluctance to avail themselves of this fund is found in both parents and children; their pride revolting at the receipt of a mere charity. The system must, therefore, be regarded as very inefficient.

In 1829, a law was made empowering (not requiring) the commissioners of any county to lay it out in school districts, and pay out of the public funds *two-fifths* of the cost of a school house, and half a teacher's salary, whenever the inhabitants

should raise, by voluntary subscription, the residue. The schools established are to be open, gratuitously, alike to the rich and poor. But the permissive form of this law has made it virtually a dead letter; and it has been acted upon in only three or four counties. Of the sum of \$45,000. annually appropriated to primary schools, thousands remain in the hands of the commissioners; and yet there are supposed to be hardly fewer than 30,000 adult white persons in Virginia who cannot read and write!

North Carolina.—The funds set apart by the State for the support of common schools, consist of 1,000,000 acres of swamp lands of uncertain value; the tax imposed on retailers of spirituous liquors, and on auctioneers; monies paid into the treasury on entries of vacant lands (except Cherokee lands); all profits accruing to the State for subscription to works of internal improvement, and from loans made from the internal improvement fund; together with the following:—

10,207 shares of Bank stock, at \$100. per share .	\$1,020,700
500 shares of Roanoke Navigation, \$100. per share	50,000
600 shares of Cape Fear Navigation, ditto	32,500
Cash in the Treasury	27,285
	<hr/>
	\$1,330,485
600 shares of Wilmington and Raleigh Railroad Company, \$100. per share	600,000
	<hr/>
Total	\$1,930,485

South Carolina.—A free school fund exists in this State, but it has done little good, and Governor Hammond recommends that it should be applied to the support of academies in the several districts; he remarks, (1844)—“The free school system has failed. This fact has been announced by several of my predecessors, and there is scarcely an intelligent person in the State who doubts that its benefits are perfectly insignificant, in comparison with the expenditure. Its failing is owing to the fact, that it does not suit our people or our government, and it can never be remedied. The paupers, for whose children it is intended, but slightly appreciate the advantages of education; their pride revolts at the idea of sending their children to school

as "*poor scholars*;" and, besides, they need them at home to work. In other countries, where similar systems exist, force is liberally applied. It is contrary to the principles of our institutions to apply it here, and the free school system is a failure."

Georgia.—There are several important academies in this State, and about five common schools in each county. The State possesses "academy and poor school funds" to a considerable amount. By an act of the legislature of 1792, each academy was allowed to purchase the value of £1,000. of confiscated property; one thousand acres of land in each county were granted for the support of schools, and also a fund of \$250,000. to be vested in stocks for the same purpose.

Alabama.—By an Act of Congress, March 1819, one section of land, containing 640 acres, was granted to the inhabitants of each township for the use of schools, and seventy-two sections, or two townships, for the support of a seminary of learning. The funds of the university consist of the proceeds of these lands.

Mississippi.—Public education is neglected in this State, which has, nevertheless, a literary fund derived from the donation of the general Government, rent of lands, three per cent. on all sales of public lands, fines, forfeitures, &c. There were in the year 1844 in this State, 382 primary or common schools, with 8,236 scholars.

Louisiana.—In 1827, the legislature of this State made a grant to each parish in the State of \$2.62½ to every voter, to be applied to the education of the indigent; the amount for one parish not to exceed \$1,350. nor to fall short of \$800. In consequence of this act, nearly \$40,000. are annually appropriated to the education of the poor.

Tennessee.—Very little can be said for public education in this State.

Kentucky.—Is much in the same position. There are, however, several colleges and an university in this State, (the Transylvania University, in Lexington,) which is the oldest and most celebrated institution in the Western States, and has medical and law schools connected with it.

Ohio.—In March, 1838, an important act relating to common

schools was passed by the legislature of this State, the third section of which is as follows :—“There shall be a State Common School Fund established, consisting of the interest on the surplus revenue, at five per cent., the interest on the proceeds of salt lands, the revenue from banks, insurance and bridge companies, and other funds to be annually provided for by the State, to the amount of \$200,000. per annum; and that said sum of \$200,000. shall be annually distributed among the several counties in this State, in the month of December, according to the number of white youth (unmarried) between the ages of four and twenty years, resident in each county.”

Indiana.—One thirty-sixth part of the public lands in this state, has been appropriated to the support of public schools.

Illinois.—The same attention has been directed to public education in this State, where land to the amount of 998,374 acres has been given for the support of public schools.

Missouri, Arkansas, Michigan.—In like manner have these States, as yet only in their infancy, and lately added to the Union, made every effort in the advancement of education and the support of common schools throughout their respective limits.

CHAPTER XI.

Commerce of the United States—American embargo, 1807—War with Great Britain in 1812, and subsequent peace of 1815—Exports and Imports from the year 1791, to 1815—Aptitude of American citizens in contracting debts, without possessing any adequate means for their liquidation—Rapid increase and extent of internal improvements in the United States, promoted by foreign capital—Imports of Bullion from the year 1832 to 1838—American Stocks, Securities, &c.—Amount of American debt owing to British Capitalists—“Repudiation”—Entire prostration of American credit—Particulars of Stock issued by the several States from 1820, to 1838—The repudiating States of Michigan, Mississippi, and others—Commercial intercourse between Great Britain and the United States—American trade with France—American Cotton, Tobacco, and other Exports—Steam Navigation and Tonnage of the United States—Canals of the United States—Standing Steam Engines.

AMONG the strange fallacies—the heterodox notions, to which nations will sometimes incline, as well as individuals, there are none more extravagant, or irreconcilable with the light and instruction of all past experience, than the theories to which the United States had given her assent, whilst acting on the principle, that to secure the happiness and prosperity of her population, it were necessary to restrict her intercourse, and put an end to the foreign commerce of the country. Such, nevertheless, has been the declared opinion of her

statesmen of former times, that called forth during the Presidency of Thos. Jefferson, in the year 1807; an embargo on all American trade with other nations, and that subsequently continued under various regulations, until the spring of 1809.

This measure of doubtful, if not of very reprehensible policy, was also urged upon the country—submitted for its approval as a retaliatory measure of necessary consequence against the Berlin and Milan decrees of France, and the no less injurious influence of the memorable “orders in council” of Great Britain, and was sustained by the concurrent sanction of a large proportion of the inland and agricultural states, against the loud and earnest remonstrances of the mercantile, or eastern parts of the Republic, that could scarcely become reconciled to the proceeding, though assured of its necessity, as well as its positive advantage, as a great political and commercial expedient in preserving their property and ships from capture and confiscation.

These “restricted energies,” to use the metaphor of Mr. Jefferson, were of most disastrous influence upon the generative power and capabilities of the country; depriving the nation of a remunerative market for the sale of the indigenous products of her own soil, and the productive industry of her population. The injury and wide spread difficulty—the embarrassment to which this mistaken policy gave birth, in the end worked out its own correction, and convinced America of the impolicy, as well as

the extreme absurdity of the principle on which she had thus relied.

The repeal of this obnoxious measure was soon after followed by a restoration to all former prosperity—a resuscitation of every branch of domestic and foreign commerce, that continued to multiply in its resources, and the numerous advantages it occasioned, until the year 1812, when the war with England, put a check to, and nearly repressed every species of mercantile intercourse.

The following exhibit will convey some idea of the extreme commercial difficulties that these two measures occasioned, in the increase and sudden restriction of the imports and exports of the Republic, for this, and the preceding period :—

Years.	Total Exports. Dollars.	Exports of Domestic Origin. Dollars.	Ditto of Foreign Origin. Dollars.
1791 .	19,012,041	—————	—————
1795 .	47,989,472	—————	—————
1800 .	70,971,780	—————	—————
1803 .	55,800,033	42,205,961	13,594,072
1807 .	108,343,050	48,699,592	59,643,558
1808 I. E. embargo year	22,430,960	9,433,546	12,997,414
1810 Embargo off,	66,757,970	42,366,675	24,391,295
1814 War with Great Britain,	6,927,441	6,782,272	145,169
1815 Peace restored,	52,557,753	45,974,403	6,583,350
1816 .	81,920,452	64,718,869	17,138,555

The general peace of 1815, though adding to the commerce of all other countries, restricted the trade of England, but more especially of the United

States, that no longer continued to be the general carriers of the world, having also had to compete with the industry and commercial enterprise of the nations of Europe, in whatever market she had chosen for the sale and interchange of her various merchandize. Distress and embarrassment throughout the States, followed as a consequent; succeeded by partial seasons of prosperity, which in its turn occasioned the most improvident speculations, and familiarised the country, more especially within recent years, to a species of gambling and overtrading, of which the history of European nations seldom furnishes any near example.

The return of the imports and exports of the United States, which we subjoin, in the Appendix (letter F), will uphold this assertion. It bespeaks the disregard of all consequence, as well as the extraordinary aptitude of American citizens to take advantage of the misapprehension of foreigners, as to their capabilities of discharging the obligations to which they may be pledged, or their neglect to provide by any reasonable forecast, for any future embarrassment that the incertitude and frequent mutations in trade, may sometimes occasion—and their recklessness in availing themselves of every facility presented to them, uncontrolled by any prudential consideration, or restricted by the means of discharging the obligations they may thus incur, to invest themselves with the property of others, without possessing any adequate resources for its subsequent payment; and which is evidenced by

the fact, that in the seven years ending 1839, the nation imported of foreign merchandize, beyond the aggregate of its own exports, to the amount of \$199,536,702. the greater part of which remains to the present day unsatisfied—principally owing to British merchants and capitalists; whilst it appears, that \$61,316,995. of this vast sum, was incurred in the year 1836, immediately preceding their general bankruptcy, though that the debt contracted, in the excess of imports beyond their amount of exports, in the antecedent year of 1835, scarcely exceeded \$28,000,000. The total value of imports of foreign produce, over exports, for the twelve years, ending 1842, amounted to \$221,899,106.

Facts such as these, speak without dissimulation, and with a spirit of prophecy for the future, that ill accords with the extravagantly coloured statements, with which we have been of late familiarised—of the vast monied resources and commercial condition of these States; concealing nevertheless, that if the general aspect of the Republic has been improved—if that the wilds and inland wastes of the western country have been brought into a state of progressive cultivation, with a rapid internal communication, intersecting the remotest district, and inducing a general interchange of the various necessaries of life as a consequent—if towns and cities have grown up, as if by magic, where all before was void and desolation—if the hum of busy industry has supervened the cry of indigence and want, and comparative comfort been assured to the bulk of the

population in its stead, it is to foreign capital—the money and resources of another people, to which they are indebted, that has called these exertions into life—given a zest to labour, and every useful employment, and furnished the means, by which this consummation—this mighty revolution has been accomplished.

It is a generally understood axiom in political science, that when the imports of a country exceed the annual amount of its exports, the deficit or disparity between each, is necessarily paid in money, or specie, if paid at all. On this account, we referred to the annual returns of the import and export of coin and bullion of the United States, hoping to meet with some explanation of the mode, by which it would appear, that any part of this vast accumulating debt, contracted in the preceding years, had been discharged. But the statements, instead of according with any reasonable anticipation we might have encouraged in this respect, betrayed the same unconcern on the part of our American friends,—the same indifference to incurring responsibilities, or of ultimately discharging the obligations which they had previously contracted; and that, instead of a surplus export of specie to in part relieve themselves from this onerous and heavy responsibility, we actually find an excess in the importation of coin and bullion into the country, beyond the amount of its exports, for the seven years preceding 1839, of a sum of \$57,095,818; \$9,076,545 of which surplus, was brought into the United States in the year

1836, in which year, it will be remembered, the American people had otherwise contracted debts with the foreign merchant beyond their actual payments, of \$61,316,995, and at a time, it is now notorious, that two-thirds of the population were in a state, verging on general and positive bankruptcy.

We record these facts with regret, as supplying materials for earnest and painful consideration; to the American in the first instance, yet also to the British merchant and capitalist, as indeed to the fair and honest trader of every other country, who may be drawn into a commercial intercourse or dealing with a people, so proverbially reckless of every obligation, as well their readiness to incur liabilities so utterly beyond their means,—or at least their disposition, to discharge or liquidate them.

While these statements are to a considerable extent explanatory of the difficulties that have so severely pressed upon the resources of every individual connected for years past with the trade and commerce of these States, they also serve to qualify the assertions, so often made, and commended to public approval, of the positive wealth and prosperity of the Republic.

The resources of America are no doubt great,—prolific, as she certainly is, in mineral and productive capabilities, now in progress of development, and in the industry and enterprise of her population. The condition of the country,—its outward aspect, within late years, has rapidly improved;

while the assiduity and efforts of her citizens are beyond all praise. But these exertions, however commendable, would be insufficient to secure their full measure of reward, without being sustained by other pecuniary means, or capital to give an impetus—an energy, and direction to both. The internal improvements of America, we are bound to admit, have within the same restricted period, far exceeded those of every other nation, with infinitely greater difficulties to contend with; while the untiring energy of her population has succeeded, in conjunction with other social, organic, and permanent advantages, in establishing an internal communication of vast undertaking, throughout these several intersections of the country, including railroads to an extent of about 4,000 miles, in addition to a canal navigation of upwards of 3,000 miles, finished, and in progress.

But for these improvements, do we also contend, is America in great part indebted to British capital, which has aided their steady progression, and the development of many of the most important resources of the country. No sooner is any projected measure of any great national advantage set on foot, especially to which any of the individual States may have become parties, by the advance or loan of any certain portion of State stock in its promotion, than these securities, almost as soon as issued, find their way to the English Stock Exchange, where funds are in most cases provided to commence with, and carry on these improvements to their ultimate or final completion. The consequence is, that

the British market of late years has been flooded with this species of property, made worthless in some instances by the subsequent disreputable repudiation of some of these States, in whose name and by whose authority these securities had been issued, and though that such State may have reaped the full and anticipated value of such issue, in the general permanent improvement of their locality, and its reclamation from a state of semi-barbarism to one of comparative culture and civilisation. The money borrowed from English capitalists and merchants by several of these States for public improvements, by banks, railroad, canal, and other companies, the greater part of which will never be paid, is estimated at upwards, of *one hundred and fifty millions of dollars*.

But this has been the practice from immemorial time,—sustained, as we are in this assertion, by the concurrent testimony of contemporary writers on the same subject. “America,” declares Mr. Bristed, (who was himself an American,) in his work on the resources of the United States, “has profited in more ways than one by British capital; that is to say, she has grown rich, not merely by the amount and length of credit which the merchants of Britain gave her, but also, by her own numberless insolvents *having made it a point of conscience, never to pay a single stiver to a British creditor*. From the peace of 1783 to 1789, the British manufacturers did not receive more than *one-third* of the value of all the goods which they sold to their American customers;

and since the peace of 1815, up to the present hour, they have not received *one-fourth*."

It is by no means surprising, that the credit of the United States should in consequence diverge to the lowest possible standard, or that her national Government, though nearly freed from debt, should have been unable, even so recently as the year 1842, to procure for its own use, a loan in the comparatively restricted sum of *two millions* sterling. The principle of "repudiation" to which the country had been accustomed in the preceding year, 1841, by which novel, though now familiar process, the States of Mississippi, Michigan, Illinois, Pennsylvania, and Maryland, had relieved themselves from a large portion of their respective debts, and to which discreditable course the United States had given an implied or negative sanction, by withholding the expression of its decided reprehension, or further exertion in influencing these States to return to a more equitable and honest way of thinking and of acting, has to some extent identified her with these proceedings,—excited the apprehensions of foreign capitalists, and occasioned an unwillingness to enter into any negotiation or arrangement with her Government; apprehensive, that the loan she needed in this late instance, and had endeavoured to obtain without success amongst her own capitalists, and subsequently in the British and other European markets, if conceded to her, might be made the nucleus of a national debt, that in the unsettled and disorganised state of American finances, might there-

after be augmented to a still larger amount, according to the increased demands and necessities of the country; and that should the revenue at any future period, (as in 1838 and subsequent years,) fall short of the necessary expenditure of the Government, they could see nothing to prevent the Federal power from adopting the principle and following the practice of these States, in a more general disclaimer of its liabilities, whenever, under its present or any future subsisting tariff law, its resources might be unable to pay the interest, or meet the other requisite expenses of the country.

The injury to the nation in the prostration of its credit,—the disgrace which overwhelmed the entire people, by reason of the nefarious and fraudulent system to which so many of the States have resorted, has inflicted upon the Republic the most humiliating consequences. It has forced the Government to seek, in an unbecoming and almost supplicatory tone, for sufficient means to carry on the necessary general business of the country, amidst the monied capitalists of Europe, and to proclaim to the world the disparaging rejection of every succeeding application.

“After a failure to raise a loan in the American market,” declares President Tyler in his annual message in opening the Congressional session of 1842-43, “a citizen of high character and talent was sent to Europe with no better success; and thus the mortifying spectacle has been presented of the inability of this Government to obtain a loan

so small, as not in the whole to amount to one-fourth of its ordinary annual income, at a time when the Governments of Europe, although involved in debt and with their subjects heavily burdened with taxation, readily obtained loans of any amount at a greatly reduced rate of interest. It would be unprofitable to look further into this state of things, but I cannot conclude without adding, that for a Government that has paid off its debts of two wars with the largest maritime power of Europe, and now owing a debt which is next to nothing when compared to its boundless resources,—a Government, the strongest in the world, because emanating from the popular will, and firmly rooted in the affections of a great and free people; whose fidelity to its engagements has never been questioned; for such a Government to have tendered to the capitalists of other countries an opportunity for a small investment of its stock, and yet to have failed, implies either the most unfounded mistrust in its good faith, or a purpose, to obtain which the course pursued is the most fatal which could have been adopted.”

This is, in very truth, a lamentable portraiture of a country such as the United States; a saddened instance of the consequences resulting from the dishonesty and bad faith of her own citizens, which has clouded her prosperity—assailed her reputation, and overshadowed all her former efforts to sustain herself in the position and on the level of the nations of the world: for it is impossible to dis-

connect the general Government, or the people of these States in their collective or representative capacity, with the dishonest and censurable conduct that has been pursued by the numerous intersections of the Republic, against whom neither public opinion, nor the expression of public dissent, nor censure, has been directed to their just reprobation. Other Governments, it is true, have become bankrupt in their means, and unable to pay either interest or principal; but it has been permitted to the republican States of America to record instances of moral turpitude and faithlessness unequalled in the history of nations, and while possessing the means, by adequate taxation or from other sources, to discharge their obligations, to disavow the entire, notifying the unfortunate dupes, whom they had cajoled and stript of their property, to get their money in the best way they could.

There is no apology made for these excesses—there can be none. Were the capabilities and resources of these States exhausted to their utmost limit,—the energies of their population prostrated beneath an unequal pressure of taxation, in discharge of liabilities previously incurred, wholly irrespective of any subsequent difficulty that might arise, these States might then plead a necessity in part extenuation. But when we are told instead—proclaimed in every variety, until wearied by the repetition—of the inexhaustible wealth of the Republic,—its mineral treasures already developed,—its rich and productive lands already under cultiva-

tion, or to be appropriated,—its forests, yielding to the persevering energy of its hardy population, made available to its vast monied resources,—propriety and all moral sense is outraged by the mendacity of these proceedings—the utter want of principle in which they have been conceived and carried out to their recent consummation.

Until the principle of repudiation was first introduced and received countenance in America, the stocks and public securities of these several commonwealths sustained some fair character in the English and other European money markets; when, from the belief that the faith and public credit of these States were pledged to the due fulfilment of the contract made by them with the public creditor, every expectation was entertained that they would continue to pay the interest of these engagements with punctuality and honour. The assurance of Mr. Webster, American Secretary of State, when in London in 1839, in answer to the inquiry of the commercial house of Baring, Brothers, and Co., added strength and renewed confidence to these anticipations. Yet, scarcely two years were allowed to pass before they were falsified, and the illusion into which so many were betrayed, exposed in its simplicity and folly before the world.

To the State of Michigan belongs the credit—the distinguished honour of being the first in this work of spoliation and plunder; of having thrown off the mask and proclaimed this new principle,—divesting itself of every responsibility under the

very bonds,—the public securities it had issued under the legislative sanction of its Government and people; that subsequently found their way to the possession of other parties, and who, upon the faith of the State guarantee attached to each, had purchased these securities at their highest marketable value, perfectly unconscious, that there could by possibility exist any pretext for their subsequent disavowal.

The State of Mississippi followed this discreditable example, and even made the “repudiation” of her debts—the public disclaimer of her solemn obligations, a question of grave political consideration, on which her citizens were called upon to pronounce at the fall elections of 1841. The principal proportion of these securities consisted of *five millions* of dollars of State bonds, issued and delivered by the State to the Mississippi Union Bank in 1839, being the amount of its subscription for fifteen thousand shares hypothecated to its use, and which were immediately thereupon brought into the public market, principally in England, and purchased at their highest recognised value at the time.

It is somewhat remarkable, that the first notice given to the public of the intention of this State to disclaim her liabilities and repudiate her debts, was the promulgation of Governor McNutt on the 2nd of March, 1840,—“warning all persons and incorporations, not to advance money upon the hypothecation of the said bonds, or purchase them for a less sum than their par value;” it being alleged that this

was the provision of the law under which they were issued.

This notice, if honestly intended, was of too late a date to answer any equitable purpose by its promulgation, or beyond further depreciating the value of these securities, that had already been disposed of, to other and innocent parties, who were not aware at the time, and could know nothing whatever, of any understood or secret arrangement between the state, on whose account and under whose responsibility they were first issued, and its agent, or officers, in whose hands they were supposed to have been placed for this purpose; for it is quite foreign to the question between this state, and the public creditor, the understanding on which these bonds were originally appropriated—whether the debt was contracted through the knavery of her own agents, or otherwise. They may have acted in bad faith—they may have cheated her and deceived the foreign creditor; all this may have been true; still, it is not denied, the money advances that have actually been paid by such creditors, the holders of these bonds, upon the guarantee and faith of the state, pledged by her regularly appointed agent, and to whom she had confided, to bring them into the public market, with a view to their sale and further disposition.

This effort of Mississippi to release herself from every pecuniary responsibility—from every solemn obligation in the non-payment of this large portion

of her debt, was not the mere act of her rulers, or the result of any primary decision of her legislative body ; it was the calm and deliberate resolve of her citizens, made through the ballot box, and which invests this question with an abiding interest and importance, not merely to Mississippi, but also, to every other state of this confederacy ; whose credit and character are extensively implicated by the extreme dishonesty of the act. Still, it is to be hoped that some salutary and beneficial results may grow out of this severe injustice, and that it will serve from henceforth as an admonitory lesson, especially to the foreign capitalist and merchant, who have been somewhat rudely dealt with in these transactions—for whom our sympathies are nevertheless in some degree lessened, from the blind and headlong manner in which they have committed themselves with a people, whose reputation for honesty and good faith has seldom been lauded before the world, and who have given this last proof of an utter debasement, by their patient endurance of the obloquy and disgrace, which these foul deeds have affixed to the national character.

Neither can we find a pretext amongst the other repudiating States of the Republic, for the extreme conduct adopted by Pennsylvania, from whom a very opposite course was anticipated ; and that should have furnished some more laudable and honest example, than to withhold the payment, or neglect to provide in discharge of the liabilities she

had contracted with the public creditor, amounting in June, 1842, to 36,336.044 dollars, and now increased to little short of *forty millions*.

With resources of no ordinary kind on which to depend for their liquidation, with her annual productions, agricultural, manufacturing, and mineral, estimated at 200,000,000 dollars—her real estate valued at 1,300,000,000 dollars, and personal property at 700,000,000 dollars, it is impossible to extenuate, much less to justify the discreditable course that this old and early settled State has pursued in this instance. A tax of *one* per cent. on the productive industry of her population would pay beyond the annual interest of her debt, or *two* per cent. on her real, or personal property, if fairly assessed, would pay her entire debt and discharge any liability to which she is now subject. Yet, do we here find a people, in the possession of these, or of nearly equal resources, so totally unmindful of all honest reputation, and of future consequence, and so contrary to all that Pennsylvania has ever been represented to our belief, that would rather suffer every humiliation—invite the reproaches of every honest and well-meaning man, and subject themselves to every embarrassing result, than by a simple effort of self-denial, sustain the character and credit of their State, by providing for the due and equitable payment of their liabilities in the imposition of some general tax, of the least onerous that it were possible to project, in order to supply the necessary means for this purpose.

It were by no means difficult to foresee the consequences that must result to the United States, from this state of political and social degradation, that has already prostrated the national and state credit of the Republic, and interposed an universal check to every improvement, based upon the introduction of foreign capital into the country. It has engendered a very general feeling of mistrust, that can scarcely fail to mix itself up in all business relations, in which the citizens of these States are in the least concerned, besides creating a very natural apprehension of the institutions of a country, and stability of its form of government, under which, a lax morality of this kind, could possibly have grown up to such vigorous and fearful luxuriance.

Though that the present actual debt of the United States is comparative trifling, amounting on 1st of December, 1843, to about 26,742,949 dollars, still are the several states heavily encumbered, owing in the year 1842, considerably upwards of 200,000,000 dollars, of which sum, it is a remarkable fact, that 150,000,000 was borrowed in the intervening period, between the year 1830 and close of the year 1836, while the nation was engaged in its attempt to carry out the wild and quixotic scheme of President Jackson, in his effort to restrict the country to an entire specie circulation. Six-sevenths of the total amount of this debt, was contracted within ten years, ending 1839.

The aggregate amount of State stocks issued and authorised by law to be issued, within the period

from the year 1820 to 1825, was but \$12,727,728 ; —from 1825 to 1830, \$13,679,689 ;—from 1830 to 1835, \$40,002,769 ; and in the “ experimental” period, from 1835 to 1838, \$108,432,808 ; making a total, ending 1838, of \$174,382,869.

The state liabilities in 1842, according to the returns made by the Secretary of the Treasury of the United States, and by him submitted to Congress, 25th June in this year, amounted to a sum of \$198,818,736 and 35 cents. and was apportioned as follows ;—

	Amount outstanding and unredeemed, Sept. 2nd, 1842.	Amount at 5 per cent. Interest.	Amount at 6 per cent. Interest.	Amount of other rates of Interest.
Maine	1,734,861.47	140,492.44	1,528,369.03	5½ 66,000.00
Massachusetts	5,424,137.00 (a)	5,424,137.00		
Pennsylvania	36,336,004.00 (b)	33,303,313.00	1,071,842.00	4½ 4 & 1 1,961,689.00
New York	21,797,267.91 (c)	17,128,197.37	1,540,434.11	4½ & 5½ 3,128,636.43
Maryland	15,214,761.49 (d)	10,859,062.03	3,755,699.46	4½ & 3 600,000.00
Virginia	6,994,307.54 (e)	1,365,300.00	5,284,707.54	5½ & 7 344,300.00
South Carolina	5,691,234.41 (f)	1,923,259.61	1,574,444.45	3 193,530.35
Georgia	1,309,750.00 (g)	888,000.00	421,750.00	
Alabama	15,400,000.00 (h)	10,300,000.00	5,100,000.00	
Louisiana	23,985,000.00 (i)	23,375,000.00	600,000.00	
Mississippi	7,000,000.00 (j)	5,000,000.00	2,000,000.00	
Arkansas	2,676,000.00 (k)	146,000.00	2,530,000.00	
Florida	4,000,000.00 (l)	400,000.00	3,500,000.00	8 1,000,000.00
Tennessee	3,198,000.00 (m)	1,935,000.00	1,000,000.00	5¼ 263,161.00
Kentucky	3,085,500.00 (n)	350,000.00	2,735,500.00	
Michigan	5,611,500.00 (o)		5,560,000.00	7 51,000.00
Ohio	10,924,123.00 (p)	550,000.00	10,374,123.00	
Indiana	12,751,000.00 (q)	12,327,000.00	394,000.00	7 30,000.00
Illinois	13,527,292.00 (r)		13,527,292.00	
Missouri	842,261.00 (s)	514,000.00		5½ 7 & 10 328,261.00
D. of Colum. of	Alexandria	332,100.00 (t)	369,600.00	
	Georgetown	116,010.00 (u)	92,010.00	
	Washington	817,920.00 (v)	195,550.00	622,370.00
Total . .	198,818,736.35			

(a) \$5,105,000. for loans to railroads, all which are complete and in operation.

(b) \$33,364,355. for Penn Canal and Railway ; \$1,280,000. for other roads and canals.

(c) \$17,561,567.91. for State canals and general funds ; \$4,235,700. loans to companies.

(d) \$3,697,000. for Baltimore and Ohio railroad ; \$7,197,000. for Chesapeake and Ohio canal ; \$223,731.65. for Baltimore and Susquehanna railroad.

(e) \$1,365,398.14. held by the State itself ; \$3,991,500.63. for internal improvements.

(f) \$2,600,000. subscription, loan, and guarantee to Charleston and Louisville railroad ; \$1,035,555.55. for rebuilding Charleston.

(g) For the State railway.

(h) For the banks ; uncertain how much is negotiated of the \$5,000,000. in short bonds.

(i) \$22,000,000. for the banks, of which \$4,811,111.10. is not negotiated, and remains in the banks.

(j) For the banks. The State denies its responsibility for \$5,000,000. of this debt.

(k) For banking purposes.

(l) \$3,900,000. for banking purposes.

(m) \$1,500,000. for the banks ; the remainder for internal improvements ; \$722,000. for works now incomplete and abandoned.

(n) For internal improvements.

(o) \$5,320,000. for internal improvements ; \$160,000. for a penitentiary and university.

(p) For internal improvements ; \$4,500,000. for the Ohio and Miami canals.

(q) \$2,300,000. for the State banks ; \$1,069,000. to pay interest ; the remainder for internal improvements.

(r) \$3,034,998. for the banks ; \$854,000. to pay interest ; remainder for internal improvements.

(s) 362,000. for the banks of Missouri ; \$232,000. for building the capitol.

(t) \$287,500. for the Alexandria canal.

(u) For internal improvements.

(v) \$421,950. for Washington canal, and subscription to Chesapeake and Ohio canal.

The States of Vermont, New Hampshire, Rhode Island, New

Jersey, Delaware, North Carolina, and Iowa, have no public debt.

Several of the larger cities have contracted debts, issued stocks, &c. amounting to \$22,372,441. apportioned as follows,—to the city of

New York . . .	\$9,663,269	Troy . . .	\$361,000
Boston . . .	1,698,232	Cincinnati . . .	860,000
Philadelphia . . .	1,000,000	New Orleans . . .	1,758,180
Baltimore . . .	4,680,000	Mobile . . .	513,000
Albany . . .	695,532	Charleston . . .	1,142,358
			<u>\$22,372,441</u>

To which, if we add a sum of \$28,101,644. to the debts of the several States, for the United States surplus money deposited with them, as part of the revenue derived from the sale of the public lands, we shall find the total of state and city debts, in the year 1843, to amount to 249,292,821 dollars.

This large sum, though perhaps within the resources of these States to eventually discharge and satisfy, but ill accords with the statements so often put forth of the national prosperity and unbounded wealth of the country. It betrays a state of facts, as to its present financial embarrassment, in which the foreign capitalist is immediately concerned, more especially of Great Britain, with whom so large a proportion of the American trade is carried on, as to nearly equal in its extent, the entire commercial intercourse, at present subsisting between the United States, and all other parts of the world.

Within the five years ending 1840, of which returns have been made, and in which the exports from the United Kingdom to America had consi-

derably lessened, we find, that of \$607,169,398. which constituted the total value of American exports for this period, produce of the value of \$319,859,485. of this sum, being more than one-half of the entire, found a market in Great Britain and her colonies; and that of the total of American imports for the same period, amounting to \$711,575,639.—\$298,272,827. in value of the amount, exceeding two-fifths of the entire, had been imported from Great Britain and her dependencies. So in like manner, of the imports of the United States for the 1842, to the value of \$100,162,087., more than one-third, or of \$38,613,043. were from Great Britain and her possessions; and of the exports of the United States for the same period, amounting to \$104,691,534. in value,—\$42,306,650 thereof, found a market in Great Britain and her numerous colonies.

The following table exhibits the value of United States imports from, and exports to, each foreign country, during the fiscal year ending September 30th, 1842:—

	COUNTRIES.	Value of Imports.	VALUE OF EXPORTS.			
			DOLLARS.	Domestic Produce.	Foreign Produce.	Total.
				DOLLARS.	DOLLARS.	DOLLARS.
1	Russia	1,350,006	316,026	520,567	836,593	
2	Prussia	18,102	149,141	7,547	156,688	
3	Sweden	890,934	238,948	105,970	344,918	
4	Swedish West Indies	23,242	129,727	3,320	133,047	
5	Denmark		70,766	27,819	98,585	
6	Danish West Indies	584,321	791,825	157,260	949,088	
7	Holland	1,067,438	3,236,338	386,988	3,623,326	
8	Dutch East Indies	741,048	85,578	193,580	279,158	
9	Dutch West Indies	331,270	251,650	15,581	267,231	
10	Dutch Guiana	74,764	101,055		101,055	
11	Belgium	319,588	1,434,038	176,646	1,610,684	
12	Hanse Towns	2,274,019	3,814,994	749,519	4,564,513	

COUNTRIES <i>continued.</i>		Value of Imports.	VALUE OF EXPORTS <i>continued.</i>		
			Domestic Produce.	Foreign Produce.	Total.
		DOLLARS.	DOLLARS.	DOLLARS.	DOLLARS.
13	England	33,446,499	36,681,808	2,932,140	39,613,948
14	Scotland	655,050	1,522,735	80,279	1,603,014
15	Ireland	102,700	49,968		49,968
16	Gibraltar	12,268	466,937	115,961	582,898
17	Malta	7,300	11,644	8,261	19,905
18	British East Indies	1,530,364	399,079	283,825	683,804
19	Australia	28,693	5,651		52,651
20	Cape of Good Hope	23,815			
21	British West Indies	826,481	3,204,346	23,367	3,227,713
22	British Guiana	15,004	115,991	2,462	118,453
23	Honduras	202,868	127,339	36,648	163,987
24	British American Colonies	1,762,001	5,950,143	240,166	6,190,309
25	France on the Atlantic	16,015,380	15,340,728	1,076,684	16,417,412
26	France on the Mediterranean	958,678	1,674,570	73,868	1,748,438
27	French African Ports		3,899	80	3,979
28	French West Indies	199,160	495,397	23,609	519,006
29	French Guiana	50,172	44,063	1,030	45,093
30	Miquelon and French Fisheries		4,932		4,932
31	Hayti	1,266,997	844,452	55,514	899,966
32	Spain on the Atlantic	79,755	333,222	1,200	334,422
33	Spain on the Mediterranean	1,065,640	221,893	16,578	238,476
34	Teneriffe and other Canaries	91,411	72,723	518	13,241
35	Manilla and Philippine Islands	772,372	235,732	100,444	336,176
36	Cuba	7,650,429	4,197,468	572,981	4,770,449
37	Other Spanish West Indies	2,517,001	610,813	19,718	630,531
38	Portugal	142,587	72,723	1,388	74,111
39	Madeira	146,182	43,054	1,930	44,984
40	Fayal and the Azores	41,049	49,183	19,600	68,783
41	Cape De Verd Islands	17,866	103,557	11,529	115,086
42	Italy	987,528	515,577	304,940	820,517
43	Sicily	539,419	237,861	195,797	433,658
44	Mediterranean Islands	14,294	40,208		40,208
45	Trieste	413,210	748,179	136,526	884,705
46	Turkey	370,248	125,521	76,515	202,036
47	Morocco	4,779			
48	Texas	480,892	278,973	127,951	406,929
49	Mexico	1,995,696	969,371	564,862	1,534,233
50	Venezuela	1,544,342	499,380	166,832	666,212
51	New Grenada	176,216	57,363	46,361	103,724
52	Central America	124,994	46,642	22,817	69,466
53	Brazil	5,948,814	2,225,571	375,931	2,601,502
54	Argentine Republic	1,835,623	265,356	145,905	411,261
55	Cisplatine Republic	581,918	202,999	67,968	269,967
56	Chili	831,039	1,270,941	368,735	1,639,676
57	Peru	204,768			
58	South America generally		147,222	1,200	148,422
59	China	4,934,645	737,509	706,888	144,397
60	Asia generally	979,689	283,367	224,914	478,281
61	Africa generally	539,458	472,841	51,135	523,976
62	West Indies generally		205,913	1,790	207,703
63	South Seas	41,747	128,853	17,524	146,380
64	North-west Coast of America			2,370	2,370
65	Uncertain places	10,144	19,290		19,290
Total		100,162,087	92,969,096	11,721,588	104,691,534

As in part explanatory of the foregoing, we submit the following equally interesting table, of the Imports and Exports of each State and territory of the Republic for the same period, ending on 30th September, 1842.

States and Territories.	Value of Imports.			Value of Exports.		
	In American Vessels.	In Foreign Vessels.	Total.	Domestic Produce.	Foreign Produce.	Total.
	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.
Maine	547,956	58,908	606,864	1,043,172	7,351	1,050,523
New Hampshire	55,256	5,225	60,481	28,419	128	28,547
Vermont	209,868		209,868	550,203	7,216	557,509
Massachusetts	16,495,973	1,490,460	17,986,433	6,719,115	3,087,995	9,807,110
Rhode Island	320,364	3,324	323,692	323,437	25,259	348,696
Connecticut	329,583	6,127	335,707	532,392		532,392
New York	51,523,055	6,352,549	57,875,604	20,739,286	6,837,492	27,576,778
New Jersey	145		145	64,932	5,976	70,907
Pennsylvania	6,757,228	628,630	7,385,858	3,293,814	476,913	3,770,727
Delaware	1,612	1,945	3,557	55,665		55,665
Maryland	3,988,365	418,713	4,417,078	4,635,507	262,259	4,904,766
Dist. of Columbia	23,934	5,122	29,056	498,820	2,855	501,675
Virginia	278,536	38,169	316,705	3,745,227	5,159	3,750,386
North Carolina	181,555	5,849	187,404	344,650		344,650
South Carolina	1,042,424	317,041	1,359,465	7,508,309	17,324	7,525,723
Georgia	230,525	111,239	341,764	4,299,151	1,106	4,300,257
Alabama	238,170	125,701	363,871	9,965,675		9,965,675
Mississippi						
Louisiana	6,179,027	1,854,563	8,033,590	27,427,422	976,727	28,404,149
Ohio	12,179	872	13,051	899,786		899,786
Kentucky	17,306		17,306			
Tennessee	5,687		5,687			
Michigan	79,982	802	80,784	262,229		262,229
Missouri	31,137		31,137			
Florida	164,412	12,568	176,680	52,606	778	33,384
Total	88,724,280	11,437,807	100,162,087	92,969,996	11,721,538	104,691,534

With a trade of the magnitude and importance to Great Britain, as to America, that the foregoing returns bespeak, it becomes a matter of some consideration, that it should be conducted on some wholesome and well-understood basis—directed by some better principle, than has hitherto been the case, and not left subject to the mutations, the hazard and

disquiets—the positive losses, to which British merchants have been exposed, not merely for one or two, but for many successive years. Experience, from which even in the eleventh hour they should take counsel, has unfortunately been slow to convince them of the difficulties and extreme risks they have to encounter—the odds with which they have to contend, from the absence of a sufficient moral restraint—of all honest meaning among the generality of American traders, encouraged by the numerous facilities that an uncertain and diversified code of laws presents to his cupidity in the promotion or advancement of his fortunes in the world, without being over fastidious in the means he may employ, or put in requisition for this purpose. Nevertheless, they hold the remedy — the future in their own hands; and from the examples already before them, must be considered the arbiters of every consequence, or evil result, by which they may be assailed.

Next in importance to the trade of England, is that of France, which has lately grown to a very considerable extent. In 1833, the imports from France and her colonial possessions into the United States, amounted in value to only 13,962,913 dollars; while the three years ending 1840, averaged somewhat upwards of 23,300,000. In 1829, there were 240,446 bales of cotton imported from the United States into France; in 1838,—321,486 ditto. In 1840, the aggregate amounted to 447,000 bales.

The United States of North America being essen-

tially agricultural, the principal bases of her foreign trade must always rest upon the products of her own soil. Of these the most important is her cotton, which Dr. Channing justly observes, is "the great staple on which all the commercial dealings of the country turn"—large quantities of which are annually produced in the States of Mississippi, Georgia, Louisiana, Alabama, South Carolina, and North Carolina, that in their order, are the great cotton growing states of the Republic. In 1783, eight bales of cotton are said to have been seized on board of an American vessel at the Liverpool Custom House, because it was not thought possible, that at this period, the United States could have shipped so large a quantity together; since then, the production of this staple has increased to an almost unlimited extent. In 1790, the value of cotton exported was 48,285 dollars; in 1800, five millions; in 1810, fifteen millions; and in 1840, sixty-four millions (above fourteen millions sterling); in 1842, the entire produce was 783,221,800 lbs.

The next most important staple of United States export, is her tobacco; of which the largest portion in like manner is imported into England, and where the consumption, notwithstanding the enormous duties to which it is subject, constituting a material source of British custom's revenue, is considerably greater than in any other European country. It appears that the tax paid in Great Britain in the year 1840, as duty, on manufactured tobacco, amounted to £3,525,956. against £3,431,908. paid in the pre-

ceding year, 1839. The quantities imported in 1840, —35,637,826 pounds weight, against 35,605,223 pounds in 1839. Hazard's "Commercial and Statistical Register," a work of very considerable authority, published in the United States, asserts the number of hogsheads of tobacco, exported in 1840, to amount to 119,484, of which 26,255 hogsheads were imported into England.

It will appear from the same authority, that from the year 1821 to 1840, there were exported from ports in the United States 1,792,000 hogsheads, valued by the Treasury Department at 131,346,514 dollars, being an annual average of 89,600 hogsheads, or 6,567,325 dols.

During the years 1821, to 1839, there were exported 788,477 pounds of snuff, and 57,196,254 pounds of manufactured tobacco; valued together, at 5,556,581 dols.

For the first ten years of the series, from 1821 to 1830, there were exported 824,245 hogsheads of tobacco, valued at 56,889,291 dollars; and during the last ten years, 1830 to 1840, 967,755 hogsheads, valued at 74,457,223 dols., being an excess in the last ten years, over the first ten, of hogsheads 143,510, valued at 17,567,932 dols.

The average annual export in the first ten years was 82,424 hogsheads, or 5,688,929 dollars; and during the second ten years 96,775 hogsheads, or 7,445,722 dols.

The average price during the whole twenty years, was 73 dollars 31 cents per hogshead. For the first

ten years 69 dollars and 11 cents ; and for the second ten years, 67 dollars 83 cents ; or if 1,200 be taken as the average weight of the hogshead, the price during the twenty years will be, $6\frac{10}{100}$ cents per pound—first ten years, $5\frac{3}{4}$ cents ; and second ten years, $6\frac{4}{100}$ cents per pound.

The whole amount shipped from the United States in the twenty years was—

To England	. 524,640 hhds. valued at	\$50,194,466
France	. 146,834	16,361,346
Holland	. 423,707	21,907,465
Germany	. 373,918	18,734,186
All other countries	322,021	24,149,051
Total	. 1,792,000 hhds.	<u>\$131,346,514</u>

In the first ten years there were shipped

to England	. . . . .	241,919 hhds.
In the second ten years	ditto	282,721

Being an increase in the last period, of . 40,082 hhds.

The average annual export to England during the twenty years, was 26,232 hogsheads, valued at \$2,509,723.

To France in the ten years 1821 to 1830 were exported 65,322 hhds.

To France in the ten years 1830 to 1840, were exported 81,012 ,,

Being an increase in ten years, of 15,190 ,,

The annual average to France is 7,341 hhds. or \$818,067.

To Holland there were exported, from 1821 to

1830	. . . . .	218,679 hhds.
„ „	1830 to 1840	205,028 ,,

Being a decrease in the last ten years, of 13,651 ,,

The average annual export 21,185 hogsheads, \$1,095,373.

To Germany from 1821 to 1830 were exported 139,515 hhds.
 „ 1830 to 1840 „ . 234,403 „

Being an increase of 94,888 hhds.

The annual average export 18,695 hogsheads, or \$936,709.

To all other countries the exports were from

1821 to 1830 158,310 hhds.

„ 1830 to 1840 „ . 164,591 „

Being an increase of 6,218 „

Of other countries, Gibraltar receives on an average of the last three years, ending 1840, 5,130 hogsheads annually. Sweden and Norway, 1,564 ; Belgium, 1,255 ; Italy, 1,660 ; Cuba, 769 ; Africa, 1,108 ; Spain, 1067 ; and Scotland, 854 hogsheads.

The value of the tobacco shipped from the United States to all parts of the world, in the year 1842, amounted to 9,540,755. dols.

The exports of the United States in other articles of domestic produce is also very considerable, especially in rice, wheat, flour ; particularly the latter, which averaged in the three preceding years 6,890,694 dollars ; in 1842 it amounted to 7,375,356 dollars. The value of the other items of general export, of the growth, produce, and manufacture of the United States, for the three years ending September 30th, 1842, is included in the following statement :—

<i>Product of the Sea</i> , including dried fish, sperm oil, whalebone, &c. &c.		
for the three years ending 1842 .	\$8,868,231	
Averaging in each year .	————	\$2,956,077
<i>Product of the Forest</i> , including skins, furs, spars, shingles, and timber of every kind .	17,106,191	
Averaging in each year .	————	5,702,030
<i>Agriculture</i> , including cattle, beef, tallow, butter, pork, &c. .	11,945,986	
Averaging in each year .	————	3,981,995

<i>Vegetable Food</i> (exclusive of tobacco and cotton), including flour and all kinds of grain . . .	\$39,868,591	
Averaging in each year . . .	—	\$13,289,530
All other agricultural products, including hemp, flax-seed, hops, &c. . .	362,295	
Averaging in each year . . .	—	120,798
Manufactures of every kind . . .	21,979,684	
Averaging in each year . . .	—	7,326,561
Articles not enumerated . . .	4,462,363	
Averaging in each year . . .	—	1,487,454

The southern States of America, may very properly be classed as the producing states of the Republic, where cotton, sugar, rice, tobacco, are of its most valuable and abundant products—that add so materially to the national wealth, and give employment to its numerous shipping. The northern and eastern States on the other hand, are more immediately confined to commerce and manufactures, with the exception of New York, Ohio, and Pennsylvania, that combine with their manufacturing pursuits, a large proportion of agricultural industry. They are the principal grain states of the Republic, and annually ship large quantities of flour to other markets, besides providing for the general home consumption.

The principal manufacturing states are Massachusetts, Connecticut, New York, and Pennsylvania, where a considerable amount of capital is invested in these speculations—labour being more abundant than in other parts of the country, and where the activity and enterprise of the population, immedi-

ately fit them for these pursuits. Nevertheless, the comparatively high prices that labour always commands, and that will continue to exist, so long as the unpeopled districts of the western country, as well the irreclaimed lands of many of the Atlantic states may create a demand for whatever supply the wants and necessities of the population may occasion, has retarded to some extent, the more general progress of manufactures, and that can seldom compete, especially in the production of the finer fabrics, with British skill, except aided by the protective duties that continue to be imposed, though ostensibly as a necessary source of revenue, under the present existing tariff laws of the country.

The discernment and prudence of America has often been questioned in this respect, and her policy in directing so much of her attention to her manufacturing capabilities, which for many years to come must contend with these disadvantages, rather than depend upon her immense agricultural resources, very generally condemned. The richness of her soil, which amply rewards the husbandman's industry and exertion, and repays him far beyond his first necessary outlay in its reclamation—the immense extent of territory within the Republic, and comparative cheapness of land, which must always encourage emigration from the most distant parts of the old world, points out agriculture as the most natural, as well the most important interest in America. The resources derived from it, though perhaps restricted in amount, are more certain, and in the end more

remunerative, from being removed beyond the casualties and restraints of an unsettled commercial system, and that with the ever-varying interests of opposite intersections of the people to contend with, must generally be the case—independent of its healthfulness, in the promotion of an independent, sturdy, and as far as it is possible to expect in America, a vigorous and robust population.

In speaking on this subject, the late President Jefferson, in his “Notes on Virginia,” observes—

“The political economists of Europe have established as a principle that every nation should endeavour to manufacture for itself, and this principle, like many others, is applied to America, without calculating the difference of circumstances that should often produce a different result. In Europe, the lands are either cultivated, or locked up against the cultivator. Manufactures must, therefore, be resorted to, from necessity, not from choice, to support the supplies of their people. But we have an immensity of land courting the industry of the husbandman. Is it best then, that all our citizens should be employed in its improvement, or that one-half should be called off from that to exercise manufactures and handicraft arts for the other? *Those that labour in the earth are the chosen people of God*, if ever he had a chosen people whose breasts he had made his peculiar deposit for substantial and generous virtue. It is the focus in which he keeps alive that sacred fire which otherwise might escape from the earth.

Corruption of morals in the mass of the cultivators is a phenomenon of which no age or nation has furnished an example. It is the mark set on those who not looking up to heaven, to their own soil and industry (as does the husbandman), for their subsistence, depend upon the casualties and caprice of customers. Dependence begets subservience and venality; suffocates the germ of virtue, and prepares fit tools for the designs of ambition. This, the natural consequence and progress of the arts, has sometimes been retarded by accidental circumstances; but generally speaking, the proportion which the whole of the other classes of citizens bears in any country, to that of its husbandmen, is the proportion of its unsound to its healthy parts, and is a good enough barometer, whereby to measure its degree of corruption.

“ While we have land to labour on, never let us wish to see our citizens occupied at a work bench, or twirling a distaff. Carpenters, masons, and smiths, are wanted in husbandry; but for the general operations of manufacture, let our workshops remain in Europe. It is better to carry provisions and materials to workmen there, than to bring them to the provisions and materials, and with them their measures and principles. The loss by transportation of commodities across the Atlantic, will be made up in happiness and permanence of Government. The mobs of great cities, add just so much to the support of pure government as sores do to the strength of the human body. It is the man-

ners, and spirit of a people, which preserve a republic in vigour; a degeneracy in these, soon cuts to the heart of its laws and constitution.”

The commerce of the United States absorbs a large amount of capital, and gives employment to a numerous shipping, that are to be met with in every sea—traversing every remote section of the navigable world. Its extension has been unexampled, as well occasioned by the increased quantity of bulky materials, which constitute a material part of American exports, as from the great annual augmentation in the population of the country, and extent of its carrying trade. The registered tonnage, or tonnage employed in foreign trade, from 1793 to 1801, was 358,815 tons, having nearly doubled in eight years. From 1793 to 1810 the increase was 616,535 tons. The tonnage employed in the fisheries, also increased from 1793, to 1807, about 40,000 tons.

The whole tonnage of the United States in 1810, was 1,424,780 tons, of which the different States owned the following proportions:—

	TONS.		TONS.
New Hampshire	. 28,817	Maryland . . .	143,785
Massachusetts . .	495,203	Virginia . . .	84,923
Rhode Island . . .	36,155	North Carolina . .	39,594
Connecticut . . .	45,108	South Carolina . .	53,926
New York . . .	276,557	Georgia . . .	15,619
New Jersey . . .	43,803	Ohio . . .	None.
Pennsylvania . . .	125,430	New Orleans . . .	13,240
Delaware . . .	8,190		

The State of Massachusetts possesses many hun-

dred miles of sea-coast, with numerous inlets and harbours; her amount of tonnage is considerably greater than any other State in the Union. The tonnage of the principal sea-ports in 1810, was, of—

Boston	.	.	.	149,121 tons.
New York	.	.	.	268,548 „
Philadelphia	.	.	.	125,258 „
Baltimore	.	.	.	103,444 „
Charleston	.	.	.	52,888 „

The total United States tonnage in 1815 was 1,368,127 tons, being 56,643 tons less than in 1810, so much had peace all over the world lessened the external commerce of the United States. In 1820 it was 1,280,166.24; in 1825, 1,432,110.77; in 1830, 1,191,776.43; in 1835, 1,824,940; in 1839, 2,096,478.81; and in 1843, in which we have the last published returns, 2,158,602 tons.

Of the amount of United States tonnage for the year 1839, the following States and territories owned, viz.:—

TONS AND 95THS.		TONS AND 95THS.	
Maine	. . 282,285.37	North Carolina	. 40,814.45
New Hampshire	. 29,224.07	South Carolina	. 33,414.21
Vermont	. . 4,232.37	Georgia	. . 20,942.83
Massachusetts	. 526,364.21	Alabama	. . 21,742.00
Rhode Island	. 44,572.16	Louisiana	. . 109,076.36
Connecticut	. 83,014.34	Tennessee	. . 4,240.94
New York	. . 468,593.58	Kentucky	. . 8,125.87
New Jersey	. . 62,540.87	Ohio	. . . 23,925.55
Pennsylvania	. 112,359.17	Michigan	. . 10,999.59
Delaware	. . 19,203.19	Mo	. . . 9,735.00
Maryland	. . 116,203.87	Dist. of Columbia	23,142.26
Virginia	. . 51,808.39	Florida	. . . 8,672.68

Tonnage of the six largest districts in this year :—

	TONS AND 95THS.		TONS AND 95THS.
New York . . .	430,300.88	Philadelphia . . .	96,862.09
Boston . . .	203,615.82	New Bedford . . .	86,524.75
New Orleans . . .	109,076.36	Baltimore . . .	71,533.14

Included in this estimate is a large amount of steam shipping, that traverse the inland seas and rivers of the Republic, developing its resources, and uniting its population in one large and universal family,—facilitating trade, in the speedy and certain conveyance of the products of the soil,—the industry and labour of the inland settler, and affording a ready interchange of the luxuries, as well the necessaries, of life. To no nation has steam power extended the same measure of good,—of important and signal benefits, as to the United States; and certainly none have taken more ready advantage of its beneficial and weighty aid, in the steady promotion of every improvement, and the rapid advance which the nation has made, since the period of its first introduction, in comparative wealth, in intelligence and civilization.

To whatever country the honour of the first and earliest discovery of steam power is due, its first practical application to the use of steam navigation, we apprehend, must be conceded to the United States. The idea of applying steam to boats had been suggested in England as early as 1736, by one Jonathan Hulls. Rumsey is said to have made experiments on a small scale, as to steamboats, in Virginia, in 1787, but they were not reduced to any

practical use. Both he and Fitch, a poor and illiterate watchmaker of Philadelphia, are declared by American writers to have commenced trials in that country as early as 1783 and 1784,* and Oliver

* The biography of Fitch, lately published in the United States, represents him as an American citizen, whose name, though at present but little known to his countrymen, is destined at no distant day to assume a high rank among the benefactors of the age,—and goes on to state of this remarkable man, that He “ was born in Connecticut, was a watchmaker in Trenton, a soldier of the revolutionary war, a surveyor of public lands in the West, a poor, hard-working, ingenious man, whom all considered, as men of genius are considered, *visionary*. In 1785 he made a model of a steamboat with perfect steam machinery. He tried wheels at first, but they were badly constructed, and he substituted paddles, which worked rather better, and then he regarded his model, examined his empty pockets, and saw before him, in visions of hope, the great results which hereafter would grow out of steam navigation. He petitioned the Continental Congress for aid. They had no money to give to such experiments. He begged the legislature of Pennsylvania to assist him, without effect. He talked to the Western members of Congress of the great waters of the Mississippi and the lakes covered by steamboats, and conveying the produce of that section of the Union to the ocean, but they considered it chimerical and wild. He wrote to Dr. Franklin, and boldly contended that the sea would be navigated by steam hereafter, and earnestly implored co-operation and aid ; but when a man strikes at something bold and high, promising new and extraordinary results, talked of immense revolutions in trade, immense expedition in travelling by a new process, the old and long standing impression of weak and visionary projects met him at every turn, and finally his condition was hopeless. At length he drew and engraved a map of the North-western territory of the United States, and struck off the sheets on a cider press, and by this he made \$800. and

Evans in 1785 and 86. Similar experiments were made in France in 1781 and 86. But we believe it

in 1787 formed a company of forty shares, and commenced a boat of sixty tons, which, after immense difficulties and delays, rough machinery, and small cylinders, was found only to go against wind and tide at the rate of *three* miles an hour. This was no failure, it was a triumph; and Fitch doubled his shares, constructed a new engine, built a new boat called the *Perseverance*, and on the 12th of October, 1788, the boat ascended the Delaware to Burlington, with thirty passengers, and made the passage in three hours and twenty minutes, and afterwards made eighty miles in one day. There is near us, as we write, a gentleman who stood on the wharf, and saw the boat ascend the Delaware. *This was the first successful application of steam to the propelling of vessels.* Fitch, therefore, was the original inventor, and to whom all honour was due.

“ In 1788, after great exertions, he completed a larger boat, but it took fire, and burned to the water’s edge. In 1791 he obtained a patent; and a committee of the New York Legislature, in 1817, said that Livingston and Fulton’s boat was substantially the invention of Fitch. He went to Europe, obtained no encouragement, worked his passage back as a common sailor, and, penniless and hopeless, he poisoned himself in Kentucky in an obscure tavern, and was buried in a corner of the yard, without a stone to mark where the remains lay of the first discoverer of the application of steam to propelling vessels. He desired to be buried on the banks of the Ohio, and exclaimed in apparent distress of mind, when deliberating on his hard fate: ‘ Why these earnest solicitations and excruciating anxieties! Why not leave them, and retire to rest under the shady elms on the fair banks of the Ohio, and there eat my coarse but sweet bread of industry and content, and when I have done, to have my body laid in the soft, warm, and loamy soil of the banks of the Ohio, my name inscribed on a neighbouring poplar, that future generations, when traversing the mighty waters of the West, may find my

must be conceded to America,—to the sagacity and persevering efforts of the speculative and enterprising Fulton, that the earliest steamboat for any practical purposes throughout the world was first used in 1807, on the Hudson river, in the state of New York. She was called the “North River,” with an engine of only eighteen horse power, and made the passage from Albany to New York, distance 156 miles, in thirty-three hours, which before that time was generally a five-days’ journey, namely, three days by water, and two by land conveyance. We have since frequently made the same travel, in the splendid vessels of the Hudson river, in eleven and twelve hours, and on one occasion in nine hours. The engines of the “North River” were not, however, made in America, but were manufactured by Bolton and Watt, of Liverpool.

Since the first use or employment of steamboats

grassy turf.’ And still later he breaks forth in the same poetical strain, referring to the position of his grave, and hoping that it may be made on the shores of some of the waters of the West, in order that the ‘song of the boatman may enliven the stillness of his resting-place, and the music of the steam engine sooth his troubled spirit.’ Fulton has the eulogy, the fame, the money,—Fitch, the real inventor, is only now to receive the honour of a monument over his grave, which is proposed to be done in Kentucky. We see in this the instability of human affairs, the little security which genius can afford, the doubtful reward which merit claims; and the lesson it teaches is this,—always distrust your own judgment on the possibility of success of any invention, and never pronounce that man visionary, who rests his plans on reasonable grounds of success.”

in the United States, it is computed that thirteen hundred have been built in the country. Of these, about two hundred and sixty have been lost by various accidents, as many as two hundred and forty worn out, and the remaining eight hundred, of all sizes, including ferry and market boats, were running in 1839, of which we have the latest returns.

A considerable proportion of these steamers are employed upon the gigantic Mississippi, and its numerous tributaries, the Ohio, and other large western rivers, hitherto almost unnavigable, except in the direction of their currents. The painful and laborious effort of ascending these rivers made it always a task of much difficulty and delay—frequently of danger. From twelve to sixteen days were usually consumed in the passage from New Orleans to Natchez, distant 322 miles, while the same distance is now travelled against the stream in somewhat less than three days. The export and surplus produce of the great valley of the Mississippi and entire western territory of America, is usually forwarded by this route. Before the introduction of steam, large rafts, or boats of a rude and hasty construction, were put together for this purpose, which were carried onward with the current, merely requiring the direction of a few experienced hands to avoid the shoals, the snags, and other risks, to which this navigation is always exposed, to reach their destination; when, from the difficulties of re-ascending the river, these boats were broken up, sold either as lumber, or for firewood, while the

farmer or western settler, who usually accompanied his venture, had to wend his way homewards, frequently a distance of some sixteen or eighteen hundred miles, in the best way he could. All these difficulties, with the trouble and delay which they occasioned, have been overcome by the powerful aid of modern steam navigation; whilst it is by no means improbable, that at an early day, we shall witness an entire revolution in all the former staid and accustomed modes of commercial dealing, by which the wants of the people of these vast regions are wont to be supplied, by a more immediate and direct maritime and commercial intercourse between the nations of the old world and those important though remote inland sections of the new.

Yet, is America far, very far behind Great Britain in the serviceable build or construction of steam vessels intended for sea service,—but more especially in the manufacture of marine steam machinery; which is demonstrated in the rude, unfinished make, and cumbersome materials, of which her engines are generally constructed and put together;—still further evidenced in the many and repeated accidents that have occurred in every river in which they are employed, and amongst the very few that have ventured on a coasting trip along her shores. It was only in 1837, that the “Home,” built and constructed in the city of New York as a model vessel, in her first voyage to a southern port, actually opened, fell to pieces, and foundered off the coast of Carolina, sending one hundred luckless individuals

on board, many unprepared—unprovided for—to a sudden and premature grave.

It appears by authentic returns of material accidents and loss of life by explosions and other disasters, which have occurred in the United States, ending 1838, that the whole number has been 228 ; that of these, 99 appear to have been by explosion and collapses ; 28 by fire ; 25 by shipwreck, by gales, collisions &c. ; 52 from snags and sawyers ; and 24 from different unknown causes. Of these, only 9 occurred in 1835, which number was fearfully increased to 24 in the following year. Still augmented in 1837 to 30, and in 1838 to 39, with a sacrifice of life beyond all proportion ; which at length compelled Congress to adopt measures for the purpose of giving some better security to steam navigation, and offering some reasonable guarantee for the safety and preservation of human life. An act was accordingly passed by both houses for this purpose, and approved of by the President, July 7th, 1838.

This act contains many salutary provisions, and enjoins, that competent persons shall be appointed under its authority by the district judges of the United States, to inspect steam vessels, &c., their boilers and machinery ; and that the hull of every steam-vessel of the United States, or of the citizens thereof, shall undergo such inspection, once at least within every twelve months, and of the boilers and machinery once in every six months ; and provides, that the person or persons appointed and called

upon to inspect the hull of any steam-boat or vessel, shall after thorough examination of the same, give to the owner or master a certificate, in which shall be stated the age of the said boat or vessel, when and where originally built, and the length of time that such has been running, and shall state also, whether in his or their opinion the said boat or vessel is sound, and in all respects sea-worthy and fit to be used for the transportation of freight or passengers.

And that the person or persons, who shall be called upon to inspect the boiler and machinery of steam-vessels, shall after a thorough examination of the same, make a certificate, in which he or they shall state his or their opinion, whether said boilers are sound and fit for use, together with the age of the boilers ; it also provides—

That every captain, engineer, pilot, or other person employed on board of any steam-boat or vessel propelled in whole or in part by steam, by whose misconduct, negligence, or inattention to his or their respective duties, the life or lives of any person or persons on board said vessels may be destroyed, shall be deemed guilty of manslaughter, and upon conviction thereof before any circuit court of the United States, shall be sentenced to confinement and hard labour, for a period of not more than ten years ; and declares,

That in all suits and actions against proprietors of steam-boats, for injuries arising to persons or property, from the bursting of the boiler of any

steam-boat, or the collapse of a flue, or other injurious escape of steam, such shall be taken as full *primá facie* evidence, sufficient to charge the defendant or those in his employment with negligence, until he shall shew that no negligence has been committed by him or those in his employment.

These humane provisions in the law of America are rendered in great part inoperative—the federal power possessing but little local influence or means of enforcing its authority against a determined resistance of any number of its citizens. Steam-boat accidents are quite as numerous and appalling in their consequences, since the passing of this act, as at any period since their first introduction.

Of the whole number of steam-boats, respecting which returns have been made, 351 are in use on the waters adjoining, or flowing into the Atlantic and Gulf of Mexico; 64 on the great north-western lakes, and 285 on the waters of the Mississippi valley, viz:—

	High pressure.	Low pressure.	Not known.
Atlantic and Gulf of Mexico	92	222	37
North-Western Lakes	32	31	1
Mississippi Valley	284	1	0
Total	408	254	38

TONNAGE SO FAR AS ASCERTAINED.

	High pressure.	Low pressure.	Total.
Atlantic and Gulf of Mexico	10,477	55,469	65,946
North-Western Lakes	7,986	9,301	17,332
Mississippi Valley	43,440	0	43,440
Tons	61,903	64,770	126,673

No returns have been made of the tonnage of 45 boats on the waters of the Atlantic, nor of 9 boats on the Mississippi and Ohio. The character of the engine of one small boat on the North-western Lakes, is also omitted in the returns ; this would require an addition to the tonnage of 54 ascertained boats, estimated at 200 tons each, of

	10,800
Making a probable aggregate in all the ascertained boats, equal to	Tons, 137,473

HORSE POWER SO FAR AS ASCERTAINED.

	High pressure.	Low pressure.	Total.
Atlantic rvers. & Gf. of Mexico	2,927	10,391	13,318
North-western Lakes	2,910	2,947	5,857
Mississippi Valley	15,934	0	15,934
Total	21,771	13,338	35,109
Estimated for 213 boats, viz 139 boats on the waters of the Atlantic and Gulf of Mexico ; 1, on the Western lakes, and 73 on the valley of the Mississippi, of which no returns have been made, at 70 for each boat, and which is pretty near the average	. . . . .	. . . . .	14,910
Making an aggregate of horse power in the 700 boats returned equal to	. . . . .	. . . . .	50,019
Add for 100 boats considered not to be returned, but whose horse power is estimated at 70 each	. . . . .	. . . . .	7,000
Ascertained and estimated total of horse power in Steam-boats in the United States, supposed to number 800	. . . . .	. . . . .	57,019

The whole number of Steam-boats built for the western waters of the United States, up to the 20th of April 1839, is stated to be 378. Of these, there were built at Pittsburg, and immediate vicinity,

which is 2000 miles by water from New Orleans, its nearest port or sea outlet, 130 ; at Wheeling, 22 ; at Cincinnati, 83 ; the residue at different points along the Ohio.

The general deficiency in the supply of manual labour in America, has made it necessary to provide other auxiliaries in its stead ; by water power, where such means are attainable, and otherwise, by steam power, especially in the larger towns and cities. Scarcely any of the mechanic arts, that are not assisted in their progress by this latter means ; while seldom a store or workshop is now built, either for any certain use, or for the speculative purpose of leasing out to others, that has not its engine-room and engine, as of course, attached to the premises ; the number has in consequence materially increased within late years.

The total number of standing steam-engines, those of which a return has been obtained, as well the estimated number in those states from where no return has been had, up to the period, 1838, amounted of all sizes, to 1860, and of 36,319 horse power ; of which, 383, with 7,448 horse power, being the greatest number in any one state, were belonging to Pennsylvania ; 274, with 7,796 horse power, to the state of Louisiana ; 165 to Maryland ; 124 to Virginia, and the residue, apportioned between the remaining states.

CHAPTER XII.

Progress of Internal Improvements—Resolute determination of the American settler—Railroads, canals, &c.—Currency of the United States—The experimental freaks of General Jackson in relation thereto—Undue value attached by Act of Congress to foreign coin in the United States—Importations of Specie into the United States, in 1835 and 36—General bankruptcy, in 1837—Speculating and overtrading mania in the United States—American “shin plasters”—Suspension by the United States and other banks, in 1837—General bankruptcy law—Its passage through Congress and subsequent repeal—Opinions in relation thereunto—The present relations of debtor and creditor in the United States—Interest paid on discounts—Penalties of usury—General bad faith of Americans in money dealings—Remarkable instance, in which the Author was concerned—Domestic exchanges—National bank—Opinion of Judge Story as to its constitutionality—Damages on protested bills.

THE progress of internal improvement in the United States, has of late years exceeded that of every other country. To this end, is every man's energy in some way or other found to contribute, either in the discovery of some new and untried means—some greater facility in its further promotion, or in exhausting the opportunities already within his disposal for its ultimate accomplishment. The extraordinary activity and enterprise of its population, continually urging them to renewed

efforts, and to seek in yet unsettled and remote parts of this vast country, some other real, or imaginary expedient in improving their fortunes, has changed the features of many portions of the inland territory—introduced civilization, and established man's authority, where all was previous void and desolation, and given a fresh and vigorous impulse to the whole form and advance of American society. There is no difficulty sufficient to arrest the onward and steady progress of the American settler—no privation—no suffering capable to deter him from the most arduous undertaking. Distance is of nought, and the prospect of an eventual return to his former homestead and friends—the familiar scenes of his early boyhood, far removed beyond his usual calculation: he pushes forward with an irresistible determination to surmount every obstacle in his way, and by a cool and steady perseverance—an indomitable energy and patient endurance of the many ills and privations he is sure to encounter, generally overcomes every resistance to the ultimate attainment of his purpose. Towns and cities have thus emerged from amidst the forest, and interspersed themselves on the banks, or near vicinity of rivers, that assist their population in the more ready deportation of their various products to some profitable market, or the supply of their necessary merchandize. These remote districts have now been brought into a close and advantageous proximity to each other, by the recent introduction of steam power, whilst railroads are already intersecting

very many parts of the country, several of them, directly leading from the larger cities on the eastern seaboard to the interior.

To this period, no official or authentic account has ever been published, of the actual extent and progress of railroads in the United States; the public being in a great measure shut out from such inquiry, or indebted for whatever of general information that has been obtained on the subject, to the report of the Chevalier de Gernstner, an intelligent Austrian engineer, who made a tour of inspection and survey throughout the United States in 1838 and 39, and whose account comprises a great many interesting and material facts in connection with this subject. According to the Chevalier's statement, there were over three thousand miles of railroad completed, and in operation within the republic, in the years 1838 and 39; 425 locomotives, of which the greater number were built in America; while he computes the length of finished railroads in this latter year, (1839) to about four thousand one hundred miles. The capital expended on railroads now in operation, is about 60,000,000 dollars, or, at an average cost of 20,000 dollars per mile; for which sum, the railroad with the buildings have generally been constructed, and the necessary locomotives and cars supplied.

Several railroads have been undertaken with insufficient means, and the shareholders in consequence reduced to the necessity of employing the income of the first years in improving the railroad,

in building engine houses, &c. &c., and purchasing locomotives and cars. They received during that time no dividends, but the railroad still yielded a good income. Other railroads, when finished, paid from five to ten per cent. interest to the stockholders; others have not yet paid any dividends, for want of a sufficient number of passengers and freight. The average result of the railroads now in operation in the United States, is, that they give a yearly interest of $5\frac{1}{2}$ per cent. on the capital invested. This result may be regarded as satisfactory, as the greater part of the lines have been but a few years in operation.

On all the lines, there is, according to this authority, an increase of at least 15 to 20 per cent. in the gross income, so that even those lines which do not pay now, will give in a few years a handsome dividend.

Passengers pay on an average, five cents per mile; and travel with a speed, of from twelve, to fifteen miles per hour, including stoppages:—the charge for freights is seven and one half-cent per mile, while the average number of passengers through, in each passenger line, scarcely exceeds forty.

There are on an average, 35,000 passengers through, and 15,000 tons of goods carried annually over the American roads, which gives on an average per mile and per year:—

From 35,000 passengers, at 5 cents	.	\$1,750
From 15,000 tons of goods, at $7\frac{1}{2}$ cents	.	1,125
From mail, and contingencies	.	200
		<hr/>
Total	.	\$3,075

The annual current expenses in America for working railroads are, per mile,

For transportation of 35,000 passengers, at 2½ cents	\$875
For transportation of 15,000 tons of goods	975
For transportation of mail, and other expenses	100
Total	\$1,950

Or sixty-three dollars and forty-one cents, of every one hundred dollars of gross income. The annual average gross income, per mile of road, as shewn above, amounts to 3,075 dollars, the annual current expenses, to 1,950; leaving 1125 dollars, which, compared with the cost of a mile of road, (20,000 dollars,) gives 5½ per cent. interest.

The first locomotive used in the United States is said to have been in the State of Delaware, on the Newcastle railroad; the second in Maryland, on the Baltimore and Ohio railroad; and the third, between New Orleans and Lake Pontchartrain, in the State of Louisiana. They are stated, on American authority, to have been tried in the United States by Oliver Evans, as early as 1804, about the time that they were first brought forward in England, but where they were not reduced to any useful practice till 1811, for freights, and 1830, for passengers and speed.

There is a marked difference between the railroads of this country and those of the United States—in their construction, their convenience and comfort,

their expeditious travelling, and general safety; and consequently, a great disparity in their original cost and outlay. There is seldom more than one track of iron rail, on any road in the United States, except at certain intervals, and for the short distance of half a mile, or so, where the trains are expected to meet. If an accident should occur, and which is by no means uncommon, or that any other unavoidable detention should prevent one train moving onward on its route, the other, in like manner, is impeded in its journey until its arrival. Such stoppages are frequent, even where no accidents occur, detaining the entire of one or other train, oftentimes at some miserable homestead on the roadside, out of its usual course, sometimes for an hour, and considerably longer.

The public buildings, and others, appertaining to these roads, or belonging to the company, are in keeping;—are generally constructed of wood, without much of design, of taste, or architectural beauty, and in most instances, appear to have been rudely and hastily put together, to answer a mere temporary convenience. Accidents are frequent; and it is only surprising that they are not of hourly occurrence, from the wild unprotected state of many of the roads, several of them, without any fence for a continuous distance on either side, and without any further security to the passengers, than the uninhabited and desolate loneliness of many of the districts through which they are made to pass. There is usually a “pilot,” made of stout frame

work, placed in front of the leading engine, to which it is attached, and that partly resting on two small wheels, is thus thrown out in advance, descending from the frame work of the engine, to the rail or road, takes up, and receives upon its surface, any obstruction, or body, that would otherwise pass under the wheels of the train, and threaten to displace it from its track.

Nevertheless, railroads in America are of incalculable benefit; of great practical advantage to the country, not only in the facility of transport which they secure, but in the rapid interchange of thought which they occasion, by furnishing a ready and expeditious means of disseminating information throughout every part of the republic. Still, the benefit has not been without its drawback, in encouraging an unsettled and roving propensity amongst an over speculative and adventurous people, who rather turn to the remote, and unexplored districts of the "farthest west," to realise their day dreams of wealth and independence, than to bestow the same energies, the same measure of laudable exertion, on the numerous wastes, the various tracts of generative land nearer home, and that are overlooked, for the prospect which a more distant settlement affords, or because, requiring some further of man's effort to bring them into a state of general and productive usefulness. The consequence is, that instead of clinging near to each other for mutual assistance—for moral and intellectual support, and promoting a more efficient and progressive

settlement of the country, enlarging its boundary only, according to the usual necessities of its population, and as their gradual increase may demand, its people will become scattered and divided, and in subverting this order of nature, rude and disjointed—cynical and selfish; each man, except the few residing in towns and villages, compelled to rely, to an injudicious extent, on his own energies and resources, and to adopt new principles in governing his conduct, as well to himself, as to the world, and by an opposite rule to all his former habits, to regulate the actions of his future life.

Superadded to the advantages of railroad transport, which is nevertheless of admitted and countervailing benefit, the United States possesses a tide water and inland navigation, unsurpassed and unknown to any other country in the world; secure from storms, and outward enemies, and reaching from Massachusetts to the southern extremity of Georgia, with upwards of 3000 miles of canals, finished, and in progress. Of these great inland arteries, the principal ones are the *Erie Canal*, from the city of Albany, State of New York, to Lake Erie, 363 miles; *Chesapeake* and *Ohio Canal*, from the city of Washington, district of Columbia, to Pittsburg, 341 miles; *Grand Pennsylvania Canal*, from Columbia on the Susquehannah River, to Hollidaysburgh, 172 miles; thence to Johnstown, by a railroad, thirty-seven miles, over the Alleghany mountains, and from thence by canal to Pittsburg, 104 miles; total 313 miles; *Ohio state Canal*, from

Portsmouth on the Ohio River, to Cleveland, on Lake Erie, 306 miles ; *Miami Canal*, from Cincinnati, to Miami, lake Erie, 265 miles ; *middle division, Pennsylvania Canal*, from the mouth of the Junitta River, along the north branch of the Susquehannah River, to the southern boundary of New York, 204 miles.

It would be needless to expatiate on the many signal advantages secured to the nation by this extensive range of internal improvement—the vast benefit to trade and commerce of every kind—the ready means which it affords, of concentrating on any part of the United States frontier, the physical resources and power of the nation, in the event of any real or threatened aggression from an invading and hostile force ; the facilities of intercommunication between the citizens of distant, or neighbouring states, who, in America, are too apt to regard each other with an unreasonable and unworthy apprehension—a jealousy, or indifference, that seldom belongs to the adherents of the same government, or the kindred inhabitants of the same soil—but which time, with these advantages, inducing a more frequent intercourse, a more intimate association and knowledge of each other, with a near identity of interests and ideas, may hope to gradually obliterate.

The currency of the United States, which is so nearly connected with its trade and general commerce, is extremely simple. The dollar is estimated at the money *unit*, proceeding downwards by the decimal ratio of tens, to *dimes*, *cents*, and *mills* ;

and upwards to eagles, of ten dollars value, which is the largest gold coin. The value of the dollar in British money, is four shillings and sixpence ; but in consequence of the vast issue of bills of credit, previous to the revolutionary war, a difference was introduced between the English sterling money, and the currencies of the different colonies, which continues to this day. The price of a dollar in *New England currency* is six shillings ; in *New York*, eight shillings ; in *New Jersey*, *Pennsylvania*, and *Maryland*, seven shillings and six pence ; in *Virginia*, six shillings ; in *North Carolina*, eight shillings ; and in *South Carolina* and *Georgia*, four shillings and eight pence.

In 1792, Congress passed a law to establish a mint, and at which the following coins were struck :— of GOLD—*eagles*, *half eagles*, and *quarter eagles*. Of SILVER—*dollars*, *halfdollars*, *quarter dollars*, *dimes*, and *half dimes*. Of COPPER—*cents*, and *half cents*. In money transactions, the terms *dollars*, and *cents* only, are used ; and these comprehend all the others, except the lowest, which is seldom used at all. For example, 42 eagles, 3 dollars, 5 dimes, and 7 cents, are expressed thus, *dols.* 423.57 cents ; that is, four hundred and twenty-three dollars, and fifty-seven cents.

For the better regulating the gold and silver coin of the country, a bill was passed through Congress, June, 1834, in which it was provided, that each eagle should from thenceforth contain 232 grains of fine gold, and 258 grains of standard gold ; each

half eagle, 116 grains of fine gold, and 129 grains of standard gold; each *quarter eagle* to contain 58 grains of fine gold, and $64\frac{1}{2}$ grains of standard gold; every such eagle to be of the value of *ten* dollars; every such *half eagle* of the value of *five* dollars; and every such *quarter eagle* of the value of *two* dollars, and *fifty* cents; and the said gold coins to be receivable in all payments, when of such weight, according to their said respective values, and when less than such weight, at less value, proportioned to their respective actual weights.

And it was further provided, that, all gold coins of the United States, minted anterior to the 31st July, then next coming, should be receivable in all payments, at the rate of ninety-four and eight-tenths of a cent per pennyweight.

It was at this particular season, that the extravagant and visionary schemes of General Jackson, then President of the Republic, began to develop themselves. He had already embarked in a war of extermination against the Bank of the United States, which in the ebullition of an overwrought democratic tendency, he denounced as unconstitutional, and as a dangerous institution in the heart of a free country—calculated to subvert its most valued privileges, and control by its influence the government and entire monied system of the nation. It was a “Monster” (to use the General’s phraseology) of no ordinary kind; hideous and deformed in its outward aspect, and in its inward working, of vicious and appalling iniquity. A thousand ills were conjured

up in the fretful and pertinacious mind of President Jackson, by its peaceable and useful efforts, to guide and improve the monetary system of the Republic: but its fate had been decreed, the expiry of its charter was near at hand; and it was compelled to yield to the inflexible and stubborn bent of a perverse, and head-strong old man, placed for a while on a dangerous pre-eminence, and who, availing himself of his position, had enlisted in this crusade, the unthinking—the wild passions of the “fierce democracy” of the country, by which he was surrounded, not only against the United States Bank, which was the declared object of his hostility, but against every other monied institution, and perhaps, it might with truth be added, against property in general. The Bank, soon after, ceased to exist as a public national establishment, but was re-chartered, as a mere private joint-stock institution, by the State of Pennsylvania. It never finally recovered from the blow, but moved onward for a while, in a morbid and sickly course, until at length becoming insolvent, it eventually terminated its career in 1840, or 1841.

It was simultaneous with these proceedings, and in the whirlwind of passion and excited prejudice which they evoked, that General Jackson hoped to realize the halcyon vision of his early days, and to secure to his country, the advantages and blessings of an entire and efficient metallic currency, in lieu of the worthless paper, the mere “*promises to pay*,” with which it was inundated. All future payments

to be made to the general government, on the score of custom dues, or otherwise, were from thenceforth, by a special edict of the Executive, required to be paid in specie; and that there might be no lack of the precious metals, for all public purposes, a Bill was passed through Congress, June 1834, contemporaneous with the one last mentioned, "relating to gold and silver coin in the United States," providing — "that from, and after the 31st of July, then next coming, the following gold coins should pass current, as money within the United States, and be receivable for all payments by weight, for the payment of all debts and demands, at the rate following, that is to say,

"The gold coins of Great Britain, Portugal, and Brazils, of not less than twenty-two carats fine, at the rate of ninety-four cents, and $\frac{1}{16}$ of a cent per pennyweight; the gold coin of France $\frac{9}{16}$ fine at the rate of ninety-three cents, and $\frac{1}{16}$ of a cent per pennyweight; and the gold coin of Spain, Mexico, and Columbia, of the fineness of twenty carats three grains and $\frac{7}{16}$ of a grain, at the rate of eighty cents, and $\frac{9}{16}$ of a cent per pennyweight."

And by a further act of Congress of the same date, it was provided, that from and after the passing thereof, the following silver coins should be of the value, and should pass current as of the money of the United States, by tale, for the payment of all debts and demands, at the rate of one hundred cents the dollar; that is to say, the dollar of Mexico, Chili, Peru, and Central America, of not less weight

than four hundred and fifteen grains each, and those re-stamped in Brazil, of the like weight, of not less fineness than ten ounces, fifteen pennyweights of pure silver in the troy pound of twelve ounces of standard silver, and the five franc piece of France, when of not less fineness than ten ounces and sixteen pennyweights in twelve ounces troy weight of standard silver, and weighing not less than three hundred and eighty-four grains each, at the rate of 93 cents each.

And it was further provided, that it should from thenceforth, be the duty of the Secretary of the Treasury, to cause assays of the aforesaid gold and silver coins, made current by this and the foregoing act, to be had at the mint of the United States, at least once in every year to Congress.

The very natural consequence of these several enactments, with the increased value which was thus attached by act of Congress, to the gold and silver coin of all foreign countries, in the United States, was, the immediate introduction into the Republic of a large amount of every description of foreign money, and which from thenceforth, constituted a part of the circulating medium of the country. To such an extreme were these schemes carried out, that the imports of specie, that in the preceding year, (1833,) amounted only to 7,070,368, and in the year 1832, to 5,907,504 dollars, with an export of 5,656,540, leaving an excess of imports of only 250,964, increased in the year 1834, and on the foregoing acts going into operation, to a sum of

17,911,632 dollars, with an export of only 1,676,258, creating an excess of imports into the United States, in this one year, over exports, of no less a sum than 16,235,374 dollars.

From the official returns of the Treasury department it will also appear, that a sum of *Thirty Millions* more of specie had been imported into the United States, in the four years ending 1837, than exported within this period.

But this was the realisation of the cherished hopes and aspirations of General Jackson—the evidence to his mind of the greatness and prosperity of his country, and which he held forth to the gaze and admiration of the remaining world, perfectly heedless, or at least unconscious of the extreme monetary embarrassment and suffering, which this “great financial experiment,” (to use the language of his immediate friends and political supporters,) upon the currency, as also upon the prosperity and welfare—the very life and being of his country, was sure to entail upon the Republic; and that while playing off these extravagancies, the nation, with the recklessness of an uncontrolled spendthrift, was plunging headlong and deeper still into debt, and every other commercial distress and difficulty.

The sudden introduction of this unusual quantity of specie into the United States, had the very opposite tendency, to that which General Jackson had so earnestly anticipated. No sooner did it reach America, than the greater part found its way to the coffers of the State Banks, that instead of contract-

ing their issues, to work out the views and experimental fancies of this modern financier, took advantage, as also of the use of the government money, which the Executive by a *coup d'état* had transferred from the United States Bank to their keeping, to increase their circulation, and by their sudden expansion, to give encouragement and additional facilities to the most extravagant and ruinous speculations, that hurried on the country to the commercial crisis, that followed in the early part of the year 1837. It ill accords with the promised success of General Jackson's "humble efforts," to restore the "constitutional currency of the country," when we state, that within the very period of his attempting this financial revolution, from the 1st of January 1834, to the 1st of January 1837, the paper circulation of the United States, instead of being contracted or lessened in its amount, had actually increased *ninety millions of dollars!* The extension or increase in the amount of bank loans and discounts within this period, had also been, from 200,451,214 to 590,892,661 dollars, being an augmentation, of upwards of *three hundred and ninety millions!*

But, the result of this weak and criminal enterprise, was productive of other consequences—the very opposite of all that was promised in its realisation. Instead of lessening the number of banking institutions with which the country was already supplied to an excess, and over whose issues the Federal Government possessed no possible control, *three hundred* new institutions, with a capital of 145

millions, were added to their number, between the years 1830 and 1837, increasing the actual paper circulation of the United States within this period, from the already enlarged amount of 145 millions of dollars, to 290 millions.

A great part of the specie imported by the means we have stated, was received from Europe; a large proportion abstracted from the vaults of the Bank of England, and as it might be expected, produced an immediate effect upon the currency of Great Britain, advancing the marketable rate of interest on unexceptionable paper, from $2\frac{1}{2}$ to 5 per cent. per annum. The pressure that it occasioned, extended in its influence to the United States; British merchants were now more cautious in accepting Bills on the shipments of American produce, and restricted their advances, on the security of American stocks, thus cutting off the primary source from whence supplies had heretofore been derived, to carry on the various internal improvements, the trading business of the country, and which with other causes, assisted in expediting the monetary difficulties, that eventuated in the general bankruptcy that ensued in 1837.

The embarrassments occasioned by this event, though inflicting incalculable injury upon thousands, and while leaving the innumerable dupes at this side to lament the excess of folly and imprudence with which they relied for the payment of their large advances, upon the imagined security of the commercial stability—the honour and good faith of the

American citizen, checked for a while the spirit of over-trading—of commercial gambling, with which the United States had been familiarized, by curtailing the opportunities of which most Americans are prepared to take advantage, of investing themselves with the property and resources of others, without considering the means at their disposal, for its discharge or subsequent repayment.

The public mind in America, nevertheless, very soon became reconciled to these difficulties. The fact that British merchants were to be the principal losers on this occasion, that it was upon their shoulders the burden of these recent failures would necessarily fall, lessened to a very considerable extent the mortification, —the lament and disappointment of this disastrous and very general bankruptcy. Some of the public prints, the assumed organs of public opinion, on this occasion, instead of deprecating this measure, as one of spoliation—of positive swindling—called loudly for “more failures” to the large numbers that had gone before, urged every man to take advantage of the “crisis,” as the speediest means of bringing about a commercial regeneration of the country; and strange as the accusation, and the deduction attempted to be taken from it, may appear, charged the British capitalist and merchant with extending their monied accommodation to their citizens for the extravagant and sinister purpose, of destroying at some future day, the commercial credit and character of these States. The few, who guided by a more

commendable and honest principle, had ventured to export specie in discharge or payment of their engagements, contracted in England and other parts of Europe, were denounced as inimical to the national prosperity; whilst a secret, though not to be mistaken feeling of general satisfaction pervaded all classes, that but a small proportion of the debt—the enormous foreign capital, and that the most extravagant representations, the confident assurance of the most satisfactory and unexceptionable security had decoyed to the United States, was ever destined to return to its rightful, or legitimate owners.

The acquisition of wealth by these means, and in the abandonment of every upright and honest principle, and by speculation merely, is mischievous in itself, in its ultimate consequences, and the demoralizing example it affords to others; destroying the barriers—defacing every proper distinction that should subsist between frugality and a laudable exertion on the one hand, and a wild, unrestrained system of profligacy and gambling on the other. Fictitious wealth, it is almost needless to observe, is no wealth all;—yet, is it the base—the principal foundation on which a large proportion of American trade and business is conducted; upon which the fortunes of the American people in great part depend. We hold the principle, that every thing increases, and is determined in its value, according to the measure of its utility and general usefulness; and becomes depreciated in an adverse ratio according to its incapacity to assist man's wants, or

administer to his necessities ; such as land, without man's labour to assure its productiveness, or even money, locked up from his control. Against this, we are told, that every article that is convertible into money, is at least worth whatever it may bring in the market. Land, cleared or uncleared—ground lots, and the variety of other similar and unproductive sources, may to-day command a price that will increase on to-morrow, and still multiply on the next. Some sudden, wild, and speculative mania may still attach a further value to their possession, to continue perhaps for a season, of which to be deprived at some future day, according to the inherent and abstract measure of their usefulness. Of such we assert are a large proportion of the securities of our transatlantic friends — the property — the unreal wealth, on which they have so often claimed advances from British capitalists, or sought monied accommodation in their own country.

The fictitious value—the undue appreciation attached to every species of property within the United States at this period, and which the speculative mania of 1835 and 1836 (induced by the means to which we have referred), had principally given rise, was in no instance more remarkable than in the extravagant competition which it occasioned in the purchase and acquisition of land, which was seized on with the eagerness of desperation, and as if the supply of some two or three hundred millions of acres, at the disposal of government, was near being exhausted. In carrying out the principle of an entire specie circu-

lation, to which General Jackson, in his "humble efforts," stood pledged, an interdict was made to all payments whatever on account of customs, or other dues to the general government, otherwise than in specie. Its agents, in like manner, were prohibited from disposing of any portion of the public domain, except on cash or specie payments. Notwithstanding, in these two years, immediately preceding the general distress of 1837, the sales of public land amounted to 32,639,348 acres, for which were paid into the public treasury, upwards of 40 millions of dollars in cash, being within *ten* millions of the entire amount received from the same source within the preceding forty years. The payments made to the government for lands within the last three years, ending September 30th, 1843, and for which there are returns, average not more than 1,328,500 dollars, in each year.

In like manner, cotton, negroes (!) and all other description of property in America, advanced rapidly in price; for the south became seized with the same epidemic as the north and east. So desperate the ardour for speculation amidst the entire people—so reckless of all consequence, that crops were actually purchased, or large advances made on them, especially of cotton, before even that it was planted, or in the ground. The criminality and extravagance of these proceedings, materially tended to expedite the crisis that followed in 1837, and to which we have referred.

Specie, that a short while before the period of this

calamity seemed abundant, throughout every part of the Republic, and, in its universal circulation, to have reduced the financial theories of President Jackson into stubborn realities, or matters of fact, suddenly disappeared. Trade became paralysed—business of every kind suspended, except as to whatever interchange was found necessary to provide for the necessities or common wants of life. Even the lesser coin, including the smallest fractional parts of a dollar, that constituted a necessary part of the circulating medium in daily use, was swept away in one common whirlwind, and its stead replaced by what are so well known in every part of America under the euphonious and distinctive name or title of "shin-plasters." These were the neatly executed promissory notes, or engagements of nearly every retail dealer, with, or without character or responsibility, and who made use of this description of paper currency, some for $6\frac{1}{4}$, for $12\frac{1}{2}$, or 25 cents, being equal to $3d$, $6\frac{1}{2}d$, and $1s$, British sterling, with the other fractional parts of a dollar, and which they were wont to give as change, whenever change was required in their common intercourse or dealing. These notes, which were usually headed by a neatly engraved vignette, and executed with becoming taste, generally ran thus,

No. ——— $12\frac{1}{2}$ Cents.

————— 1837.

At sight, I promise to pay the Bearer, Twelve Cents and a half, in trade or Bankable Bills.

N. N.

That is, engaging to give goods in exchange, or

to pay the bearer five dollars in the notes of some one of the Banks that had then lately suspended specie payments, whenever a sufficient number of these “ shin-plasters,” amounting in their aggregate to a sum of five dollars, should be presented to the party issuing the same for payment. It often occurred that the holder of a large batch of this paper would be unable to pass off a shilling of its amount, though for the merest necessaries of life, except at the particular store or shop of the party, where they were domiciled, and where, in consequence, he would frequently be called upon to submit to the most unreasonable exactions.

To in part obviate this inconvenience, several of the parties, who provided this species of accommodation, also made arrangements with each other, and at whose separate establishments the issues of each were received in payment, and made negociable for goods, provisions, and other merchandize, according to the endorsement engraved on the back of each note, generally as follows :—

Good for Groceries, at No. — Washington Street

Good for Dry goods, at No. — Bowery

Good for Boots, Shoes, &c. at No. — Chatham-square

Good for Music, at No. — Broadway

Good for Drugs, Medicines, &c. at No. — William Street

Good for Hats, at No. — Nassau Street

Good for Refreshments, at Delmonico’s

Good for Butcher’s-meat, at No. — Stall, in Washington Market

Good for Amusements, wherever it will be taken, or at Nibloe’s Garden.

And a lesser, or greater variety of other places, set

out according to the previously made arrangements of the parties issuing same.

This was the principal circulating medium of the retail dealer and business-man of America, for a great part of the years 1837 and 1838; the completion of the "grand experiment of President Jackson," the straits and difficulties to which the nation was reduced, from the empirical contrivance of one man, over whom the laws, in their imperfect organisation, had ceased to produce any influence, or to control in his career of mischief and evil-doing, until he had plunged his country into a state of commercial and monetary embarrassment, of which it is to this day reaping the bitter fruits. The entire, furnishes a practical illustration of the benign and happy influence of Republican institutions; the beneficial consequences to the favoured people of these states, as well, the insufficient guards within the constitution, to restrain these and similar excesses; the overmeasure of absolute power vested in the President, enabling him of his free-will to plunge the nation into all these extravagancies—to disorganise society, and in an attempt to carry out some new theory, the mere fanciful creation of his own mind, shake credit to its centre, and reduce to want and indigence many thousands of his fellow-citizens.

The several state banks that had suspended specie payments in 1837, partially resumed in the latter part of the following year, or soon after: but from the pressure which still continued, and the

drain which was made upon their resources, were again compelled to withhold specie for their notes. On the 9th of October, 1839, the United States' Bank of Pennsylvania commenced a second suspension; in this it was soon followed by most of the State institutions, south and west of the state of New York, and also by those of Rhode Island.

The report of the secretary of the Treasury of the United States, dated January 8th, 1840, furnishes an account of the number of Banks in the several states at the time of this latter movement; the number that suspended; the number that had not suspended, &c. So far as information had been obtained, it appears, that the aggregate, or whole number of Banks, including branches, at this time in the United States, amounted to 959; that the number of Banks which suspended wholly in 1839, exclusive of those that stopped payment in 1837, amounted to 343; of those which suspended in part, 62; the number of Banks which did not suspend, 498; number of Banks broken, or discontinued, 56; number of Banks out of the aggregate of 959, that have since resumed specie payments, 48.

A general mistrust, in consequence of this widespread calamity and the numerous difficulties it created, pervaded all classes of the American people. No person could in fact determine, or even surmise, his actual position in the world, or calculate with any degree of certainty, as to the limit or extent of his resources; for in the undefined state of the laws, as they were then recognized, with reference

to contracts, and as governing the relations between debtor and creditor in these States, no trader could possibly assure himself of the responsibility, or solvency of his neighbour, with whom he might be called upon to enter on any trading or business dealing. The most vicious and bare-faced frauds, were hourly perpetrated under the full sanction and colour of the law; and conduct that would subject the actors to the pillory, and to condign punishment in any other country under Heaven, were not only sanctioned by all former usage, and their frequent repetition, but commended as a just and equitable appropriation of the property that belonged to confiding creditors. Yet, these extremes were not without some beneficial consequences. Men at length saw and felt, that these abuses could not longer continue without detriment to the national character, and injury to the trading community who were principally affected by them; that the individual credit of the country had been shaken to its base, and that sober and thinking men at this side of the Atlantic, began to surmise the risk, if not the actual danger, and more positive loss of continuing a commercial intercourse with a people uncontrolled by any just feeling of integrity or good faith in their dealings with the world, and who lived unrestrained by any of the ties that generally constrain mankind to a correct, virtuous, and proper course of life.

On the other hand, there were many, whose characters were freed from every imputation of this kind,

who were oppressed by unexpected difficulties, and unable by any just or laudable effort to meet their engagements; who had acted openly and in good faith, and surrendered to their creditors all of worldly store that they possessed. The law, that would encourage less scrupulous of their fellow-citizens in their iniquity and crime, was unequal to their protection, when pursuing an upright and equitable course; for though imprisonment for debt had been abolished in many of the States, still the debtor was at all times and everywhere made subject in his goods and property to his creditor until paid, or in some way settled with.

To an unprincipled and dishonest man, a law of this kind had no possible terror, from the variety of ways in which he might successfully evade its provisions. It was the just and conscientious man only—he, who had surrendered all and concealed nothing, that had most reason to apprehend its consequence; who was stricken in his energies by its controlling influence—cut short in his career, and incapacitated, from the untiring persecution to which it gave encouragement, from any further effort to resuscitate his fortunes, or reinstate himself in society. A general bankrupt law framed on just and equitable principles, was demanded by the necessities and other circumstances of the country, and loudly called for, from every intersection of the Republic.

The stolid and hard-hearted creditor, of whom there are numerous individual examples in every country as in the United States, was loud and vehe-

ment in reprobation of any law of this peculiar tendency. It was a measure within the competency of the General Congress on which to legislate, being reserved to them, under an express provision in the Federal constitution;* but State jealousies were heretofore too decidedly arraigned against every interference affecting the settlement or disposition of property by any general law of Congress, within the limit of States jurisdiction, to permit its passing. A crisis, however, had arrived, when the attempt at least was to be made; and if the acts of the administration of President Tyler, who succeeded to the Presidential chair by the demise of General Harrison, had been in no otherwise remarkable in the promotion of remedial or beneficial measures for the country, it can lay claim to this one redeeming act, of having secured the passing of a general bankrupt law, founded on just and equitable principles, and made applicable to all, and every one of the States of the Republic; which was carried through both houses with much opposition—received the presidential assent, and became the law of the land in the congressional session of 1841.

The change in the relative position of debtor and creditor in the United States, which this alteration in the law had intended, promised as of its results, the most salutary and beneficial consequence to the entire commercial community—operating as a check

* Article 1st, sec. 8th of the Constitution declares—“The Congress shall have power to establish an uniform law on the subject of bankruptcies throughout the United States.”

to the unprincipled dealer, and attaching to character and fair name, their just weight and influence; separating the upright and good, from the numerous reckless adventurers and insolvent traders, that were heretofore enabled to palm an unjust and improperly assumed character upon society, and by a resort to the most reprehensible expedients, to sustain themselves upon the public credulity—their transactions generally based upon whatever credit they were enabled to secure by these means, and of which they were at all times prepared to take advantage.

But this salutary good was not long permitted to continue unproved, or the distinctive character which it was so likely to reveal between the different classes of American traders, allowed to continue as an exponent of the generally approved, or very opposite materials of which American society is more usually composed. The opposition with which the measure had to contend in the legislative chambers on its passing, formed the nucleus of a more general organization, and that at length became so formidable and systematic in its hostility to the further continuance of this law, that Congress, yielding to what it conceived to have been the popular will, negatived all their former legislation on the subject, by unconditionally repealing the act, in the ensuing session of 1842, and thus restoring the country to its former derangement, leaving a large commercial community subject to the incertitude and losses—the frequent embarrass-

ments to which the former imperfect legislation, guaranteed an unnatural and safe continuance.

The principal opposition to this measure was directed by Mr. Calhoun, late Secretary of State, sustained by the ultra-democratic party, who acknowledge him as one of their most distinguished leaders; yet, whose authority in such matters is entitled to every respectful consideration.

He denied, as the basis of his hostility, that the Constitution had given to Congress any power whatever to pass such a bill, for though it permitted the establishment of a general bankrupt law, this, he insisted, though called a Bankrupt bill, had reference to insolvency merely, miscalled "voluntary bankruptcy." The other arguments advanced by him, are of so novel a kind, as well as important, having been in part adopted by Congress, that we can scarcely be considered out of place in more particularly referring to them:—we quote from an intelligent commentary on this subject.

"Mr. Calhoun described the two systems of bankruptcy and insolvency, known both in America and England, at the time the Constitution was framed, as originating in views entirely different from each other. The system of insolvency he considered as "growing out of the debtor side of the question," the object being to relieve a debtor from the power of his creditors on a surrender of his property for their benefit. The system of bankruptcy on the other hand, "grew out of the creditor side," the object being to invigorate credit. These two

systems being perfectly well known to the framers of the Constitution, Mr. Calhoun insisted, that the reason they mention bankruptcy alone, is, that they intended the insolvent system to be adopted, and that such being their intention, it was beyond the power of Congress to cause such adoption. The matter had been brought before Congress on account of the opinion, that the state legislatures could do no more than discharge the person of the debtor, and that any further power must lie in Congress alone; but Mr. Calhoun contended, that if the States could not discharge the debt, neither had Congress the power to do so. The release of a contract, he declared to have been out of the power of either Congress or the States, the obligation having been imposed by a power, higher than human, and protested, that if a discharged debtor had a release from every government on earth, and did not pay his debts when in his power, he would not be an honourable man.

“ Being thus opposed to the voluntary system proposed by the bill, or to use Mr. Calhoun’s own words, the “system of insolvency,” as unconstitutional, he surveyed the compulsory system which he considered to be constitutional, and indeed the only system of bankruptcy contemplated by the Constitution, but objectionable on the score of expediency. He considered the genius of the nation, as greatly adverse to harsh measures, and the summary power given to creditors by a bankrupt law, by which, on a suspicion of insolvency, a creditor to

a small amount, can at once cause a debtor's whole estate to be distributed, to be particularly harsh, especially, when so many persons are exposed to misfortune, from the sudden contractions and expansions incident to the vicious system of paper currency. If it was unconstitutional, though humane to interpose against the creditors on behalf of the debtors, it was cruel though constitutional to give additional arms to the creditor against the debtor in such a state of things. Hence he (Mr. Calhoun) was against the bill: although no friend to the banks, Mr. Calhoun considered the operation on them by the compulsory system, as likely to be mischievous to the community, since a small creditor may at once cause a distribution of property, and in the panic which such a measure would at once create, many of the non-suspended banks, would not be in a condition to escape the penalties of the act. The very measure of requiring the banks to wind up, would, he considered, cause such a commotion, that the creditor would be afraid to apply the powers given him by the act, which would thus virtually be swept from the statute book. Mr. Calhoun further argued as a just ground of opposition to the measure, that it had in fact created a connection between the government and the banks, which he considered should not exist. He emphatically denied that Congress had the power of extending a Bankrupt Act over the incorporations of the States, which was the effect of the present bill, since the power of the States and that of Congress, both emanating from the

constitution as a common source, cannot have a right to destroy, what the other has a right to create.”

We shall scarcely be required to adopt these views, that in many parts appear inconsistent with themselves, and in direct contravention to the Constitution, in spirit, as in fact. The law to our thinking, appears very specific, yet sufficiently comprehensive as to the rights appertaining to Congress to legislate on this subject, while the expediency, the more positive necessity of some such act, in controlling the commercial trading of the country, cannot for a moment be questioned. It is seldom indeed, that we can find any wholesome provision of this tendency, regulating the monied dealings of its people, on which any man can rely for protection to his industry, or as a security in his business relations with the country; and that while we hailed the passing of this act, as some reasonable guarantee in all future intercourse with these States, and as promising so much of real good to its population, our regret has been proportionally increased by its unexpected, and what we are constrained to believe, its very ill advised repeal; restoring as it does, the relations of debtor and creditor, in all their former uncertain and complex difficulties, and where parties had not availed themselves of the provisions of the act during its short-lived continuance, to their precise condition as before its passage. Thus, it may be said, is the property—the commercial dealing and well-being of an entire people, made secondary to the ends of party, sustained by an unreasonable

jealousy of interfering with "state rights," as also by the apprehensions of a numerous class of necessitous and unprincipled traders, who form so large a proportion of the communities of these States; and who were naturally anxious to restore all trading and business intercourse to the unsoundness of its former condition, the better to take advantage of its uncertainty, and to conceal from public notice, or animadversion, their own criminal designs upon the rights and properties of others.

The relation of debtor and creditor, at all times of paramount importance to our social and commercial system, is, by the repeal of this act, again controlled throughout all parts of the union, by so many varied and complex laws (each state adopting some peculiar and ill-defined code of its own,) that it would occupy an unreasonable portion of many years study and inquiry, to acquire any general or correct knowledge of their details. Whatever their provisions or peculiar form, they certainly unite in one steady principle, to render void by some easy and familiar process, the most solemn engagements of their own citizens, and to furnish a legal pretext for the frequent and vicious frauds that are daily practised on the confiding creditor, who if he possesses no guarantee in the honour, the uprightness or integrity of his debtor, has little else to assure him of any just or equitable settlement of his claim. Nothing indeed, can exceed the reckless and barefaced dishonesty of the distinctions, which are daily made within the legal jurisdiction of most of the states,

including even the great commercial state of New York, that under the immediate sanction and protection of the law, enables every man in failing circumstances, or on the eve of bankruptcy, to give an undue preference in his payments to any one creditor, to the exclusion it may be, of the remainder; creating an unreasonable and knavish distinction between what are called "confidential creditors," who appear under the various characters of endorsers—immediate friends, fathers, and brothers-in-law, and who are very possibly; aiders and abettors in this scheme of practised imposition—to whom acceptances or bonds, without any valuable consideration, are usually passed, and to whom an assignment of a large proportion of the bankrupt's estate, is often made on the eve of his failure, to the prejudice of the *bona fide* creditor, who had given his property on the supposed faith and credit of the other.

The law invests a discretionary power in the bankrupt, to extend this undue preference in his payments to any one person, even to the entire amount of his assumed indebtedness to him, and though that the party may have been an accomplice in his fraud—to whom no substantive debt is actually owing at the time; whilst the real, the unsuspecting, and honest creditor, who has parted with his goods, or given an equitable consideration for the debt, receives not a dollar of what is fairly and justly due to him.

These assignments are made with secrecy,—are hid from public inquiry and observation, and are confined to the individuals immediately con-

cerned, including perhaps, his other creditors, on whom the insolvent is thus generally enabled to impose his own, or any terms he may think proper, in any settlement with them.*

Commercial failures, with these incentives to the cupidity of unprincipled and dishonest men, are of very frequent occurrence. Indeed the art, if it may be so called, of when, and how to fail to advantage, is deemed a very necessary part of the early commercial education of every American, whose tact and general fitness, must at least be admitted, if not commended in this respect. There are many, who commence trading with this sole ulterior object, and amass wealth according to their proficiency in this legalised mode of plunder, and yet, are considered in American society, as "honourable men." We have often heard it asserted whilst in the country, that at least one-sixth of the entire trading community of these States, suspend their payments, or in some way compound with their creditors, in every year. The estimate may be a correct one; yet, no

* It may easily be surmised the nature of the oppositions against the continuance of the recent bankrupt law, when we find it containing the following salutary provision.—"§ 18. By the second section, it is provided that all future payments, &c. in contemplation of bankruptcy, and *for the purpose of giving any creditor a preference*; and all payments, &c., in contemplation of bankruptcy to any person, not being a *bona fide* creditor, or purchaser for a valuable consideration, without notice, shall be utterly void; and the assignee may recover the same as a part of the assets in bankruptcy, and the person making such unlawful preferences, shall receive no discharge."

publication follows an act of insolvency, and but seldom any visible or outward change, to denote the altered circumstances of the trader, who, without satisfying a single *bona fide* creditor, but merely adding "broker," or "agent" to his name, or by some other expedient, may in despite of a long list of unsatisfied creditors, carry on whatever business he chooses, without let or molestation.

To fail in trade in the United States, seldom carries with it the mortifying reminiscences — the disastrous and unpleasant consequences attendant on this unfortunate casualty in England. Besides, the thing appears to be so well understood, is so quietly and "well managed," that almost every second of your acquaintance may have disposed of their engagements after this fashion, and you will know nothing of the matter, without being called upon as a creditor, deeply involved, to act as mourner on the occasion, and to attend the obsequies of all that remained of honour or honesty in the character or composition of the man, in whom, of all others, you perhaps had placed the most reliance.

We cannot avoid noticing, even at the risk of extending these observations to an unusual length, the remarks of an intelligent American writer of the present day, well conversant with the subject, which is confessedly of the first importance to all commercial men, especially to every emigrant, to rightly understand, and from whom we quote the following pertinent remarks.

"It is thus left in the power and option of the

bankrupt to give a preference to one creditor, and that perhaps a fictitious creditor—an accomplice in fraud, over all others; he will thus be paid the whole of his demand, fictitious or not, while others equally, and nine times in ten, a thousand times better entitled to be paid, get not a dollar. It must be obvious that such a discretion on the part of the bankrupt, is not only manifestly unjust, but that it opens a wide door to partiality and downright fraud. By means of this preference, the bankrupt may make a private arrangement, either to share the spoils, or receive back a portion of the fictitious debt; and there is no doubt such cases frequently occur. A system of laws actually inviting to such frauds, by affording every facility to their consummation, is calculated not only to impair the rights of honest creditors, but to demoralize the whole commercial community, by holding up premiums to dishonest debtors. The man who has suffered by this system will be very apt to avail himself of its facilities when his turn comes, and thus that high sense of integrity, which is equally honourable and essential to the character, as well as the property of a merchant, is lost sight of, in doing to others as others have done to him.

“Another fruitful source of loss to the *bona fide* creditor, is the practice of assigning property to certain confidential friends, with a view to keeping it out of the general distribution for the benefit of all the creditors. We are told, indeed we know it to be not an uncommon case, for the whole contents of a store to be thus assigned to some one or other,

while the ostensible owner continues to do business" (and this in the city of New York) "as if it were his own property, thus deceiving the public with a show of wealth, when in reality he is worth nothing. The whole belongs to one or more persons, who, while this property is employed for their benefit, throw all the responsibilities of failure on the fictitious owner. These assignments, we believe, are placed on record, but few ever think of referring to them, and if they did, how is it possible to identify a shifting succession of goods, as we do a house, or a lot of land? The fact is, that no one, in the ordinary transactions of every day commerce, ever properly thinks of taking the precaution of examining the records. They go into a store, and seeing it full of valuable commodities, trust the reputed owner on the basis of what really belongs to others, who are not responsible perhaps for one shilling of the obligations of the ostensible proprietor.

"In the perverted vocabulary of the day people may call these preferences and assignments by what name they please. They are frauds, and as such should be prohibited, regulated, or punished in a manner at least to afford some little security or some remedy to the honest creditor, who is induced to trust a man on the score of his apparent property. There are many other frauds and abuses sheltered and protected under the exceedingly lax system, by which the important relations between debtor and creditor are now regulated, and that call for the immediate, and careful, and sagacious action of the government.

“As matters stand at present, it is notorious that the creditor has no security whatever. He is entirely in the power of his debtor, who can snap his fingers at him with perfect security, and pay him or not pay him, just as he pleases. By preferences and assignments, and by a system of legerdemain, which seems to have been designedly kept open by the framers of the laws, the creditor is kept entirely at the mercy of the debtor; thus reversing not only the first principle of justice, but the entire object and end of all wise legislation.”

The value attached by act of Congress of June 28, 1834, to the gold and silver coin of Great Britain, Portugal, &c. made current in the United States, and in consequence of which so large a quantity of the money of these countries had been imported in this and subsequent years, having been found by the more recent assays of the United States' mint, to have been considerably overrated in actual worth, an act was subsequently passed March 3rd, 1843, by which it was declared, that the gold coins of Great Britain, of not less than 915 1-2-thousandths fine, shall from thenceforth, only pass current as money in the United States at 94 6.10 cents per penny weight; and the gold coins of France, of not less than 899-thousandths fine, at 92 9-10 cents per penny-weight. Of silver coins, the Spanish pillar dollars, and the dollars of Mexico, Peru, and Bolivia, of not less than 897-thousandths fine, and 415 grains in weight, shall pass current at 100 cents each; and the five-franc pieces of

France, of not less than 900-thousandths fine, and 384 grains in weight, at 93 cents each.

The interest paid on discounts in America is generally subject to legal control, by which it is restricted to some reasonable sum, varying in amount according to the laws in force regulating such matters; notwithstanding, 2, $2\frac{1}{2}$, and 3 per cent. per month, or from 24 to 26 per cent. per annum is frequently asked, and often paid in Wall Street, New York, as elsewhere, in negotiating even what is generally considered good commercial paper. Usury is nevertheless proscribed by the laws of the United States, and in most cases punishable by penalties and forfeiture of the debt. The following is an abstract of the rates of interest in the States and territories of the Union, together with the penalties for usury.

Maine—6 per cent. ; forfeit of the debt or claim.

New Hampshire—6 per cent. ; forfeit of three times the amount unlawfully taken.

Vermont—6 per cent. ; recovery in action with costs.

Massachusetts—6 per cent. ; forfeit of threefold the usury.

Rhode Island—6 per cent. ; forfeit of the money and interest on the debt.

Connecticut—6 per cent. ; forfeit the whole debt.

New York—7 per cent. ; forfeit the whole debt.

New Jersey—6 per cent. ; forfeit the whole debt.

Pennsylvania—6 per cent. ; forfeit of the whole debt.

Delaware—6 per cent. ; forfeit of the whole debt.

Maryland—6 per cent. ; on tobacco contracts 8 per cent, usurious contracts void.

Virginia—6 per cent. ; forfeit double the usury taken.

North Carolina—6 per cent. ; contracts for usury void, forfeit double the usury.

South Carolina—7 per cent. ; forfeit of interest and premium taken, with costs to debtor.

Georgia—8 per cent. ; forfeit three times the usury, and contract void.

Alabama—8 per cent. ; forfeit of interest and usury.

Mississippi—8 per cent. ; by contract as high as 10 ; usury recoverable in action of debt.

Louisiana—5 per cent. ; back interest 6 ; conventional as high as 10 ; beyond, contract void.

Tennessee—6 per cent. ; usurious contracts void.

Ohio—6 per cent. ; usurious contracts void.

Indiana—6 per cent. ; on written agreement may go as high as 10 ; penalty of usury, a fine of double the excess.

Illinois—6 per cent. ; threefold the amount of the whole interest.

Missouri—6 per cent. ; by agreement as high as 10 ; if beyond, forfeit of the whole interest due and of the usury taken.

Michigan—7 per cent. ; forfeit of the usury taken, and one-fourth of the debt.

Arkansas—5 per cent. ; by agreement, any rate not higher than 10, amount of usury recoverable, contract but void.

Florida—8 per cent. ; forfeit of interest and excess in case of usury.

Wisconsin—7 per cent. ; by agreement not over 12; forfeit treble the excess.

On debts and judgments in favour of the United States, interest computed at 6 per cent. per annum.

While money continues of such disproportionate value in the Republic, that almost any amount of interest may be obtained for its temporary loan and accommodation, means will always be contrived to evade these laws, that have partly grown into disuse, and become obsolete from their peculiar stringency. Lending money, though great the temptation, from the exorbitant interest demanded and usually exacted for it, and however apparently well secured its repayment, is, nevertheless, a very hazardous affair, even where the lender is well conversant with the customs and habits of the country, and the reputation and circumstances of the borrower ; in part occasioned, by the absence of a sufficient moral restraint in the population, as well as the facilities which the law in its peculiar organisation presents, of warding off for any lengthened period the time of actual repayment, even though legal proceedings should have been taken for the recovery of the amount.

We can, perhaps, best explain the general consequences of this unity, or combination of circumstances, by the following statement of an affair, in which we were ourselves personally concerned ; for though neither money borrowers, or generally

speaking, money lenders, we were nevertheless fooled into a transaction, that might, perhaps, with some degree of correctness, be classed under the latter category.

Chance, which is the frequent originator of many a strange and unexpected incident, had made us acquainted during a short sojourn at a very respectable boarding house in Barclay Street, New York, where we had assumed a temporary domicile, with an attorney or lawyer D——, for both professions in America, as we have pointed out in a preceding chapter, are conjoined in the same individual, and to whose care and management we were persuaded to confide some legal business; in the course of which, we had the good, or ill fortune, to be introduced by this gentleman, to a Mr. Sp——, whom our legal friend represented as a most respectable import merchant, and withal, a very worthy client of his, with whose affairs, he, Mr. D——, was intimately conversant, and who at this time was carrying on a lucrative wholesale business in Water Street, New York; also insinuating that Mr. Sp——, who had been disappointed in receiving some cash remittances, and yet having considerable payments to make, was anxious to procure from us a loan of some three hundred dollars, or as much more as we might be disposed to leave with him for a short term of thirty-one days, or thereabouts. Yielding to the request of lawyer D——, while placing the utmost reliance on his assurances of the undoubted solvency and good faith of his client, we, very im-

prudently we admit, handed over to Mr. Sp—— the required sum, or securities in our possession for the amount, receiving his check or order on the Lafayette bank of the city of New York, for the repayment, at thirty-one days, and without charging him for this specific time, any interest whatever on the accommodation.

Having subsequently, as we thought, some reason to suspect the conduct and circumstances of our lately made acquaintance, notwithstanding the endorsement of his character by lawyer D——, we called at his store, or counting house, some days afterwards, to make a request, that as we had two small sums of one hundred and fifty dollars each to pay away, that he, Mr. Sp——, would divide his former security for three hundred dollars, by exchanging it for two other bills of this specific amount. Mr. Sp——, who was a man of quiet retiring habits, of about forty years of age, of demure puritanical exterior, and apparently well instructed in the ways and intricacies of American commercial dealing, having heard our application, commenced a calculation, in which he continued engaged, with a degree of earnestness and abstraction, for some ten or fifteen minutes, without uttering a word. At length, shrugging up his shoulders, and distorting his features into a half spasmodic contraction, he responded to our inquiry by an assurance, that the request we had made was chimerical—altogether inadmissible, and out of course; adding with a peculiar *sang froid*, that the times were very pressing,

and out of joint—money at a ruinous premium, and difficult to be had, and that were he to accede to our solicitation, he would be compelled to the unreasonable charge of two protests, one on each bill, or note, on their reaching maturity, instead of upon one merely, as he was at present prepared to expect. Our apprehensions were in part realized by the announcement; we attempted to remonstrate on the severe injustice and dishonesty of such conduct, and threatened legal proceedings; if compelled to this alternative, with its consequent exposure and expense. But our friend only laughed at our surprise and importunity; he had already determined the cost of such suit—its disagreeabilities, and the extreme length of time it would take to bring it to a termination; the value of three hundred dollars—its use in the mean while; and having set one against the other, had resolved to allow his check or bill to be protested, leaving us to our remedy at law, for the recovery of the amount.

Excellent and upright man! thought we, and withal a neat specimen of American honesty and dealing, as we hied onward in no very satisfied mood to the office of lawyer D—, in Beekman Street, who listened with the most provoking gravity and *nonchalance* to all that we had to say upon the subject, without an expression of the least surprise or sympathy escaping his lips, for which we were altogether unprepared. It was in his explication, one of the incidental vicissitudes of trade or business—of our necessary intercourse with the world, that it

were sometimes impossible to avoid or guard against ; for which there was no specific—no immediate, or other remedy at hand—no palliative but patience. He was ready, however, to tender his professional assistance, only that Mr. Sp—— was also his client ; and it would appear somewhat invidious upon his part, and unbecoming, to direct proceedings in any intended suit against him. At this, the sensitive mind of lawyer D—— absolutely recoiled ; he could not do it ; it was out of the question, and quite beyond the practice of an high and honourable profession : but a lawyer S——y, had lately been his copartner, had only a short while before set up in business on his own account, and at this time resided in the city of Brooklyn, opposite to New York, using the office of his former associate, in Beekman Street, as his official whereabouts, or place of reference for all law purposes ; and whom he, (lawyer D——,) of all others, recommended should be employed to conduct any hostile proceedings we might deem it advisable to adopt.

Acting on the suggestion of the said D——, who, having been instrumental in occasioning the difficulties in which we were involved, had engaged to keep a careful watch upon the proceedings, we commenced a suit against Sp—— in the Superior Court of the city of New York, constituting S——y our attorney. One term of the court succeeded another—and still another, in continued succession, until the proceedings in the suit were at length perfected, and the cause ready for a hearing. Another

term of the court still approached ; there were at least two hundred and fifty causes on the list for trial, whilst ours numbered somewhat beyond one hundred and twenty.

It is a practice in this court, that when a suit is in progress, and the defendant about to join issue, he is required, in the event of his defending such action, to file an affidavit in the proceedings, setting forth, that he is advised, and believes the fact to be so, that he has a good, sufficient, and valid defence to such action against him. This is done to prevent, as far as the solemnity and inviolability of an oath can effect this purpose, any unnecessary delay being caused, on ill-grounded, and frivolous pretexts by the defendant, where an indefeasible right or cause of action, as in this instance, exists. Mr. Sp——'s object, however, was procrastination — indefinite postponement. The means of attaining this end was but an oath ; and that oath, however unwarranted by the circumstances of the case—however awful and solemn the adjuration with which Mr. Sp—— pleaded his justification, yet was such affirmation placed on record—sworn to by this very just and upright merchant of New York, gravely asserting under all the circumstances, a firm and conscientious belief of a good, valid, and equitable defence to the claim of restitution—the demand for repayment that we had set up against him.

The cause being thus likely to be postponed, *ad infinitum*, or until some one hundred and odd suits, then on the calendar, were disposed of, and being

about to leave New York, we advertised the security of the said Sp—— to be sold. But an incident occurred which changed the entire features of these proceedings, and altered our intention in this respect. The Superior Court had just commenced one of its sittings under the direction of Judge Hoffman, who was a man of exceedingly rude manner and exterior, and whose conduct was generally so insulting and unbecoming to the bar, practising in his court, that but few of the legal profession could be found sufficiently resolute to bring forward a case for judicial hearing, under his auspices. Besides, his decisions were ever vacillating and doubtful, very frequently occasioned by the state of inebriety in which he was in the habit of appearing on the bench, occasioning an entire forgetfulness of the arduous and important obligations which rested on him in the discharge of his official duties as a judge. The consequence was, in this instance, that several causes which were intended to be tried at this term, were all set down by consent of parties to the next, which unexpectedly brought forward the suit in which we were engaged among those to be heard at this sitting of the court. Our conscientious friend, Mr. Sp——, finding, contrary to every former expectation, that the object which he sought for was no longer attainable, and that all effort at further procrastination was unavailing, tendered a submission, and in the face of his recorded oath—his most solemn adjuration and formal denial of all indebtedness, confessed a judgment for the full debt and costs that we claimed against him; stipu-

lating merely for a stay of execution for thirty-one days, which we accordingly acceded to him.

But this was not the "end all" of this very discreditable transaction. Other difficulties—other punishments awaited us, as a just retribution for our past inexperience and very culpable remissness. The thirty-one days' extension, which was allowed to Mr. Sp— had expired, when we received an intimation from lawyer D—, that our attorney in this suit, Mr. S —y, had left with him a "satisfaction piece" as it is termed, being a release for the amount of debt and costs in this action, and which the said Sp— would be prepared to pay on an early day, on our executing this discharge to him, to which we very readily assented.

Not hearing any further from Mr. S—y on the subject, though the time promised for the payment had for several days gone by, we ventured to personally wait upon him in Brooklyn; when we learnt, with some surprise, that the money had been already and for sometime paid to him by Mr. Sp—, that he had sent us notice to this effect by lawyer D.—, who had carefully concealed the fact from our knowledge; yet, who had subsequently called upon the said S—y, and demanded the delivery or payment to him, of the entire amount in our name; and had actually produced, as evidence from us, of his authority to receive it, the very "satisfaction piece" or release for the full sum and costs, which we had signed a short time before. That on the faith of such representations, and the production of

this release, by lawyer D—, he, the said S—y, had handed over to him a sum of *two hundred and seventy-five dollars*, retaining the remaining *twenty-five*, the residue of the three hundred, as a “consultation fee,” to which he claimed to be entitled, and though his entire legal costs had been previously paid to him by Mr. Sp—. It was quite useless our remonstrating against this further imposition—unsanctioned by the usages of the court, or any former precedent. We had no alternative but to submit to it with whatever grace we could, or else institute a suit against the said S—y for the recovery of the amount (twenty-five dollars), in which we might be tolerably sure, from the odds we should have to contend with, of being worsted in the attempt. Neither had we any hope of redress for the fraud committed against us by lawyer D—. We nevertheless threatened legal proceedings, and a direct appeal, by petition, to the supreme court, and by this means only, succeeded in recovering from the hands of this honest and upright American lawyer a balance of *two hundred and fifteen dollars*, he having candidly admitted his having previously converted *sixty dollars*, of the two hundred and seventy-five, thus fraudulently obtained from S—y, to his his own and individual uses. Nor was this all; a suit was subsequently instituted against us by Mr. Sp—, to obtain damages for the injury which *he* alleged to have suffered in his character and reputation as a merchant, by reason of our having advertised his note or check for sale, in which we were very unceremoniously proceeded against, and obliged

to tender special bail for our appearance, in which proceeding we had to pay a further sum in costs, of twenty-five dollars, besides other expenses in compromising this suit, which a free knowledge of American juries, their constitution and general conduct, especially in any proceedings where a foreigner and native citizen may hap to be the parties litigant, had convinced us was the most prudential course we could well have adopted on the occasion. Altogether, we sustained a loss of upwards of one hundred and thirty dollars, for which we had no possible redress, besides experiencing much annoyance and trouble by the transaction.

We may perhaps be told, that this was an extreme case; that the character of the individuals with whom we had to deal would scarcely warrant any other conclusion; and that such a result should rather be attributed to our imprudence—our own culpable remissness, and want of due precaution in our intercourse with the world, to which, in this extreme instance, we were made the victim, than from any general innate depravity pertinent to American society. Such, we aver, is not the case:—our further experience has fully satisfied us, that the conduct of these parties seldom forms an exception in the every day intercourse and dealings of the generality of the people of these states, who look upon such digressions as matters of trivial, or mere secondary import, and rather take care to withhold all such opportunities from each other, than to expect that either will resist the temptation of converting them to their own purposes, whenever thrown in their

way by any fortuitous or accidental circumstances. These individuals were all, "all honourable men," in the estimation of American society, and in extensive, and continued intercourse with their fellow citizens; two of them of a profession that has at all times been distinguished in this country, for the high moral worth, and superior attainments of those belonging to it, which is supposed to regard with peculiar jealousy, if not to visit with severe reprehension, any conduct of its members irreconcilable with the strictest propriety, and to which the practice and declared rules of society may withhold its sanction. The loss and difficulties in which we were so unexpectedly involved in this instance, and in others of a somewhat similar character we might record, are those, which are pretty sure at one time or the other, to meet every individual from this country, who, educated in a different school—instructed in other principles, expects to make them applicable in his conduct on arrival in the United States; until experience, purchased at the expense with which we have secured it, may teach him the necessity of some better precaution, and to restrain every liberal and generous impulse in his nature, if desirous to pass unscathed through the meshes and difficulties of American intercourse, or at least, until such time as he is enabled to form a correct and proper estimate of the character and morals of the people, with whom it is his fate, for the while, to be, and live amongst.

There is no part of the American monetary system so uncertain, so altogether unregulated by

any defined rule, or understood arrangement, as its internal or domestic exchanges, that remain without any presiding institution to control this necessary part of the commercial intercourse of the republic. All is left to chance, and its varying consequences, or directed by the cupidity or caprice of individuals, in carrying out the daily routine business of the country. During the continuance of the late United States bank, this uncertainty, and the great inconvenience resulting from it, especially to a community so altogether commercial as the United States, was to a great extent obviated. The local and branch banks of this institution, established in the maritime and principal trading cities, as also of the larger commercial cities and towns of the interior, in part regulated these exchanges, and reduced them to some definite and approved standard. Through its means, the public were materially benefited ; since its dissolution, all has been uncertainty and derangement ; the interchange, and value of all commercial paper, so oscillating, and difficult to determine, that business men are frequently at a loss in the direction and management of their local and general affairs.

The rate of exchange at New York on Philadelphia, at sight, for the ten years ending 1835, averaged from $\frac{1}{4}$ to $\frac{1}{2}$ per cent. discount ; in 1837, it increased to $1\frac{3}{4}$ per cent. ; and in 1838, or on the final suppression of the United States bank, under its first, or original charter, from $1\frac{1}{4}$ to 5 per cent. ; and though but a distance of ninety miles, or little more than a six hours travel from either city to the other.

The exchange on Charleston, in like manner, which for the same ten years averaged from 1 to 2 per cent. discount, increased in 1837, from $2\frac{1}{2}$ to 5 per cent.; and in 1838, from 2 to 8 per cent. discount. But New Orleans is the more remarkable still, which for the same ten years averaged $1\frac{1}{2}$ per cent.; in 1836, it increased from $1\frac{1}{2}$ to 4 per cent.; in 1837, from 3 to 10 per cent.; and in 1838, from 2 to 12 per cent. discount. And yet these several commercial cities, are not only integral parts of the same republic—their trade and commerce regulated by the same laws—their money circulation under the same restraint, but are in extensive and daily trading intercourse one with the other.

It is reasonable to infer, that where so much of uncertainty exists, there must be something defective—something radically wrong in a system, that can generate an anomaly of this kind, and expose an entire community to this inconvenience. The high rate of discount to which bills on New York, on all the inland towns and cities are subject, cannot be said to proceed from the actual state, or balance of trade between these several intersections, inclining to any one more than to another; but to causes that originate in the want of some sound directing head, or general monied institution, to afford some better facilities to commerce; by furnishing a means of more ready interchange, apart from the interference of brokers, Jews, and speculators, into whose hands the control and management of the entire has principally fallen. While this state of things has been permitted to continue, the several political parties

in Congress, federal and democratic, have been wasting their time in embittered and unseemly contention among themselves as to the propriety of establishing a national bank for the correction of these and other abuses, affecting the general commerce of the country. Twice, has a bill passed both Houses, after an unusually protracted and angry discussion, on the subject of appointing a "fiscal agency," (for it were contrary to good taste—a species of political profanation, to discuss, or even touch upon the subject of a National Bank, however lightly, within the legislative chambers,) to aid the machinery of Government in the collection and safe keeping of the public revenue, and for the better regulating the internal and domestic exchanges of the country—and though every pains had been taken to withhold from such projected institution, the general banking privileges possessed by the former United States Bank, or any other, that could directly interfere with the rights assumed by the individuals;—still, has such bill been twice vetoed by President Tyler, who has been persuaded to this utmost reach of executive power, under an apprehension of overstepping the constitution, by instituting an authority of even this limited kind, in the midst of the Republic. In the mean time, the utmost confusion in the internal exchanges, and commercial system of the country, is allowed to continue, to the admitted detriment of trade and business of every kind, as also to interfere with the temporary safe keeping of the public revenues, placed in notoriously improvident and improper hands, by whose

frequent defalcations, from incapacity it may be, but more frequently from design, the public are often cheated to a large amount. The diminution from these causes, in the last year of which returns have been made, (1836,) amounted to 126,684 dollars. But the losses which the Government has sustained since then, have, we believe, been proportionably much greater.

It is quite foreign to our object to enter on an inquiry as to the constitutionality, or otherwise, of a national banking institution in the United States; which is a matter altogether for the consideration of the American people, who have an undisputed right to consult their own fancies and predilections in any case of the kind, and who can themselves be the only sufferers by any headstrong or self-willed determination, or of a constrained or wrongful interpretation of the wording of the constitution under which they are pleased to be governed. We take the following extract from Mr. Justice Story's "Commentaries on the Constitution of the United States," which gives a brief summary of the principal arguments for and against the constitutionality of a national bank within the Union.

"One of the earliest and most important measures, which gave rise to a question of constitutional power, was the act chartering the bank of the United States, in 1791. That question has often since been discussed; and though the measure has been repeatedly sanctioned by Congress, by the executive, and by the judiciary, and has obtained the

like favour in the great majority of the states, yet it is, up to this very hour, still debated upon constitutional grounds, as if it were still new and untried. It is impossible, at this time, to treat it as an open question, unless the constitution is for ever to remain an unsettled text, possessing no permanent attributes, and incapable of having any ascertained sense; varying with every change of doctrine and of party, and delivered over to interminable doubts.

“The reasoning upon which the constitutionality of a national bank is denied, turns upon the strict interpretation of the clause giving auxiliary powers, necessary and proper to execute the other enumerated powers. It is to the following effect. The power to incorporate a bank is not among those enumerated in the constitution. It is urged that a bank will give great facility or convenience to the collection of taxes. If this were true, yet the constitution allows only the means that are *necessary*, and not merely those which are *convenient* for effecting the enumerated powers. If such a latitude of construction were allowed, as to consider convenience, as justifying the use of such means, it would swallow up all the enumerated powers. Therefore the constitution restrains Congress to those means, without which the power would be nugatory.

“The reasoning by which the constitutionality of a national bank is sustained is (in part) contained in the following summary. The powers confided to the national government are unquestionably, so far as they exist, sovereign and supreme. It is not, and

cannot be disputed, that the power of creating a corporation is one belonging to sovereignty. But so are all legislative powers; for the original power of giving the law, on any subject whatever, is a sovereign power. If the erecting of a corporation be an incident to sovereignty, and it is not prohibited, it must belong to the national government in relation to the objects entrusted to it. The true difference is this: where the authority of a government is general, it can create corporations in all cases; where it is confined to certain branches of legislation, it can create corporations only as to those cases. It cannot be denied, that implied powers may be delegated, as well as express. It follows that a power to erect corporations may as well be implied as any other thing, if it be an instrument, or means of carrying into execution any specific power.

“It is true, that among the enumerated powers, we do not find that of establishing a bank or creating a corporation; but we do find there the great powers to lay and collect taxes, to borrow money, to regulate commerce, to declare and conduct war, and to raise and support navies. Now, if a bank be a fit means to execute any or all of these powers, it is just as much implied as any other means. If it be necessary and proper for any of them, how is it possible to deny the authority to create it for such purposes? There is no more propriety in giving this power in express terms, than in giving any other incidental power or means in express terms.

“That a national bank is an appropriate means to carry into effect some of the enumerated powers of

the government, and that this can be best done by creating it into a corporation, may be established by the most satisfactory reasoning. It has a relation, more or less direct, to the power of collecting taxes, to that of borrowing money, to that of regulating trade between states, and to those of raising and maintaining fleets and armies. And it may be added, that it has a most important bearing upon the regulation of currency between the states. It is an instrument, which has been applied by governments in the administration of their fiscal and financial operations; and in the present times it can hardly require argument to prove that it is a convenient, a useful, and an essential instrument in the fiscal operations of the United States."

Whatever diversity of opinion may exist as to the constitutionality of an institution of this kind in the United States, there can be none, we apprehend, as to the measure of its usefulness, in aiding in the collection of the public revenues, but more especially in regulating the commercial exchanges, that since the expiry of the charter of the late United States Bank, have been left to the chances of a varying and uncertain control, in their connection with the trade and intercourse of the country.

The following table exhibits the *highest* and *lowest* rate of exchange at New York, on London, at sixty days after sight; and on Boston, Philadelphia, Charleston, and New Orleans at sight; and of the American gold of the old and new coinage, sovereigns, Spanish doubloons, Spanish dollars, and five franc pieces in each year, from January 1825, to 1839.

	1825	1826	1827	1828	1829	1830	1831
Bills on							
London	4½ to 11	7½ to 12	9½ to 11½	9½ to 11½	8 to 10	6 to 9½	6½ to 11
Boston	par to ½	par to ½	½ d to par	par to ½	½ to ¾	½ to ¾	par to ½
Philadelphia	par to ½	½ to 1	d	par to ½	d	d	d
Charleston	½ to 3	½ to 1	½ to ½	½ to ¾	½ to ¾	½ to ¾	½ to 1½
New Orleans	½ to 2½	1 to 3	1½ to 2	1½ to 2½	do	1 to 2	½ to 1½
American gold	1 to 6	2½ to 6½	par to 3	1½ to 3	d	1 to 1½	3 to 6
Spanish doubloon	15.50 to 16.12	15.50 to 15.87	4½ to 7½	5 to 7	15.40 to 16.30	15.10 to 16	15.30 to 16.10
Sovereigns	2½ to 10	6 to 11½	8½ to 11	8½ to 10	7 to 9	4 to 9	5 to 10
Spanish dollars	½ to 2½	par to 1	par to 1	½ to 1	par to ½	par	par to 1½
5 Franc pieces			1½ to 2	1½ to 2	par to 2	par to ¾	par to 2½
Bills on							
London	7½ to 10½	5 to 8½	2 to 7½	6½ to 10	6½ to 10	7½ to 22	4½ to 10½
Boston	½ to ¾	½ d to ½	par	par	par to ¾	par to 2	par to 2
Philadelphia	½ to ¾	½ to ½	½ to	½ to	par to ½	par to 1½	1½ to 5
Charleston	1 to 2	2	1½ to 2	½ to 1	½ to 2	2½ to 5	2 to 8
New Orleans	1 to 1½	1 to 1½	1 to 1½	½ to 1	½ to 4	3 to 10	2 to 12
American gold	2½ to 6	2 to 4½	½ to 6½	6½ to	6½ to	6½ to 16	7 to 9
Am. new coinage			par	par	par	par to 12	½ to 5
Sovereigns	6½ to 9½	4½ to 8½	2 to 8	4.84 to 4.85½	4.84 to 4.86	4.84 to 5.47½	4.85 to 5.06
Spanish doubloon	15.75 to 16.78	16.15 to 17.45	par to 3½	16.12½ to 17	16. to 17.25	16.80 to 18.25	15.90 to 17.35
Spanish dollars	½ to 2½	½ to 4½	par to 3½	1 to 5	2½ to 6	2 to 15	1 to 7
5 Franc pieces							

The damages on protested bills of exchange vary, according to the laws peculiar to each State determining such matters. In some cases, the regulations of the separate States approximate to each other, while in others they are widely different. In some instances, the law or rule is unlike, but the result is nearly similar ; while between other States, the result varies from four and a half to fifteen per cent. We extract the following from the 4th edition of "Chancellor Kent's Commentaries," on this subject.

In *Massachusetts* the usage was, to recover the amount of the protested bill at the par of exchange and interest, as in England, from the time payment of the dishonoured bill was demanded of the drawee, and the charge of the protest, and ten per cent damages in lieu of the price of exchange. But this rule has been changed by statute in 1825, 1835, and 1837 ; and bills drawn or endorsed in that state, and payable without the limits of the United States, and duly protested for non-acceptance or non-payment, are now settled at the current rate of exchange and interest, and five per cent damages ; and if the bill be drawn upon any place beyond the Cape of Good Hope, twenty per cent damages. The rate of damages in Massachusetts, on inland bills payable out of the state, and duly protested for non-acceptance or non-payment, is two per cent in addition to the contents of the bill, with interest and costs, if payable in any other New England State, or New York ; and three per cent if payable in New Jersey, Pennsylvania, Delaware, and Mary-

land; and four per cent if payable in Virginia, district of Columbia, North Carolina, South Carolina, or Georgia; and five per cent, if payable in any other of the United States, or the territories thereof.

In *Rhode Island*, the rule formerly was, according to the revised code in 1776, on bills returned from beyond sea, protested for non-acceptance or non-payment, ten per cent, and damages, besides interest and costs.

The rule of damages in *Connecticut*, on bills returned protested, and drawn on any person in New York, is two per cent, upon the principal sum specified in the bill; in New Hampshire, Vermont, Maine, Massachusetts, Rhode Island, New York (city of New York excepted), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, or territory of Columbia, three per cent; in North Carolina, South Carolina, Ohio, or Georgia, five per cent; in any other part of the United States, eight per cent, upon such principal sum, to be in lieu of interest and all other charges, and without any reference to the rate of exchange.

The rate of damages on bills drawn and payable within the United States, or other parts of North America, was, in 1819, regulated in *New York* by statute, and the damages fixed at five, or seven and a half, or ten per cent, according to the distance or situation of the place on which the bill was drawn. But, by the new revised statutes, which went into operation on the 1st of January, 1830, the damages

on bills, foreign and inland, were made the subject of a more extensive regulation. They provide that, upon bills drawn or negotiated within the state, upon any person, at any place, within the six states east of New York, or in New Jersey, Pennsylvania, Ohio, Delaware, Maryland, Virginia, or the district of Columbia, the damages to be allowed and paid, upon the usual protest for non-acceptance or non-payment, to the holder of the bill, as purchaser thereof, or of some interest therein, for a valuable consideration, shall be three per cent upon the principal sum specified in the bill; and upon any person, at any place, within the states of North Carolina, South Carolina, Georgia, Kentucky, and Tennessee, five per cent; and upon any in any other state or territory of the United States, or at any other place on, or adjacent to this continent, and north of the equator, or in any British or foreign possessions in the West Indies, or elsewhere in the Western Atlantic ocean, or in Europe, ten per cent. The damages are to be in lieu of interest, charges of protest, and all other charges incurred previous to, and at the time of, giving notice of non-acceptance or non-payment. But the holder will be entitled to demand and recover interest upon the aggregate amount of the principal sum specified in the bill, and the damages, from the time of notice of the protest for non-acceptance, or notice of a demand and protest for non-payment. If the contents of the bill be expressed in the money of account of the United States, the amount due thereon, and the damages allowed for

non-payment, are to be ascertained and determined, without reference to the rate of exchange existing between New York and the place on which the bill is drawn. But, if the contents of the bill be expressed in the money of account, or currency of any foreign country, then the amount due, exclusive of the damages, is to be ascertained and determined by the rate of exchange, or the value of such foreign currency, at the time of the demand for payment.

In *Pennsylvania* the rule, for a century past, was twenty per cent damages, in lieu of re-exchange; but by statute, in 1821, five per cent damages were allowed upon bills, drawn upon any person in any other of the United States, except Louisiana; if on Louisiana, or any other part of North America, except the north-west coast and Mexico, ten per cent; if on Mexico, the Spanish Main, or the islands on the coasts of Africa, fifteen per cent; and twenty per cent upon protested bills on Europe, and twenty-five per cent upon other foreign bills, in lieu of all charges, except the protest, and the amount of the bill is to be ascertained and determined at the rate of exchange.

In *Maryland* the rule, by statute, is fifteen per cent damages, and the amount of the bill ascertained at the current rate of exchange, or the rate requisite to purchase a good bill of the same time of payment, upon the same place.

In *Virginia* and *South Carolina*, the damages, by statute, are fifteen per cent.

In *North Carolina*, by statute, in 1828, damages

on protested bills, drawn or endorsed in that state, and payable in any other part of the United States, except Louisiana, are six per cent; payable in any other part of North America, except the West Indian Islands, ten per cent; payable in South America, the African Islands, or Europe, fifteen per cent; and payable elsewhere, twenty per cent.

The damages in *Georgia*, by statute, in 1827, on bills drawn on a person in another state, and protested for non-payment, are five per cent; and on foreign bills, protested for non-payment, are ten per cent, together with the usual expenses and interest, and the principal to be settled at the current rate of exchange.

The damages on bills drawn in the state of *Alabama*, on any person resident within the state, are ten per cent; and on any person out of it, and within the United States, are fifteen per cent; and on persons out of the United States, twenty per cent on the sum drawn for, together with incidental charges and interest.

In *Louisiana*, in 1838, the rate of damages upon the protest for non-acceptance, or non-payment of bills of exchange, drawn on, and payable in foreign countries, was declared by statute to be ten per cent; and in any other state in the United States, five per cent; together with interest on the aggregate amount of principal and damages. On protested bills, drawn and payable within the United States, the damages include all charges, such as premium, and expenses, and interest on those damages, but nothing for the difference of exchange.

In *Mississippi*, the damages on inland bills, protested for non-payment, are five per cent; if drawn on any person resident out of the United States, ten per cent.

The damages in *Tennessee*, by statute, in 1830, on protested bills, over and above the principal sum and charges of protest and interest on the principal sum, damages, and charge of protest from the time of notice, are three per cent on the principal sum, if the bill be drawn upon any person in the United States; and fifteen per cent, if upon any person in any other place or state in North America, bordering on the Gulf of Mexico, or in the West Indies; and twenty per cent, if upon a person in any other part of the world. These damages are in lieu of interest, and all other charges, except the charges of protest, to the time of notice of the protest, and demand of payment.

In *Kentucky*, the damages on foreign bills, protested for non-acceptance or non-payment, are ten per cent.

The damages in *Indiana* and *Illinois*, on foreign bills, are ten per cent; and on bills drawn on any person out of the state, and within the United States, are five per cent, in addition to the costs and charges.

In *Missouri*, the damages on bills of exchange, drawn or negotiated within the state, and protested for non-acceptance, or non-payment, against the drawer and indorser, are four per cent on the principal sum, if drawn on any person out of the

state, but within the United States, ten per cent ; if out of the United States, twenty per cent ; the same rate of damages as against the acceptor on non-payment.

The inconvenience throughout all parts of the Republic of a want of uniformity in the rule of damages in the laws of the several states, is very great, and has been severely felt. The mischiefs to commerce, and perplexity to merchants, resulting from such discordant and shifting regulations, have been ably, justly, and frequently urged upon the consideration of the legislature ; and the right of Congress to regulate, under some uniform practice, the rate and rule of recovery of damages upon protested foreign bills, or bills drawn in one state upon another, under the power in the Constitution 'to regulate commerce with foreign nations, and among the several States,' and the expediency of the exercise of that right, has been well and conclusively shewn, in the official documents which have been prepared on that subject.

CHAPTER XIII.

Banking system of the United States—Paper money or bank notes the general circulating medium—Counterfeit money in general circulation—Bank accommodation or discounts—American money-brokers, or “shavers”—American aristocracy, its spurious and offensive character—its jobbing and speculating propensities—“Shaving” establishments—their frequent and secret connection with Public Banks—Purchase and sale of uncurrent money—The domestic exchanges—their uncertainty and injurious influence upon Commerce—Foreign exchanges of the United States—Suggestions for an improved system—Specie in the United States—United States Mint, and quantity of bullion coined therein—Post Office Department—Post Office and Post Roads—Inefficiency of this Department—Number of Offices in the United States, Postmasters, Agents and Contractors—Report of the Postmaster-general, July 1, 1843—Extent of mail routes throughout the country—Public discontent, and establishment of private expresses for the transmission of letters—Law of the United States in reference thereto—Postage reduction forced upon the adoption of Government—Concluding observations and remarks thereon.

WE have endeavoured in the preceding chapter, to point out the inconvenience that is found to exist throughout the Republic, from the yet unsettled state of the currency and exchanges, without any positive effort being made to amend a system, notoriously defective, and that has so materially contributed to the disarrangement and monetary difficulties of the country.

The suppression of the United States Bank, that during its continuance controlled to some extent these excesses, instead of curtailing the paper circulation of the country, was followed, as we have already shewn, by a very opposite result. Numerous other banks were immediately ushered into a forced and unhealthy existence, to supply the stead of its several branches throughout the Union, that shared the fate of the parent establishment on its dissolution. Some of these were short-lived; those that escaped through the incipient, or early stages of a precarious existence, continued to augment the enlarged or overgrown list of the many already established within the Republic, and that needed the strong arm of power, and a steady watchfulness to control within reasonable limit, or to confine them to the strict measure of their assumed, or acknowledged usefulness.

The banking system in America is regulated on a somewhat diverse principle, and directed by a very different management, than in England; and until lately, when the State of New York set the example, under certain regulations, of a free trade in banking, was entirely conducted by chartered companies, under grants from the several States' legislatures, whenever any of these institutions happened to originate. The laws that are supposed to govern them, are of a very stringent kind; and are made to preserve to each local government, a controlling power over the money circulation of the State, within its separate jurisdiction.

There is, however, a material difference between the American system of Joint Stock Banking, and that which is recognised in England, under its existing laws. In America, the liabilities of the shareholders, to pay the debts of the firm, in case of bankruptcy, or failure, is limited to the amount of their paid-up capital, and the other general conditions to which they are subject. In England, on the other hand, the law of copartnership renders every shareholder liable in the full extent of his property, for the entire amount of the responsibilities of such institution. The same provisions in this respect, may, however, be made to extend to banking associations in America, by a clause inserted in their articles of agreement, expressly declaring this intended and positive responsibility, and that could scarcely fail to afford some better protection, against the numerous and contingent losses to which the public are so often exposed, under the present system. On the relaxation in the law in the State of New York, and within six months subsequent to the permitting these joint-stock establishments to take effect, thirty-four new banks, with a capital of 12,319,000 dollars, capable of being increased to 487,680,000, were added to the monied institutions of this State. The number of failures were in an equal proportion, and in two years and a half, exceeded twenty, out of eighty, the entire number of banks of this character.

There is seldom observed any great anxiety for the public accommodation, or its general welfare, in

the chartering of these institutions, that in many instances owe their existence to the political influence and stock-jobbing propensities of their early projectors. The practice, sufficiently frequent in America, of connecting banking privileges, to mere trading, or mercantile firms, such as railroad and canal companies, mining associations, marble and granite, trust and dock companies, and such like, is a system that can scarcely be otherwise than productive of evil consequences to the public at large, in the frequent disastrous effects of their general instability and frequent failure. The uniting the business of banking, always a difficult and complex science in itself—requiring much of experience—of forecast, and somewhat more than ordinary prudence in its efficient and beneficial management, with any other calling, is an error, in our judgment, that will scarcely admit of any countervailing advantage as a reasonable excuse in adopting this practice:—while the banking transactions of all such institutions are generally made subordinate to the trading concerns of the company, either to sustain some monopoly, or to secure some selfish, or individual end—frequently at the expense of the community, on whom they are thus so unreasonably imposed.

There is scarcely a town or village in the United States, unblest by one or more of these establishments; inundating the country with their “promises to pay,”—issuing their notes, even in the restricted amount of one and two-dollar bills, which constitute the principal, we might almost say, the only

circulating medium of the country. Specie of every kind, notwithstanding the very strenuous efforts of the late President Jackson, is of very limited circulation; and mostly confined to the fractional parts of a dollar, of foreign coinage, which are found necessary in the general daily interchange of the retail dealer; whilst in no part of the world is so large an extent of fictitious paper let loose upon the commercial surface. New banks are almost daily added to the overgrown bulk of those already in existence; though scarcely a week passes, without some one or more of these establishments dying of premature decay, and in their turn, being numbered with the Capulets. The inconvenience, apart from the distress and difficulty,—the positive losses to the many, in some way or other, dependent on these institutions, is incalculable; not to speak of the frequent commercial embarrassments that must follow as a consequent.

It is utterly impossible for a traveller to prosecute his journey—a merchant or trader to conclude the most trifling negotiation, without apprehension of ultimate consequences, or to embark in the most trivial or unimportant business of the day, unless aided in his progress by frequent reference to the last published “Bank Detector,” or record of all lately “broken, fictitious, or doubtful banks,”—which constitutes a necessary part of the counting-house *apanage* of every merchant and man of business, to assure him, that he is not for the fiftieth time imposed upon by some well-executed

forgery, or else, that the assumed representative of the precious metals, so confidently offered to his acceptance, is not of the issue of some broken, suspended, or fraudulent institution, and now for the first time presented to his acquaintance.

A stranger, in like manner, seeking the temporary accommodation of small change for one of these notes, of one or two dollars, and without being recognised as a general customer, in any shop or store he may present himself for this purpose, or his identity being otherwise ascertained, is oftentimes looked upon with suspicion, while submitting to an unceremonious refusal in almost every instance of such application. To exchange such bill or note, without previous reference to the last printed circular of "fraudulent, broken, and doubtful banks," and of those whose notes have been "forged and in circulation," as a necessary and prudential measure of antecedent observance, is altogether out of the question; while the time and trouble of submitting to this routine, and without remuneration, is more than an American can generally spare on the score of mere civility. We have been sometimes sadly inconvenienced on this account, and in one particular instance, recollect having to submit to this annoyance, in an unsuccessful application for the change of a one-dollar bill, in eighteen of the most respectable shops or stores, in the very centre of the business part of the city of New York, (Pearl Street,) and at length, compelled to take the note (a four-and-sixpenny affair) of the Franklin Bank of this city,

actually to its counter, before procuring this trifling accommodation. That there may have been need of precaution we are ready to admit, from the shoals of fraudulent and counterfeit money at all times in circulation; some idea of which may be formed, from the following statement of the then condition of the banks of the eight northern States, with those "closed or broken," as also, "fraudulent" banks, and those on which forgeries had been committed.

State of	No. closed, failed, or broken.	Do. fraudulent.	Do. no sale.	Do. with notes in circulation.	Do. on which notes have been forged, or in circulation.
Maine	11	..	..	30	3
Massachusetts	6	1	..	113	20
Rhode Island	3	2	..	66	27
Connecticut	2	1	..	34	12
New York	15	6	..	95	39
New Jersey	10	26	..	26	13
Pennsylvania	8	1	..	54	20
Maryland	6	..	..	24	13
No. of banks closed	61				
Do. do. fraudulent		37			
Do. do. no sale			11		
Do. do. with notes in circulation				442	
Do. do. on which forged notes are in general circulation					147

The corrected bank note list, published in the city of New York, for the week ending May 28th, 1845, which is the latest under our observation, contains the names of 412 banks, then belonging to five of the principal northern and eastern states,

comprising Massachusetts, Vermont, Rhode Island, New York, and New Jersey ; as also of 112 “ closed, fraudulent, and broken banks,” with notes in circulation ; 64 of which were of the city and state of New York.

With the extended bank circulation of the United States, it may possibly be imagined, that discounts are at all times readily obtained on the security of good and unexceptionable paper, and that the evil working of a portion of the American banking system, is far outweighed, in the positive—the more immediate and substantive good secured through its means to the mercantile community, especially to the retail dealer and industrious citizen. The obverse, however, is more generally the case ; for, if there is any class beyond another, excluded from the reasonable advantage of bank accommodation, it most assuredly is the man, who, in the peaceful exercise of a legitimate and honest calling, would perhaps be the most benefited by pecuniary advances of this kind. It will be borne in mind, that every individual in America, the exceptions being extremely limited, is, in fact, a trader of some sort or other. It matters very little, whether he is removed in his pecuniary resources beyond this necessity, or that his advanced and declining years should reprove his continued restlessness in this respect, and urge him to a quiet and undisturbed repose for the residue of a fretful life, or that the overgrown bulk of an already amassed fortune, should present other objects of more grateful em-

ployment to his ambition: he ends his days as he had begun, still onward to the latest moment, to increase his worldly store, in the same rugged and untiring path, and with the same zest and steady perseverance that marked his first advance in worldly independence. When no longer able to attend to the more laborious duties of an active mercantile life, he seeks employment in the profitable investment of his capital—speculates on land purchases, city or town lots, that probably he had never seen, with a view merely to their resale at an enlarged profit, at some future day;—becomes in his turn, a bank director, as also of some trust and railroad company, and at length merges into that honourable and distinctive class of money-changers, or money-lenders, that in American wording are called “money shavers,” with which he identifies himself in feeling, as in conduct and general practice; still clinging to existence with an increased pertinacity, as each hour shortens its duration, from a reluctance to forego the realization of any of his past dreams of imaginary happiness, in the usurious and tortuous profits derivable from this last of his worldly occupations. He is of the chosen, whose early exertions have been rewarded with success, and can afford to hear unmoved, and with a calm and settled stoicism, the tale of untoward difficulty, and unredeemed misfortune, that have overtaken so many of his early compeers. His heart is steeled to every compassionate and generous feeling; he has neither sympathy, nor

friendly solace to impart, having generally outlived the kindlier sensibilities of our common nature, perhaps, the recollection of his own former troubles—the bankruptcy or failure of his first efforts—his early hopes.

Men of this class abound in the United States, and generally compose the *élite*, the aristocracy of American society—the incongruous conformation of which it is usually shaped and put together; who, fully aware of the influence that increased or augmented riches, (the more especially in the midst of a purely commercial and trading community, governed by republican institutions, in which property is more equally divided, independent of its means of acquisition), will generally command, affect a superiority over the more intelligent, the virtuous, and because, of their being of the less affluent of their fellow citizens. Whenever the persevering industry of the American trader of restricted means, may lead him in the pursuit of a reasonable independence, he will generally be met on the threshold of his speculation—thrown back from his exertions, by some one or other of these monied harpies, prepared to outbid him in his enterprise, and filch from him the reward of every patient and profitable undertaking.

The property which these men amass in early life, and that is usually appropriated after this mode, is seldom of advantage to any other of the community; and unlike to, and uninfluenced by the rule, or directed in its disposal by the motive,

that generally regulates the distribution of similarly acquired wealth in England, seldom finds its way in any very large proportions, through the same, or other returning channels, to benefit the community, or to encourage the general industry, by increasing the laudable competition of others, struggling in the pursuit of the same acquisition, by any other commendable or assiduous means. Though constituting a large proportion of the higher grades of American society, they, in truth, bear a very invidious contrast with our English aristocracy of birth, of education, or even of wealth, and beside the narrowed selfishness of their general conduct, are oftentimes, the most intolerant and overbearing in their deportment to others, except, it may be, to those whose title to respectability is determined by the same test, and placed beyond surmise in their estimation, from the extent of property—the actual number of dollars within their possession.

The banking institutions of almost every State, are, to a great extent, within their controul and management; and are so nearly identified with their individual proceedings, as almost to appear as if established for the purpose of advancing their mere personal objects, than to aid commerce in its legitimate efforts, or to encourage the industrious and persevering trader of safe, though, perhaps, of limited resources, with occasional or timely accommodation:—for this, after all, is of most difficult procurement in the United States, by any man of restricted capital, no matter the success attending

his exertions, or the high unimpeachable integrity of his character, that may distinguish him among his fellow citizens ; as well on account of the many and continuous demands upon the general funds of a large number of these institutions for mere speculative purposes, that are generally permitted to anticipate their resources, as also, perhaps, from the general character of the population, operating to his prejudice—the extreme hazard and apprehension of eventual loss to these institutions, in conceding a pecuniary indulgence of this kind to parties, of whose real circumstances, as in the instance of four-fifths of the trading community of the United States, there is no possible means of ascertaining ; and who, in the case of any accidental failure, or bankruptcy, are encouraged by so many legal opportunities of defrauding creditors, and alike these institutions, of whatever money advances they might perchance have made to them.

It is, perhaps, to these circumstances combined, that we may trace the necessity which has to some extent called forth, as a principal auxiliary in the internal trading of America, this numerous class of money brokers, or “ shavers,” to whom the retail or intermediate dealer is so often compelled to resort, without that he has assumed the only other course, to enable him to carry on his business, assisted by occasional discounts, by ensuring the indorsement on his notes, of some known capitalist, or influential merchant connected with some one of these banking concerns, for which he usually pays

him a per centage on the amount, according to the extent or nature of the collateral security he may place in his hands. So often engrossed are the funds—the entire issueable means of these establishments—bespoke in advance of their usual days of discount, by secret negotiation, and for private and selfish uses of this kind, apart from every legitimate trading necessity, that the best and most unexceptionable commercial paper is frequently uncertain of being received by them, when offered in the customary mode of business. We have known an instance, and in the year 1836, (when there was scarcely any limit placed to the wild and extravagant increase of bank discounts,) and that we believe to be descriptive of many others of daily repetition that occur, where first-rate paper, and for a limited amount, received in the ordinary course of mercantile dealing, and bearing the indorsement of the most unexceptionable wholesale houses, not only of acknowledged solvency, but of large admitted capital, in short, of the first and most respectable mercantile and shipping firms of the city of New York, with scarcely two months to run out their time, refused to be discounted at *eighteen*, comprising at the time, nearly the entire of the New York city banks, from the circumstances of the party presenting the notes, being perhaps a stranger, or from a neighbouring or adjoining state, and because there was no other or secondary object to secure, in conceding to him the accommodation, or any other inducement, beyond his mere

personal convenience, and the usual legal interest of 7 per cent, to which the banks of this state were restricted in their discounts. We have afterwards known this party to take the same paper to Wall Street, (the Lombard Street of New York, and usual whereabouts of the money-changers of this city), as his next alternative, and where, though no breath could be raised, or the shadow of a suspicion attach to the security, which was every way unexceptionable and of the highest character, required to pay two per cent per month on the entire sum, for the residue of the time the notes had to run, before reaching maturity, or else, to forego altogether their being discounted.

Public rumour has very often, and we apprehend with some degree of justice, connected many of these "shaving" establishments, in near association with certain of the New York, and other country banks throughout the several states; and where the pressing necessities of the resident citizen, as of the casual stranger, have been taken advantage of, and oftentimes made to yield to the insatiate avarice of the monied vampires, that are to be found in reasonable abundance in this city, as throughout every other intersection of the Republic. The legal premium of 7 per cent, is insufficient to satisfy the craving for inordinate profits of some of these institutions; while the notes of the establishment, the re-issues of former dates are transferred from their counter to some neighbouring money broker's office, conducted in its various ramifications, in the

name of some apparently disconnected party, for the better avoidance of public scrutiny, and of concealing the very reprehensible conduct of the banking concern, to which it is allied.

The mode of proceeding in these "shaving" concerns, generally evinces a clear and extraordinary aptitude—a cunning and near calculation in the manner of extorting inordinate gain, from the frequent and unexpected exigencies of the many applicants amidst a large commercial community, for pecuniary accommodation; and will perhaps explain the suddenly accumulated wealth of those, who have neither soul nor conscience to restrain their rapacity, or their habitual oppression, under many exacting and trying circumstances.

Very considerable profits are also amassed by these brokers, in the purchase and sale of uncurrent money, the issues of distant banks at a frequently large discount. These notes are often carried by travellers, or transient persons, to the Atlantic cities, to meet their necessary expenses on the way, and on which they are sometimes compelled to lose, from *five*, to *twenty-five* per cent, in afterwards exchanging for local, or current money. But a large proportion of this depreciated currency is actually imported from the interior, or inland states—introduced into the large commercial cities of the seaboard, by the brokers themselves, under a well understood arrangement with the country bank, of whose issues this paper belongs. A large amount of these notes, are from time to time forced into circulation, by means

of the parties who are constrained to seek discounts at these offices, and who are generally required to accept of a certain proportion of these securities, at their nominal, or declared value in payment, as one of the conditions under which they can receive any accommodation whatsoever. After a lapse of some days, and their passing to other hands, probably at a discount, they are again tendered to the broker, who again receives them at a further depreciation, limited only to whatever he may consider to be the necessities of the party, who may now present them to him, to renew the work of plunder by their re-issue, as opportunities may present of doing so.

The loss and inconvenience, as well as the vexation they occasion to the community, is incalculable. But there appears no way of avoiding the difficulty. Should the state of New York, for instance, prohibit their introduction from other states, or proscribe their circulation, these states as a consequent, would immediately retaliate upon New York, and carry on a war of non-intercourse, or of commercial reprisal, that would probably retort with most severity upon the latter state.

Though the law of New York has for several years past interdicted the banks within its jurisdiction, from issuing notes for any lesser amount, or denomination than five dollars, still, are one, and two dollar bills, of the banks of other, especially of the eastern states, in extensive circulation; supplying the stead of a metallic currency, which they have

partly displaced as a circulating medium, and of which the banks of these states, and not of New York, reap the advantage.

It will appear from all that we have stated, that there is scarcely any part of the American system so susceptible of improvement, as that which relates to the domestic exchanges of the country, or rather, which leaves this subject, independent of any general or established rule, to be directed solely by the fluctuations, the uncertain influence of a varying trade between the inland districts and the Atlantic cities. The omissions in the law, in part regulating the many banking concerns that flood the country, and that would otherwise confine them to some general observance in their mode of management, we deem to be an error in legislation, from whatever cause it may proceed, and from which no countervailing advantage can possibly result:—for, were these institutions compelled, as they should be, either to make their notes payable in some principal commercial city, of easy access, within their respective states, or under a still better arrangement, at New York, the great trading emporium of the new world, as well as in the remote town, or isolated district where they are first issued, such a condition in their charter would secure many advantages to the trading community and public generally, from which they are at present altogether debarred; compelling every institution of real solvency, to organize some general agency, wherever their notes should be thus made payable, for the purpose of their more easy

redemption—relieving the public from the more grievous exactions of paying an extreme discount, as is often the case on a large proportion of these issues, forced into circulation by the discreditable agency we have pointed out. This arrangement, if of general adoption, would speedily determine the par of exchange between the great commercial cities of the seaboard, and every part of the interior states, and prevent the fluctuations that so often interfere with the trading business of the country. It is by some such mode of conducting the banking system of the provincial towns in England, that the commercial dealings of its people are so materially assisted; but which America, notwithstanding her rapid advances in general improvement and civilization, still stands in need of. Whenever a bank is established in any of the provincial towns, or cities of the old country, a London agency is immediately appointed as a necessary part of its arrangement, and the bank forthwith commences to issue its bills on London in exchange for cash, payable at some certain number of days after date, varying from ten to twenty-one, according to its distance from the metropolis. It also purchases bills on London, and is not even confined to this, but discounts bills of exchange on any other place in England, or Scotland, and is in every sense, what the Americans would call “a dealer, or dealers in the domestic exchanges of the country.” The difficulties—the uncertainties incidental to the transmission of money, to any, even a limited distance in the United States,

would in a great measure be obviated by an arrangement of this kind, while the extraordinary fluctuations in the exchanges, so remarkable throughout every part of the Republic, and often brought about by undue means, would in great part be put an end to. The Scotch banks manage these matters with even more precision, and charge according to one general table, which regulates the par of exchange between every town and city throughout the country, and the city of Edinburgh.

The present system of foreign exchanges is also subject to very considerable uncertainty and inconvenience. According to the present mode, whenever the exchanges are against America, the parties requiring to make remittances to England, or to any other part of Europe, independent of private accommodation, are compelled to seek gold from the banks in exchange for their notes, for the purpose of transmission. This often creates embarrassment with the banks, that in consequence, are frequently compelled to restrict their issues, beyond what the necessities of trade, under a better and more wholesome organization would require. This difficulty might, nevertheless, be as easily guarded against by the banks in the larger commercial cities, forwarding a portion of their funds to England, or establishing a credit account in London, and against which they could draw bills, in facilitating the transmission of money, without the necessity of transporting the precious metals on every sudden emergency or depression of the exchanges. The

same fluctuations were incidental to the Irish exchanges, until so late a date as 1836, when the Bank of Ireland first assumed the practice of giving bills on London at twenty-one days after date for cash. The only inconvenience to be apprehended or provided against on the adoption of a similar system in the United States, is that which might arise from the encouraging field—the facilities thus opened to the gambling and jobbing propensities of the American banks, of which it is to be apprehended they would, to the very uttermost, take advantage.

The quantity of bullion annually converted into United States money, is of comparatively trifling amount, though, perhaps, sufficient to provide for the necessities of the country, under its present monetary arrangement. Besides the principal United States mint at Philadelphia, there are three other, or branch mints located in the southern States; one at Charlotte, in North Carolina, another at Dahlonega, in Georgia, and the third at New Orleans, in Louisiana; all under the control and supervision of the General Government; their united operations being scarcely more than would give reasonable employment to any one of the four.

The whole coinage of the United States, including the coinage of the branch mints, from the commencement of their working in 1838, for the five years ending 1842, averaged in each year, in value 3,528,143 dollars, which increased in 1843, to 11,967,830.

But there are no circumstances connected with the domestic or internal arrangements of the country, so immediately calculated to promote its advancement or general prosperity, as the facilities given to trade and commerce, in the several modes of intercommunication already made and in progress, and to which the Federal Government has given its utmost aid, in the establishment of post offices and direct mail routes throughout every intersection of the Republic—surmounting difficulties of the most arduous kind, and that could only be found to exist in a young and newly settled country, such as the United States. It cannot be expected, that these arrangements are carried out in the improvements of our English post office establishment, or even in those of the generality of European countries. Still are they beyond the utmost that the most ardent expectation could have realised, from the known difficulties to be overcome, not merely in the extent and unimproved nature of the country to be traversed by mail conveyance, but from the inadequate control possessed by this department over its subordinates, who being scattered over a large extent of country, are in part removed from immediate official observance or interference; as also, from the general inexperience of those employed, and their consequent inefficiency, occasioned by the frequent changes made in this branch of the public service, to suit the political complexion and designs of each succeeding administration; besides the

inanity and proverbial indolence pervading most of the public departments under the present, or federal organization, where the responsibilities are so much divided—so very uncertain and undefined, that they can scarcely be said to concern any person, or any where to exist.

The number of post offices in the United States in 1790, was but 75; the number in 1839, was 12,780; in 1840, 13,468; shewing an increase during the year, of 688. There were established in 1840, 959 post offices, and 271 discontinued. The number on the 5th of December was 13,638, while during the year there have been 3,231 post masters appointed, of whom 959 were for new offices, while 2,272 were to supply vacancies, occasioned by deaths, *dismissals*, or removals from other causes. The number of post offices in 1834, under the administration of the late President Jackson, was 13,841.

The number of contractors in this branch of the public service, during the year 1839, was about 2,100. Of those who were fined, or had deductions made from their pay for delinquencies, or neglect in the performance of their engagements, 628. The fines and deductions during the year 1840, inclusive of remissions, amounted to 60,685 dollars.

The revenue of this department has hitherto failed to defray its expenses, and that have, in consequence, to be provided for from other sources. The average annual expenditure for the six years,

ending 1843, amounted to 4,514,865 dollars; the revenue for the same period, to a sum of 4,412,237, leaving a deficit in each year, of 102,628 dollars.

By a report of the mail service of the United States, for the year ending the 1st of July, 1843, as stated by the first assistant Post-master General, it appears, that the length of routes travelled was 142,295 miles;—that the annual transportation by horse and *sulky*, (an appropriate name for a very unsociable description of one-horse conveyance, of exceedingly light construction, made to carry one person only, and in very general use in the United States) was 11,146,229 miles, at a cost of 602,064 dollars; by stage and coach conveyance, 18,414,174 miles, at a cost of 1,611,568 dollars; and by railroad and steam-boat 5,692,402 miles, at a cost of 733,687 dollars; making a total annual transportation of 35,252,805 miles, at a cost, or outlay, of 2,947,319 dollars.

The whole number of free letters heretofore sent through the post office, is estimated at 3,000,000 annually.

Notwithstanding the efforts made by the government to establish a general system of post office arrangement throughout the Republic, and which the foregoing returns so fully bespeak, there is no other department of the public administration that has given so little of satisfaction, and against which the popular feeling has been more generally excited; not because of its acknowledged subserviency, or the political and party uses to

which it has been applied, but of its asserted insufficiency in securing a more regular and efficient transmission of the correspondence of the country, than has hitherto been the case; without taking into account, the varied difficulties that the department has had to encounter in its ill-requited efforts to this end. "A public service," remarks the honorable the Post-master General, in his annual report to Congress, December 3rd, 1842, "which requires the agency of 13,733 post-masters, and their clerks, 2,343 contractors and their agents, covering during the year 34,835,991 miles of transportation, and extending almost to the door of every citizen, must encounter difficulties, and be subject to occasional irregularities, not only from the neglect of some of its numerous agents, but from physical causes not in the power of this department to overcome.

"When the vast machinery of the General Post Office, the minuteness of its details, and the character of the majority of the roads over which the mail is transported, are contemplated, there should be more astonishment at the general regularity of the service, than of surprise and discontent at occasional failures. Absolute certainty and unbroken regularity in the arrival and departure of the mails at all times, cannot, and ought not to be expected."

These considerations, however reasonable and just they may have been, were insufficient to satisfy the public mind, or to allay the discontent, that frequent disappointment in the transmission of the public correspondence occasioned. Private ex-

presses for the conveyance of letters, were established in 1843, and '44, throughout all the principal cities on the seaboard, and a direct postal communication, carried on by private companies, that superseded the accustomed duties of this department, and which is generally exceeded in the despatch with which its daily transmissions of letters were conducted—as well as outbid in the reduced postage for which they were conveyed. The “American Letter Mail Company,” established by private undertaking in New York, carried their letters by daily express at the following rates, viz. :—

To Boston	6¼ cents	General Post Office	18¾ cents
„ Philadelphia	6¼ „	„ „	12½ „
„ Albany	5 „	„ „	12½ „
„ Troy	5 „	„ „	18¾ „

These expresses, conducted with all the publicity and exactness of the Post Office department, were not only in opposition to the views of the general Government, but directly aimed at its supremacy, and would appear to have been established in direct violation of the law, under the Federal compact subsisting between these states, that if not infringed in its positive legal interpretation, was certainly contravened in its intent and implied meaning, by these proceedings.

The 8th section of the 1st Article of the Constitution, in relation to this subject, declares, “Congress shall have power to establish post offices and post roads.”

It will scarcely be supposed, that the authority

thus vested in the general Government, was intended to restrict it to the mere constructing of post roads, to be afterwards travelled by private companies, employed in the conveyance of public mails, but that it should assume to itself the duties and responsibilities of this arduous and important trust, for the general welfare, to the exclusion of every other, or private authority whatsoever.

This very obvious intendment of the framers of the Constitution, which has been so fully acquiesced in by the entire people, up to a very recent period, may possibly have occasioned their leaving a question of this material consequence, subject to the slightest legal misrepresentation, or the possibility of any future advantage being taken of its insufficiency, to carry out by its actual, or specific wording, the very ample and exclusive powers it was very evidently intended to confer. But as the direct and positive signification, and not its spirit or context, is the controlling guide in directing the citizens of these states in its due and proper observance, we consequently find advantage being taken of a constrained interpretation of this clause in the Federal Constitution, to supersede the functions of Government in this very necessary part of their most important trusts, by the numerous parties who allied themselves together for this purpose, to the great detriment and loss of revenue to this department.

They contended, that though Congress may have possessed, under the Federal compact, a direct power to establish "post offices and post roads," and even

an implied authority to convey letters and parcels throughout the Republic,—that, nevertheless, there existed no authoritative, or restrictive law prohibiting individuals, or companies, from exercising this right, more especially by steam-boat and railroad travel, modes of conveyance that were not contemplated by the framers of the Constitution ; and that the Federal law, even in its opposite and forced construction, could never recognize the privilege, as assured to the general Government in an unequal and unjust monopoly, to the exclusion of the general public, or citizens of these states.

This question, distinguished as it has been, not only by its great commercial importance, but from its exceeding novelty in the internal legislation of modern governments, was brought to an issue in the latter part of the year 1843, by the institution of legal proceedings in the Supreme Court of the United States, for the southern district of New York, at the suit of the United States, against the commercial firm of Adams and Co., of that city, for an alleged infraction of the Federal law, in assuming the public conveyance of letters and parcels for hire, and which it was contended, was restricted to the general Government of the country, under the Constitution. These proceedings, after a lengthened investigation, resulted in a verdict for the defendants.

A further attempt to establish the exclusive right contended for by the Government, was made at Boston, in the month of June following, by the in-

stitution of a suit on behalf of the United States, against the agent of the "American letter Mail Company," for a violation of the laws of the United States, in carrying letters out of the mail, which was tried before the Honourable Judge Story, one of the most eminent of American jurists, and who is reported to have declared on the trial, in interpreting that part of the Federal Constitution bearing on this subject, "that there was some doubt whether any mail route existed in the United States, which would come under the legal term 'established by law.' There were mail routes it was true, but there was no law, making one road or another a specific mail route. Mail carriers were not required to carry the mail on particular roads; they were only required to reach particular points, designated as post offices, within given times. That a still more important question lay behind all these,—and that was, whether the Government had by the Constitution, any *exclusive* right to set up post offices and post roads, or whether its jurisdiction extended any further, than the right to make laws, regulating the conduct of those actually employed in the service of the United States mail. His own opinions were opposed to any exclusive right on the part of the Government." The consequence of which decision was, the immediate withdrawal of the action, and entire abandonment of the proceedings.

The report of the Post-master General, December 2nd, 1843, submitted to Congress in relation to

this subject, bears so materially on the question in issue, that we extract the following, wherein he states :—

“ It will appear by a reference to the statement of the gross revenue of this department for the years 1841, 1842, and 1843, that while the revenue of 1842 was greater than that of 1841, that of 1843 is less by 250,320 dollars than the revenue of 1842.

“ The causes of this declension in the revenue of 1843, may be various ; some referring them to the state of the business of the country. I am, however, fully persuaded by facts and testimony, which have been brought to my knowledge, that one cause, if not the principal one, may be ascribed to the operations of the numerous private posts, under the name of expresses, which have sprung into existence within the past few years, extending themselves over the mail roads between the principal cities and towns, by which, and at which, the railroads pass and terminate. That these private posts are engaged in the business of transporting letters and mail matter, for pay, to a great extent, is a fact which will not be seriously controverted. That the revenue of the department has been greatly reduced by their operations, no one will question who will investigate the facts.

“ The laws for the punishment of offences for transporting mail matter over post roads, were enacted when the transportation of the United States mail was confined to stages, steamboats, and horses. Railroads were not then in existence in the United States, and the penal sanctions of the law are not adequate to the suppression of the practice.

“ Railroads, whilst they are the most extensive mode of transporting the United States mail, furnish to those who choose, the earliest and cheapest mode of violating the laws prohibiting the establishment of private posts. Duty compels me to state it as my opinion, that without further legislation upon this subject by Congress, the revenue of the department will in time be so far affected, by the inroads of private expresses, that the service will either have to be reduced below the just wants of the public,

or appropriations from the General Treasury will be required to meet the current expenditure of the department.

“ In the course of the past year I have been called upon to express my opinions upon the subject officially. These opinions have been attacked, and controverted by many ; and the question is distinctly presented whether the power granted to Congress to establish post offices and post roads, is plenary and exclusive.

“ It is contended by some, that though this power is granted to Congress, individuals and companies have a right to carry on the business of transporting letters, &c. over the post roads of the United States, and all laws which forbid them are void, and usurpations on individual right.

“ Others contend, that the Post Office system is an odious monopoly, and ought to be abolished. These are the grave questions urged by a portion of a powerful press, and sustained by the influence of those whose interests are involved. They are questions, which, if they have not been settled by the legislative and judiciary departments of the Government, should now be settled.

“ The power to establish post offices, and post roads, was exercised by Congress under the Articles of Confederation. From the moment Congress thus assumed the power by the sanction of the states, no state, or citizen of a state, presumed to exercise the right. If there be any one subject, concerning the internal interests of the states and the people, which should be regarded as purely national, it is the business of transporting by the authority of law, and of right, letters from one state to, and through another. A uniform, equal, and harmonious system, can only be conducted by a power coextensive with that system. It is absurd, therefore, to contend that the mail system can be left with the states, or to individual enterprise. The members of the convention who formed the Constitution, understood this subject better. They knew that the control of this subject must be confided to a power which pervaded *pro hac vice*, the whole sphere of its operations : consequently, among the leading prominent grants of power by the states to Congress, is the

grant over this subject in the following words :—“Congress shall have power to establish post offices and post-roads.”

“This grant of power is found in the same clause, and is expressed in the same words and language of the grants of power to coin money, to regulate commerce, to declare war, &c. It is a grant which covers the whole ground; it is ample, full, and consequently, exclusive. If doubt could exist as to the exclusiveness of this grant, that doubt must vanish upon a reference to the 10th Article of the Amendments to the Constitution, which declares,—“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.” The power to establish post offices, and post roads, is plainly, and distinctly delegated to the United States. It is, therefore, not a power reserved to the states respectively, or to the people.

“I will not extend, or elaborate an argument upon a proposition so plain, and which, I conceive, has been settled and adjusted by all the departments of the Government and the people themselves.”

This controversy between the American people and their Government, or we should, perhaps, with more correctness say, between the people and their own made laws, presents features of no usual or ordinary character, exemplifying as it does, the internal working of a system replete with difficulties to its efficient direction and management—so opposite to the general principle on which European nations are accustomed to be governed, and where the manifest and positive intent and spirit of the laws, as well their actual wording, assist in determining their proper legal import. The Federalism of America is, however, of a very different complexion—is regulated by a more limited or circumscribed principle—directed by the meaning

applicable to the words in their restricted signification, in which its laws are made, under the apprehension, it may be, of overstepping the limits of a compact, by which the machinery of their Government and institutions are held together, or of infringing the asserted rights, that each intersection of this vast confederacy claims to exercise under their peculiar organization.

The recent history of America has familiarised us with the many difficulties proceeding from this source; the want of harmony and general inefficiency of the laws—their instability—the uncertainty that every varying interpretation of their more positive meaning so necessarily create, and which has reduced the supreme power of these states to the decrepid state of imbecility and weakness, of which this late instance furnishes us with another and sufficient example.

The reductions made in the charge of letter conveyance by the expresses of private companies, occasioned a general anxiety for a further diminution of this very onerous tax. The example of England, in her late Post-Office reform, and conversion to the penny postage system, excited the people to demand a similar boon from Congress, and to which petitions were presented from all parts of the Republic, calling loudly for the alteration. The law, as it then stood, was, by the result of the legal decisions to which we have referred, no longer able to secure to the general Government the exclusive right of conveyance of the United States

mail, which private enterprise would have usurped in every instance, without that the general postage charges of the country should be reduced to a standard, commensurate with the necessities and demands of the population, and that would render any undertaking of this kind no longer profitable in the hands of private speculation. It was impelled by these considerations, rather than conceding to the expressed will of the people in their numerous petitions, that a bill was passed through both Houses of Congress; and received the presidential assent, to take effect on the 1st of July in the present year, 1845, by which an entire revision has been effected in the post-office department, and a reduction made in the charge for letter conveyance and parcels by the United States' Mail, if not to the immediate standard of the British Post-Office regulations in this respect, at least approximating very nearly to it, in fact, as in principle.

The new, or present rate of postage is as follows—

ON LETTERS.

Single letters, or any number of pieces not exceeding		
half an ounce, 300 miles or less	. . . . .	5 cents.
If over 300 miles	. . . . .	10 „
Drop letters (not mailed)	. . . . .	2 „
For each additional half ounce, or part thereof, add single postage thereto.		

ON NEWSPAPERS.

Newspapers of 1900 square inches, or less, sent by editors or publishers from their office of publication, any distance not over 30 miles Free.

Over 30, and not exceeding 100	1 cent.
Over 100 miles, and out of the State	1½ ,,
All sizes over 1900 square inches, postage same as pamphlets.	

ON PAMPHLETS.

Pamphlets, magazines, and periodicals, any distance, for one ounce or less, each copy	2 cents.
Each additional ounce, or fractional part of an ounce	1½ ,,

ON CIRCULARS.

Quarto post, single cap, or papers not larger than single cap, folded, directed, and unsealed, for every sheet, any distance	2 cents.
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The franking privilege is considerably restricted, being confined to the Executive, Presidents of the United States, their widows, and on letters to and from members of Congress.

The revenues of the United States' Post-Office, as already observed, has seldom heretofore paid its expenses, which generally required large deficiencies to be provided for from other sources. Whatever its conduct, and the public advantage secured through its means, it must still be admitted, that no other department of the public administration has secured so much of the public obloquy, or so fully justified its dislike. Created for the purpose of assuring the public accommodation, and sustained by a lavish expenditure of the public money, it has become the dependent and pliant instrument of every succeeding administration, being the mere creature of the executive will, that can make and unmake as it may think proper, from the Post-

master General to the veriest subordinate belonging to the establishment—comprising, as we are further assured in the report, from which we have just quoted, “some 20,000 agents and officers scattered over the vast extent of the United States’ territory;” it is difficult to overrate the influence that its joint or concurrent action must always possess, in creating public opinion in the country, and in giving it a direction and impetus, whilst its services are generally conceded with the earnestness and devotion that a consciousness of its utter dependence must inspire, and a knowledge, that the tenure of office of 19-20ths belonging to this department, rests upon the political party to which it is allied continuing in the ascendant,—and with the perfect understanding, of being turned adrift, unprovided for upon the world, whenever that public opinion, operating as the means, may supersede it in the administration and government of the country. It is necessary, we admit, that a control throughout all branches of the public service should exist somewhere, especially over a department, on the proper organization of which, and the due and efficient performance of its duties, so large a portion of the public comfort—the exigencies of commerce; and trade of every kind depends; and that we conceive would be far better promoted by removing its subordinates from the vortex of politics—of political wrangling and interference, and confining them to the more becoming and legitimate occupation of their official calling.

But as these are matters that more properly appertain to our transatlantic friends, than with which to trouble the reader, we shall take leave, by recommending them as fitting subjects for the dispassionate consideration of every American, whilst we turn to consider a more important element in the moral and social condition of the country—the present state of domestic slavery within the United States.

END OF VOL. I.







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