on the north by some petty semi-independent hill chiefships, mostly subordinate to Kashmir, and by the Karakorum mountains; on the east by Chinese Thibet; on the south and west by the Punjab districts and the Hazara country." "The provinces of Kashmir and Jamu form the most important part of the State."—W. W. Hunter, *Imperial Gazetteer of India, v.* 5. — The "Vale of Kashmir," the "happy valley," whose beauties have been the theme of many poets, is traversed by the river Jhelum and has a length of about 90 miles. "Nowhere in Asia, nor even perhaps in the remaining quarters of the globe, can the parallel be found of such an earthly paradise; a paradise in itself as formed by Nature, but made doubly beautiful by its surroundings. For these are bare, rugged, and frowning rocks, a wilderness of crags and mountains, . . . a solitary and uninhabitable waste. Yet in the midst of this scene of unutterable desolation there lies spread out a wide expanse of verdant plain, a smiling valley, a veritable jewel in Nature's own setting of frightful precipices, everlasting snows, vast glaciers, which, while adding to its beauty by the contrast, serve also as its protection. Shielded from the cold and piercing blasts of the higher regions that surround it on the north, . . . its elevation places it beyond the reach of the fiery heat of India's sunny plains; and thus it exhibits, in the midst of a wide waste of desolation, a scene of almost constant verdure and perpetual spring. . . . The country of Kashmir . . . appears from all accounts to have been ruled from a very remote period in the world's history by a long succession of native princes, sometimes Hindu, and sometimes, perhaps, of Tartar origin. In Professor Wilson's essay on 'The Hindu History of Kashmir' . . . a list of kings is given who are said to have ruled after a line of 35 princes whose names have been forgotten. . . . About the year 1015 . . . [Mahmud of Ghazni — see TURKS: 999–1183] took possession of the Valley, holding it and the surrounding mountains for some considerable time. The Mohammedans do not appear to have established at that time a permanent footing in the country, which reverted again to its Hindu kings." These, in turn, were overcome, in the 14th century, by invaders from Tibet, who ruled the country for a season, but were finally expelled by the tribe of the Chakk, the ancient warriors of Kashmir. The throne was then held by Chakk princes until the year 1587, when the last of the line, Yakub Khan, after a brave and protracted resistance, was finally defeated by the armies of the great Akbar [see INDIA: A. D. 1399–1605], who annexed it. From that time to the present day the Valley has always continued under a foreign yoke. For over a period of a century and a half Kashmir remained a portion of the Mogul Empire, its affairs being administered by a resident 'Subadar,' or governor. Frequent were the visits of the members of the House of Delhi to this, their fairest province. . . . With the exception of the ruins that denote its earlier history, all the remains of gardens, groves, baths, fountains, and palaces, that are still to be observed in the Valley, owe their origin to the lavish and magnificent tastes of the different members of that truly Oriental regal family. The decline of the Mogul Empire, hastened by the capture of Delhi by Nadir Shah, in 1739, occasioned changes in the Valley; and after several abortive attempts on the part of its governors to establish an independent rule, it was annexed in the year 1753 by Ahmed Shah Abdali, the successor of the conqueror of Delhi, and included in the Dourani Empire, which extended in those days as far as the capital of the Punjab [see INDIA: A. D. 1662–1748; and 1747–1761]. From 1755 to 1819 it remained a portion of this empire, being governed by Pathan governors, whose rule was neither mild nor beneficial. It was with a feeling of satisfaction that the inhabitants of the country welcomed the change of masters which occurred in the month of July of the latter year, when the forces of Ranjit Singh defeated the Pathans, and it became a part of the Sikh dominions [see SIKHS], remaining so until their downfall, when, falling into the hands of the British by right of conquest, it was by them transferred to the family of its present ruler. . . . Relinquishing all the advantages that accrued to us from its possession, the supreme government sold this fair province to the Rajah Gulab Singh for the paltry and insignificant sum of 75 lacs of rupees, £750,000 in our money." — W. Wakefield, *The Happy Valley, ch.* 1 *and* 3. — Kashmir is still ruled by a prince of the family of Gulab Singh, but as a feudatory state, under British suzerainty.

KASKASKIA, French settlement of. See ILLINOIS: A. D. 1751.

A. D. 1778.—Taken by the Virginian General Clark. See UNITED STATES OF AM.: A. D. 1778–1779.—CLARK'S CONQUEST.

KASKASKIAS, The. See AMERICAN ABORIGINES: ALGONQUIAN FAMILY.

KASSHITE, OR KASSITE DYNASTY. See SEMITES: FIRST BABYLONIAN EMPIRE.

KASSOPIANS. See EPIRUS.

KATABA, OR CATAWBAS, The. See AMERICAN ABORIGINES: TIMUQUANAN FAMILY, and SIOUAN FAMILY.

KATANA, Naval Battle of. See SYRACUSE: B. C. 397–396.

KATZBACH, Battle of. See GERMANY: A. D. 1813 (AUGUST).

KAUS, OR KWOKWOOS, The. See AMERICAN ABORIGINES: KUSAN FAMILY.

KAWS, The. See AMERICAN ABORIGINES: SIOUAN FAMILY.

KAZAN, The Khanate of. See MONGOLS: A. D. 1238–1391.

KEARNEYITES. See CALIFORNIA: A. D. 1877–1880.

KEARNEY'S EXPEDITION. See NEW MEXICO: A. D. 1846.

KEARSARGE, The. See ALABAMA CLAIMS: A. D. 1862–1864. — The Kearsarge was wrecked on Roncador Reef in the Caribbean Sea, Feb. 2, 1894.

KEDAR, Tribe of.—The Arabs of the tribe of Kedar inhabited the southern portion of Yemama, on the borders of the desert.

KEECHIES, The. See AMERICAN ABORIGINES: PAWNEE (CADDOAN) FAMILY.

KEEPER OF THE GREAT SEAL, Lord. See LAW, EQUITY: A. D. 1538.

KEEWATIN, District of.—In 1876 an act was passed by the Dominion Parliament [Canada] erecting into a separate government under this name the portion of the North-West Territory lying to the north of Manitoba.

KEFT.—The ancient Egyptian name of Phœnicia.

KEHL: A. D. 1703.—Taken by the French. See NETHERLANDS: A. D. 1702–1704.

A. D. 1733.—Taken by the French. See FRANCE: A. D. 1733–1735.

KEITH, George, The schism and the controversies of. See PENNSYLVANIA: A. D. 1692–1696.

KELLY'S FORD, Battle of. See UNITED STATES OF AM.: A. D. 1863 (JULY—NOVEMBER: VIRGINIA).

KELTS, The. See CELTS, THE.

KEM, OR KAMI, OR KHEMI. See EGYPT: ITS NAMES.

KENAI, The. See AMERICAN ABORIGINES: BLACKFEET, and ATHAPASCAN FAMILY.

KENDALL, Amos, in the "Kitchen Cabinet" of President Jackson. See UNITED STATES OF AM.: A. D. 1829.

KENESAW MOUNTAIN, Battle of. See UNITED STATES OF AM.: A. D. 1864 (MAY—SEPTEMBER: GEORGIA).

KENITES, The. See AMALEKITES, THE.

KENT, Chancellor, and American Jurisprudence. See LAW, EQUITY: A. D. 1814–1823.

KENT, Kingdom of.—Formed by the Jutes in the southeast corner of Britain. See ENGLAND: A. D. 449–473.

KENT, Weald of. See ANDERIDA.

KENT'S HOLE.—One of the most noted of the caves which have been carefully explored for relics of early man, coeval with extinct animals. It is in Devonshire, England, near Torquay.—W. B. Dawkins, *Cave Hunting*.

KENTUCKY: A. D. 1748.—First English exploration from Virginia. See OHIO (VALLEY): A. D. 1748–1754.

A. D. 1765-1778.—Absence of Indian inhabitants.—Early exploration and settlement by the whites.—The colony of Transylvania.—In the wars that were waged between the Indian tribes of the South, before the advent of white settlers, Kentucky became "a sort of borderland such as separated the Scots and English in their days of combat. . . . The Chickasaws alone held their ground, being the most northern of the sedentary Southern Indians. Their strongholds on the bluffs of the Mississippi and the inaccessibility of this country on account of its deep, sluggish, mud-bordered streams, seem to have given them a sufficient measure of protection against their enemies, but elsewhere in the State the Indians were rooted out by their wars. The last tenants of the State, east of the Tennessee River, were the Shawnees,—that combative folk who ravaged this country with their ceaseless wars from the head-waters of the Tennessee to the Mississippi, and from the Lakes to Alabama. It was no small advantage to the early settlers of Kentucky that they found this region without a resident Indian population, for, bitter as was the struggle with the claimants of the soil, it never had the danger that would have come from a contest with the natives in closer proximity to their homes. . . . As Kentucky was unoccupied by the Indians, it was neglected by the French. . . . Thus the first settlers found themselves, in the main, free from these dangers due to the savages and their Gallic allies. The land lay more open to their occupancy than any other part of this country ever did to its first European comers. . . . In 1765 Colonel George Croghan, who had previously visited the Ohio with Gist, made a surveying journey down that stream from Pittsburg to the Mississippi. . . . In 1766 a party of five persons, including a mulatto slave, under the command of Captain James Smith, explored a large part of what is now Tennessee, and probably extended their journey through Southern Kentucky. Journeys to Kentucky now became frequent. Every year sent one or more parties of pioneers to one part or another of the country. In 1769 Daniel Boone and five companions, all from the Yadkin settlements in North Carolina, came to Eastern Kentucky. One of the party was killed, but Boone remained, while his companions returned to their homes. Thus it will be seen that Boone's first visit was relatively late in the history of Kentucky explorations. Almost every part of its surface had been traversed by other explorers before this man, who passes in history as the typical pioneer, set foot upon its ground. In the time between 1770 and 1772 George Washington, then a land-surveyor, made two surveys in the region which is now the northeast corner of Kentucky. . . . The first distinct effort to found a colony was made by James Harrod and about forty companions, who found their way down the Ohio near to where Louisville now stands, and thence by land to what is now Mercer County, in Central Kentucky, where they established, on June 16, 1774, a village which they called, in honor of their leader, Harrodsburg. Earlier attempts at settlement were made at Louisville, but the fear of Indians caused the speedy abandonment of this post . . . In 1775 other and stronger footholds were gained. Boone built a fort in what is now Madison County, and Logan another at St. Asaphs, in Lincoln County. The settlement of Kentucky was greatly favored by the decisive victory gained by Lord Dunmore's troops over the Indians from the north of the Ohio, at the mouth of the Kanawha [see OHIO VALLEY: A. D. 1774]. . . . That the process of possessing the land was going on with speed may be seen from the fact that Henderson and Company, land-agents at Boonesborough, issued from their office in the new-built fort entry certificates of surveys for 560,000 acres of land. The process of survey was of the rudest kind, but it served the purpose of momentary definition of the areas, made it possible to deal with the land as a commodity, and left the tribulations concerning boundaries to the next generation. These land deeds were given as of the 'colony of Transylvania,' which was in fact the first appellation of Kentucky, a name by which it was known for several years before it received its present appellation. At this time, the last year that the work of settling Kentucky was done under the authority of his majesty King George III., there were probably about 150 men who had placed themselves in settlements that were intended to be permanent within the bounds of what is now the Commonwealth of Kentucky. There may have been as many more doing the endless exploring work which preceded the choice of a site for their future homes. The men at Boone's Station claimed, and seem to have been awarded, a sort of hegemony among the settlements. On the

23d of May, at the call of Colonel Henderson, the land-agent of the proprietors, delegates from these settlements met at Boonesborough, and drew up a brief code of nine laws for the government of the young Commonwealth. . . . The Boonesborough parliament adjourned to meet in September, but it never reassembled. The venture which led to its institution fell altogether to ruin, and the name of Transylvania has been almost entirely forgotten. . . . The colony of Transylvania rested on a purchase of about 17,000,000 acres, or about one half the present area of Kentucky, which was made by some people of North Carolina from the Overhill Cherokee Indians, a part of the great tribe that dwelt on the Holston River. For this land the unfortunate adventurers paid the sum of £10,000 of English money. . . . Immediately after the Boonesborough parliament the position of the Transylvania company became very insecure; its own people began to doubt the validity of the titles they had obtained from the company, because, after a time, they learned from various sources that the lands of this region of Kentucky had been previously ceded to the English government by the Six Nations, and were included in the Virginia charter. In the latter part of 1775, eighty men of the Transylvania settlement signed a memorial asking to be taken under the protection of Virginia; or, if that colony thought it best, that their petition might be referred to the General Congress. . . . The proprietors of the colony made their answer to this rebellion by sending a delegate to the Federal Congress at Philadelphia, who was to request that the colony of Transylvania be added to the number of the American colonies. . . . Nothing came of this protest. Congress refused to seat their delegate. Patrick Henry and Jefferson, then representing Virginia, opposing the efforts of the proprietors. The Governor of North Carolina issued a proclamation declaring their purchase illegal. The colony gradually fell to pieces, though the State of Virginia took no decided action with reference to it until, in 1778, that Commonwealth declared the acts of the company void, but, in a generous spirit, offered compensation to Colonel Henderson and the other adventurers. The Transylvania company received 200,000 acres of valuable lands, and their sales to actual settlers were confirmed by an act of the Virginia Assembly. Thus the strongest, though not the first, colony of Kentucky, was a misadventure and quickly fell to pieces."—N. S. Shaler, *Kentucky, ch.* 5-7.

ALSO IN: T. Roosevelt, *The Winning of the West, v.* 1, *ch.* 6 *and* 8-12.

A. D. 1768.—The Treaty with the Six Nations at Fort Stanwix.—Pretended cession of the country south of the Ohio. See UNITED STATES OF AM.: A. D. 1765-1768.

A. D. 1774.—The western Territorial claims of Virginia.—Lord Dunmore's war with the Indians. See OHIO (VALLEY): A. D. 1774.

A. D. 1775-1784.—A county of Virginia.—Indian warfare of the Revolution.—Aspirations towards State independence.—"In the winter of 1775 Kentucky was formed into a county of Virginia. . . . About this time Harrodsburg, Boonesborough and Logan's Fort were successively assailed by the Indians. They withstood the furious attacks made upon them; not, however, without great loss. During the succeeding summer they were considerably reinforced by a number of men from North Carolina, and about 100 under Col. Bowman from Virginia. In 1778 Kentucky was invaded by an army of Indians and Canadians under the command of Captain Duquesne; and the expedition of Col. George Rodgers Clark against the English post of Vincennes and Kaskaskia took place this year. In February of this year Boone, with about 30 men, was engaged in making salt at the Lower Blue Licks, when he was surprised by about 200 Indians. The whole party surrendered upon terms of capitulation. The Indians carried them to Detroit, and delivered them all up to the commandant, except Boone, whom they carried to Chilicothe. Boone soon effected his escape. . . . After . . . some weeks . . . Captain Duquesne, with about 500 Indians and Canadians, made his appearance before Boonesborough, and besieged the fort for the space of nine days, but finally decamped with the loss of 30 men killed, and a much greater number wounded. . . . About the first of April, 1779, Robert Patterson erected a block house, with some adjacent defenses, where the city of Lexington now stands. This year, the celebrated land law of Kentucky was passed by the Legislature of Virginia, usually called the Occupying Claimant Law. The great defect of this law was, that Virginia, by this act, did not provide for the survey of the country at the expense of the State. . . . Each one holding a warrant could locate it where he pleased, and survey it at his own cost. . . . The consequence of this law was . . . a flood of emigration during the years 1780 and 1781. During this period the emigrants were greatly annoyed by the frequent incursions of the Indians, and their entire destruction sometimes seemed almost inevitable. This law was a great feast for the lawyers of that day. . . . In November, 1780, Kentucky was divided into three counties, bearing the names of Fayette, Lincoln, and Jefferson. . . . In 1782, Indian hostility was earlier, more active and shocking than it had ever been in the country before; a great battle was fought upon Hinkston's Fork of the Licking, near where Mt. Sterling now stands, in which the Indians were victorious. In this battle, Estill, who commanded the whites, and nearly all of his officers, were killed. Near the Blue Licks another battle was soon afterwards fought with Captain Holder, in which the whites were again defeated; in both these last mentioned battles the contending foe were Wyandottes. . . . Peace was made with Great Britain in 1783, and hostilities ceased; hostilities with the Indians also for a time seemed suspended, but were soon renewed with greater violence than ever. During the cessation of hostilities with the Indians, settlements in Kentucky advanced rapidly. . . . As early as 1784 the people of Kentucky became strongly impressed with the necessity of the organization of a regular government, and gaining admission into the Union as a separate and independent State; but their efforts were continually perplexed and baffled for the space of eight years before their desire was fully accomplished. And though they were often tempted by Spain with the richest gifts of fortune if she would declare herself an independent State, and although the Congress of the Confederated States continually turned a deaf ear to her reiterated complaints and grievances, and repulsed her in every

effort to obtain constitutional independence, she maintained to the last the highest respect for law and order, and the most unswerving affection for the Government. . . . With the view to admission into the Union as an independent State, there were elected and held nine Conventions in Kentucky within the space of eight years."—W. B. Allen, *Hist. of Kentucky, ch.* 2–3.

ALSO IN: J. M. Brown, *Political Beginnings of Kentucky.*

A. D. 1778-1779. — Conquest of the Northwest by the Virginian General Clark, and its annexation to the Kentucky District. See UNITED STATES OF AM.: A. D. 1778–1779 CLARK'S CONQUEST.

A. D. 1781-1784. — Conflicting territorial claims of Virginia and New York and their cession to the United States. See UNITED STATES OF AM.: A. D. 1781–1786.

A. D. 1785-1800.—The question of the free navigation of the Mississippi.—Discontent of the settlers.—Intrigues of Wilkinson. See LOUISIANA: A. D. 1785–1800.

A. D. 1789-1792.—Separation from Virginia and admission to the Union as a State.—"In the last days of the Continental Congress, Virginia, after some struggles, having reluctantly consented to her organization on that condition as an independent state, Kentucky had applied to that body for admission into the confederacy. That application had been referred to the new federal government about to be organized, a delay which had made it necessary to recommence proceedings anew; for the Virginia Assembly had fixed a limitation of time, which, being over-past, drove back the separatists to the original starting-point. On a new application to the Virginia Legislature, a new act had authorized a new Convention, being the third held on that subject, to take the question of separating into consideration. But this act had imposed some new terms not at all agreeable to the Kentuckians, of which the principal was the assumption by the new state of a portion of the Virginia debt, on the ground of expenses incurred by recent expeditions against the Indians. The Convention which met under this act proceeded no further than to vote a memorial to the Virginia Legislature requesting the same terms formerly offered. That request was granted, and a fourth Convention was authorized again to consider the question of separation, and, should that measure be still persisted in, to fix the day when it should take place. Having met during the last summer [1790], this Convention had voted unanimously in favor of separation; had fixed the first day of June, 1792, as the time; and had authorized the meeting of a fifth Convention to frame a state Constitution. In anticipation of these results, an act of Congress was now passed [Feb. 4, 1791] admitting Kentucky into the Union from and after the day above mentioned, not only without any inspection of the state Constitution, but before any such Constitution had been actually formed." In the Constitution subsequently framed for the new state of Kentucky, by the Convention appointed as above, an article on the subject of slavery "provided that the Legislature should have no power to pass laws for the emancipation of slaves without the consent of their owners, nor without paying therefor, previous to such emancipation, a full equivalent in money; nor laws to prevent immigrants from bringing with them persons deemed slaves by the laws of any one of the United States, so long as any persons of like age and description should be continued in slavery by the laws of Kentucky. But laws might be passed prohibiting the introduction of slaves for the purpose of sale, and also laws to oblige the owners of slaves to treat them with humanity."—R. Hildreth, *Hist. of the U. S., v.* 4, *ch.* 3–4.

ALSO IN: J. M. Brown, *The Political Beginnings of Kentucky.*

A. D. 1790-1795.—War with the Indian tribes of the Northwest.—Disastrous expeditions of Harmar and St. Clair, and Wayne's decisive victory. See NORTHWEST TERRITORY: A. D. 1790–1795.

A. D. 1798.—The Nullifying resolutions. See UNITED STATES OF AM.: A. D. 1798.

A. D. 1861 (January—September).—The struggle with Secession and its defeat.—"Neutrality" ended.—"In the days when personal leadership was more than it can ever be again, while South Carolina was listening to the teachings of John C. Calhoun, which led her to try the experiment of secession, Kentucky was following Henry Clay, who, though a slaveholder, was a strong Unionist. The practical effect was seen when the crisis came, after he had been in his grave nine years. Governor Beriah Magoffin convened the Legislature in January, 1861, and asked it to organize the militia, buy muskets, and put the State in a condition of armed neutrality; all of which it refused to do. After the fall of Fort Sumter he called the Legislature together again, evidently hoping that the popular excitement would bring them over to his scheme. But the utmost that could be accomplished was the passage of a resolution by the lower house (May 16) declaring that Kentucky should occupy 'a position of strict neutrality,' and approving his refusal to furnish troops for the National army. Thereupon he issued a proclamation (May 20) in which he 'notified and warned all other States, separate or united, especially the United and Confederate States, that I solemnly forbid any movement upon Kentucky soil.' But two days later the Legislature repudiated this interpretation of neutrality, and passed a series of acts intended to prevent any scheme of secession that might be formed. It appropriated $1,000,000 for arms and ammunition, but placed the disbursement of the money and control of the arms in the hands of Commissioners that were all Union men. It amended the militia law so as to require the State Guards to take an oath to support the Constitution of the United States, and finally the Senate passed a resolution declaring that 'Kentucky will not sever connection with the National Government, nor take up arms with either belligerent party.' Lovell H. Rousseau (afterward a gallant General in the National service), speaking in his place in the Senate, said: 'The politicians are having their day; the people will yet have theirs. I have an abiding confidence in the right, and I know that this secession movement is all wrong. There is not a single substantial reason for it; our Government had never oppressed us with a feather's weight.' The Rev. Robert J. Breckinridge and other prominent citizens took a similar stand, and a new Legislature, chosen in August, presented a Union majority of three to one. As a

last resort, Governor Magoffin addressed a letter to President Lincoln, requesting that Kentucky's neutrality be respected and the National forces removed from the State. Mr. Lincoln, in refusing his request, courteously reminded him that the force consisted exclusively of Kentuckians, and told him that he had not met any Kentuckian except himself and the messengers that brought his letter who wanted it removed. To strengthen the first argument, Robert Anderson, of Fort Sumter fame, who was a citizen of Kentucky, was made a General and given the command in the State in September. Two months later, a secession convention met at Russellville, in the southern part of the State, organized a provisional government, and sent a full delegation to the Confederate Congress at Richmond, who found no difficulty in being admitted to seats in that body. Being now firmly supported by the new Legislature, the National Government began to arrest prominent Kentuckians who still advocated secession, whereupon others, including ex-Vice-President John C. Breckinridge, fled southward and entered the service of the Confederacy. Kentucky as a State was saved to the Union, but the line of separation was drawn between her citizens, and she contributed to the ranks of both the great contending armies."—R. Johnson, *Short Hist. of the War of Secession, ch.* 5.

Also in: N. S. Shaler, *Kentucky, ch.* 15.—E. P. Thompson, *Hist. of First Ky. Brigade, ch.* 2.

A. D. 1861 (April).—Governor Magoffin's reply to President Lincoln's call for troops. See United States of Am.: A. D. 1861 (April).

A. D. 1862 (January—February).—Expulsion of Confederate armies along the whole line. See United States of Am.: A. D. 1862 (January—February: Kentucky—Tennessee).

A. D. 1862 (August—October).—Bragg's invasion.—Buell's pursuit.—Battle of Perryville. See United States of Am.: A. D. 1862 (June—October: Tennessee—Kentucky).

A. D. 1863 (July).—John Morgan's Raid. See United States of Am.: A. D. 1863 (July: Kentucky).

KENTUCKY RESOLUTIONS, The. See United States of Am.: A. D. 1798.

KENYER-MESÖ, Battle of (1479). See Hungary: A. D. 1471–1487.

KENYON COLLEGE. See Education, Modern: America: A. D. 1769–1884.

KERAMEIKOS, The. See Ceramicus of Athens.

KERBELA, The Moslem tragedy at. See Mahometan Conquest: A. D. 680.

KERESAN FAMILY, The. See American Aborigines: Keresan Family.

KERESTES, OR CERESTES, Battle of (1596). See Hungary: A. D. 1595–1606.

KERMENT, Battle of (1664). See Hungary: A. D. 1660–1664.

KERNE. See Rapparees.

KERNSTOWN, Battles of. See United States of Am.: A. D. 1861–1862 (December—April: Virginia); and 1864 (July: Virginia—Maryland).

KERTCH, Attack on (1855). See Russia: A. D. 1854–1856.

KERYKES, The. See Phylæ.

KESSELSDORF, Battle of (1745). See Austria: A. D. 1744–1745.

KEYNTON, OR EDGEHILL, Battle of. See England: A. D. 1642 (October—December).

KEYSERWERTH, Siege and storming of (1702). See Netherlands: A. D. 1702–1704.

KHAJAR DYNASTY, The. See Persia: A. D. 1499–1887.

KHALIF. See Caliph.

KHALSA, The. See Sikhs; also, India: A. D. 1836–1845, and 1845–1849.

KHAN.—KHAGAN.—"'Khan' is the modern contracted form of the word which is found in the middle ages as 'Khagan,' or 'Chagan,' and in the Persian and Arabic writers as 'Khakan' or 'Khacan.' Its original root is probably the 'Khak,' which meant 'King' in ancient Susianian, in Ethiopic ('Tirhakah'), and in Egyptian ('Hyk-sos')."—G. Rawlinson, *The Seventh Great Oriental Monarchy, ch.* 14, *foot-note.*

KHAR, OR KHARU, The.—"The term Khar in Egyptian texts appears to apply to the inhabitants of that part of Syria generally known as Phœnicia, and seems to be derived from the Semitic Akharu, 'the back' or 'west.'" —C. R. Conder, *Syrian Stone Lore, ch.* 1.

KHAREJITES, The.—A democratical party among the Mahometans, which first took form during the Caliphate of Ali, A. D 657. The name given to the party, Kharejites, signified those who "go forth"—that is in secession and rebellion. It was their political creed that, "believers being absolutely equal, there should be no Caliph nor oath of allegiance sworn to any man; but that the government should be in the hands of a Council of State elected by the people." Ali attacked and dispersed the Kharejites, in a battle at Nehrwan, A. D. 658; but they continued for a long period to give trouble to succeeding Caliphs.—Sir W. Muir, *Annals of the Early Caliphate, ch.* 40 *and* 42, *with foot-note.*

KHARTANI, Tragedy of the Cave of. See Barbary States: A. D. 1830–1846.

KHARTOUM, The Mahdi's siege of. See Egypt: A. D. 1884–1885.

KHAZARS, OR CHAZARS, OR KHOZARS, The.—"This important people, now heard of for the first time in Persian history [late in the fifth century of the Christian era], appears to have occupied, in the reign of Kobad, the steppe country between the Wolga and the Don, whence they made raids through the passes of the Caucasus into the fertile provinces of Iberia, Albania, and Armenia. Whether they were Turks, as is generally believed, or Circassians, as has been ingeniously argued by a living writer [H. H. Howorth], is doubtful; but we cannot be mistaken in regarding them as at this time a race of fierce and terrible barbarians."—G. Rawlinson, *Seventh Great Oriental Monarchy, ch.* 18.—"After the fall of the Persian empire [see Mahometan Conquest: A. D. 632–651], they [the Khazars, or Chazars] crossed the Caucasus, invaded Armenia, and conquered the Crimean peninsula, which bore the name of Chazaria for some time. The Byzantine emperors trembled at the name of the Chazars, and flattered them, and paid them a tribute, in order to restrain their lust after the booty of Constantinople. The Bulgarians, and other tribes, were the vassals of the Chazars, and the people of Kiev (Russians) on the Dnieper were obliged to furnish them every

year with a sword, and fine skins from every furhunt. With the Arabs, whose near neighbours they gradually became, they carried on terrible wars. Like their neighbours, the Bulgarians and the Russians, the Chazars professed a coarse religion, which was combined with sensuality and lewdness. The Chazars became acquainted with Islamism and Christianity through the Arabs and Greeks. . . . There were also Jews in the land of the Chazars; they were some of the fugitives who had escaped (723) the mania for conversion which possessed the Byzantine Emperor Leo. . . . As interpreters or merchants, physicians or counsellors, the Jews were known and beloved by the Chazarian court, and they inspired the warlike Bulan with a love of Judaism. . . . It is possible that the circumstances under which the Chazars embraced Judaism have been embellished by legend, but the fact itself is too definitely proved on all sides to allow of there being any doubt as to its reality. Besides Bulan, the nobles of his kingdom, numbering nearly 4,000, adopted the Jewish religion. Little by little it made its way among the people, so that most of the inhabitants of the towns of the Chazarian kingdom were Jews. . . . A successor of Bulan, who bore the Hebrew name of Obadiah, was the first to occupy himself earnestly with the Jewish religion. He . . . founded synagogues and schools. . . . After Obadiah came a long series of Jewish Chagans, for according to a fundamental law of the state only Jewish rulers were permitted to ascend the throne."—H. Graetz, *Hist. of the Jews, v.* 3, *ch.* 5.

KHEDIVE. See EGYPT: A. D. 1840–1869.

KHEMI, OR KEM. See EGYPT: ITS NAMES.

KHITA, The. See HITTITES, THE.

KHITAI.—KHITANS, The. See CHINA: THE NAMES OF THE COUNTRY.

KHIVA. See KHUAREZM.

KHODYA. See SUBLIME PORTE.

KHOKAND, Russian conquest of the Khanate of (1876). See RUSSIA: A. D. 1859–1876.

KHONDS, The. See TURANIAN RACES.

KHORASSAN: A. D. 1220-1221.—Conquest and destruction by the Mongols.—In the autumn of A. D. 1220, one division of the armies of Jingis Khan, commanded by his son Tului, poured into Khorassan. "Khorassan was then one of the richest and most prosperous regions on the earth's surface; its towns were very thickly inhabited, and it was the first and most powerful province of Persia. The Mongol invasion altered all this, and the fearful ravage and destruction then committed is almost incredible." On the capture of the city of Nessa the inhabitants were tied together with cords and then massacred in a body—70,000 men, women and children together—by shooting them with arrows. At Meru (modern Merv) the wholesale massacre was repeated on a vastly larger scale, the corpses numbering 700,000, according to one account, 1,800,000 according to another. Even this was exceeded at Nishapoor ("city of Sapor"), the ancient capital of Khorassan. "To prevent the living hiding beneath the dead, Tului ordered every head to be cut off, and separate heaps to be made of men's, women's, and children's heads. The destruction of the city occupied fifteen days; it was razed to the ground, and its site was sown with barley; only 400 artisans escaped, and they were transported into the north. According to Mirkhond 1,747,000 men lost their lives in this massacre." The destroying army of demons and savages moved on to Herat, then a beautiful city surrounded by villages and gardens. It surrendered, and only 12,000 of its soldiers were slain at that time; but a few months later, upon news of a defeat suffered by the Mongols, Herat rebelled, and brought down upon itself a most terrible doom. Captured once more, after a siege of six months, the city experienced no mercy. "For a whole week the Mongols ceased not to kill, burn, and destroy, and it is said that 1,600,000 people were killed; the place was entirely depopulated and made desert." At Bamian, in the Hindu Kush, "every living creature, including animals and plants as well as human beings, was destroyed; a heap of slain was piled up like a mountain."—H. H. Howorth, *Hist. of the Mongols, pt.* 1, *pp.* 86–91.

A. D. 1380.—Conquest by Timour. See TIMOUR.

KHOTZIM. See CHOCZIM

KHOULIKOF, Battle of (1383). See RUSSIA: A. D. 1237–1480.

KHUAREZM, OR CHORASMIA (modern Khiva).—"The extensive and fertile oasis in the midst of the sandy deserts of Central Asia, known in these days as the Khanat of Khiva, was called by the Greeks Chorasmia and by the Arabs Khwarezm [or Khuarezm]. The Chorasmians were of the Aryan race, and their contingent to the army of Xerxes was equipped precisely in the Bactrian fashion. It is probable that Chorasmia formed a portion of the short-lived Greco-Bactrian monarchy, and it certainly passed under the domination of the White Huns, from whom it was subsequently wrested by the Toorks."—J. Hutton, *Central Asia, ch.* 10.

12th Century.—The Khuarezmian, or Khahrezmian, or Korasmian, or Carizmian Empire.—"The sovereigns of Persia were in the habit of purchasing young Turks, who were captured by the various frontier tribes in their mutual struggles, and employing them in their service. They generally had a body guard formed of them, and many of them were enfranchised and rose to posts of high influence, and in many cases supplanted their masters. The founder of the Khuarezmian power was such a slave, named Nushtekin, in the service of the Seljuk Sultan Malik Shah. He rose to the position of a Tesh-tedar or chamberlain, which carried with it the government of the province of Khuarezm, that is of the fertile valley of the Oxus and the wide steppes on either side of it, bounded on the west by the Caspian and on the east by Bukharia." The grandson of Nushtekin became virtually independent of the Seljuk sultan, and the two next succeeding princes began and completed the overthrow of the Seljuk throne. The last Seljuk sultan, Togrul III., was slain in battle, A. D. 1193, by Takish or Tokush, the Khuarezmian ruler, who sent his head to the Caliph at Bagdad and was formally invested by the Caliph with the sovereignty of Khorassan, Irak Adjem and other parts of the Persian domain not occupied by the Atabegs and the Assassins. Takish's son extended his conquests in Transoxiana and

Turkestan (A. D. 1209), and acquired Samarkand, which he made his capital. "He controlled an army of 400,000 men, and his dominions, at the invasion of the Mongols, stretched from the Jaxartes to the Persian Gulf, and from the Indus to the Irak Arab and Azerbaidjan."—H. Howorth, *Hist. of the Mongols, pt.* 1, *pp.* 7–8.

A. D. 1220.—Destruction by the Mongols.—In May, 1220, the Mongol army of Jingis Khan marched upon Urgendj, or Khuarezm — the original capital of the empire of Khuarezm, to which it gave its name. That city, which is represented by the modern Khiva, was "the capital of the rich cluster of cities that then bordered the Oxus, a river very like the Nile in forming a strip of green across two sandy deserts which bound it on either hand." The Mongols were commanded, at first, by the three elder sons of Jingis Khan; but two of them quarreled, and the siege was protracted through six months without much progress being made. Jingis then placed the youngest son, Ogotai, in charge of operations, and they were carried forward more vigorously. "The Mongols at length assaulted the town, fired its buildings with naptha, and after seven days of desperate street-fighting captured it. This was probably in December, 1220. They sent the artisans and skilled workmen into Tartary, set aside the young women and children as slaves, and then made a general massacre of the rest of the inhabitants. They destroyed the city, and then submerged it by opening the dykes of the Oxus. The ruins are probably those now known as Old Urgendj. Raschid says that over 100,000 artisans and craftsmen were sent into Mongolia."—H. H. Howorth, *Hist. of the Mongols, pt.* 1, *p.* 85.

Also in: J. Hutton, *Central Asia, ch.* 4.—See Mongols: A. D. 1153–1227.

A. D. 1873.—Conquest by the Russians. See Russia: A. D. 1859–1876.

KHUAREZMIANS IN JERUSALEM, The. See Jerusalem: A. D. 1242.

KICHES, The. See American Aborigines, Quiches, and Mayas.

KICKAPOO INDIANS, The. See American Aborigines: Algonquian Family and Pawnee (Caddoan) Family.

KIEFT, Governor William, Administration of. See New York: A. D. 1638–1647.

KIEL, Peace of. See Scandinavian States: A. D. 1813–1814.

KIEV, OR KIEF: A. D. 882.—Capital of the Russian state. See Russia: A. D. 862.

A. D. 1240.—Destroyed by the Mongols.—In December, 1240, the Mongols, pursuing their devastating march through Russia, reached Kiev. It was then a famous city, known among the Russians as "the mother of cities, magnificently placed on the high banks of the Dnieper, with its white walls, its beautiful gardens, and its thirty churches, with their gilded cupolas, which gave it its pretty Tartar name, Altundash Khan (i. e., the court of the Golden Heads); it was the metropolitan city of the old Russian princes, the seat of the chief patriarch of all Russia. It had latterly, namely, in 1204, suffered from the internal broils of the Russian princes, and had been much plundered and burnt. It was now to be for a while erased altogether." Kiev was taken by storm and the inhabitants "slaughtered without mercy; the very bones were torn from the tombs and trampled under the horses' hoofs. . . . The magnificent city, with the ancient Byzantine treasures which it contained, was destroyed." During the 14th and 15th centuries Kiev seems to have remained in ruins, and the modern city is said to be "but a shadow of its former self."—H. H. Howorth, *Hist. of the Mongols, v.* 1, *pp.* 141–142

KILIDSCH. See Timar.

KILIKIA. See Cilicia.

KILKENNY, The Statute of. See Ireland: A. D. 1327–1367.

KILKENNY ARTICLES, The. See Ireland: A. D. 1652.

KILLIECRANKIE, Battle of. See Scotland: A. D. 1689 (July).

KILMAINHAM TREATY. See Ireland: A. D. 1881–1882.

KILPATRICK'S RAID TO RICHMOND. See United States of Am.: A. D. 1864 (February—March: Virginia).

KILSYTH, Battle of (1645). See Scotland: A. D. 1644–1645.

KIMON, Peace of. See Athens: B. C. 460–449.

KINDERGARTEN, The. See Education, Modern: Reforms, &c.: A. D. 1816–1892.

KING, Origin of the word.—"Cyning, by contraction King, is closely connected with the word 'Cyn' or 'Kin.' . . . I do not feel myself called upon to decide whether Cyning is strictly the patronymic of 'cyn,' or whether it comes immediately from a cognate adjective (see Allen, Royal Prerogative, 176; Kemble, i. 153). It is enough if the two words are of the same origin, as is shown by a whole crowd of cognates, 'cynebarn,' 'cynecyn,' 'cynedom,' 'cynehelm,' 'cynehlaford.' . . . (I copy from Mr. Earle's Glossarial Index.) In all these words 'cyn' has the meaning of 'royal.' The modern High-Dutch König is an odd corruption; but the elder form is 'Chuninc.' The word has never had an English feminine; Queen is simply 'Cwen,' woman, wife. . . . The notion of the King being the 'canning' or 'cunning' man [is] an idea which could have occurred only to a mind on which all Teutonic philology was thrown away."—E. A. Freeman, *Hist. of the Norman Conquest of Eng., ch.* 3, *sect.* 1, *and note L* (*v.* 1).

KING GEORGE'S WAR. See New England: A. D. 1744; 1745; and 1745–1748.

KING MOVEMENT, The. See New Zealand: A. D. 1853–1883.

KING OF THE ROMANS. See Romans, King of the.

KING OF THE WOOD. See Arician Grove.

KING PHILIP'S WAR. See New England: A. D. 1674–1675; 1675; and 1676–1678.

KING WILLIAM'S WAR.—The war in Europe, of "the Grand Alliance" against Louis XIV. of France, frequently called "the War of the League of Augsburg," extended to the American colonies of England and France, and received in the former the name of King William's War. See France: A. D. 1689–1690; Canada: A. D. 1689–1690, and 1692–1697; also, United States of Am.: A. D. 1690; and Newfoundland: A. D. 1694–1697.

KING'S BENCH. See Curia Regis.

KING'S COLLEGE. See EDUCATION, MODERN: AMERICA: A. D. 1746–1787.

KING'S HEAD CLUB. See ENGLAND: A. D. 1678–1679.

KING'S MOUNTAIN, Battle of (1780). See UNITED STATES OF AM.: A. D. 1780–1781.

KING'S PEACE, The.—"The peace, as it was called, the primitive alliance for mutual good behaviour, for the performance and enforcement of rights and duties, the voluntary restraint of free society in its earliest form, was from the beginning of monarchy [in early England] under the protection of the king. . . . But this position is far from that of the fountain of justice and source of jurisdiction. The king's guarantee was not the sole safeguard of the peace; the hundred had its peace as well as the king; the king too had a distinct peace which like that of the church was not that of the country at large, a special guarantee for those who were under special protection. . . . When the king becomes the lord, patron and 'mundborh' of his whole people, they pass from the ancient national peace of which he is the guardian into the closer personal or territorial relation of which he is the source. The peace is now the king's peace. . . . The process by which the national peace became the king's peace is almost imperceptible; and it is very gradually that we arrive at the time at which all peace and law are supposed to die with the old king, and rise again at the proclamation of the new."—W. Stubbs, *Const. Hist. of Eng., ch. 7, sect. 72 (v. 1).*

ALSO IN: G. E. Howard, *Nebraska Univ. Studies, v. 1, no 3*—Sir F. Pollock, *Oxford Lectures*, 3.—See, also, ROMAN ROADS IN BRITAIN; and LAW, COMMON: A. D. 871–1066; 1100; 1135; 1300.

KINGSTON, Canada: A. D. 1673.—The building of Fort Frontenac.—La Salle's seigniory.—In 1673, Count Frontenac, governor of Canada, personally superintended the construction of a fort on the north shore of Lake Ontario, at the mouth of the Cataraqui, where the city of Kingston now stands, the site having been recommended by the explorer La Salle. The following year this fort, with surrounding lands to the extent of four leagues in front and half a league in depth, was granted in seigniory to La Salle, he agreeing to pay the cost of its construction and to maintain it at his own charge. He named the post Frontenac.—F. Parkman, *La Salle, ch. 6.*

A. D. 1758.—Fort Frontenac taken by the English. See CANADA: A. D. 1758.

KINSALE, Battle of (1601). See IRELAND: A. D. 1559–1603.

KINSTON, Battle of. See UNITED STATES OF AM.: A. D. 1865 (FEBRUARY—MARCH: NORTH CAROLINA).

KIOWAN FAMILY, The. See AMERICAN ABORIGINES: KIOWAN FAMILY.

KIPCHAKS, The.—"The Kipchaks were called Comans by European writers. . . . The name Coman is derived no doubt from the river Kuma, the country about which was known to the Persians as Kumestan. . . . A part of their old country on the Kuma is still called Desut Kipchak, and the Kumuks, who have been pushed somewhat south by the Nogays, are, I believe, their lineal descendants. Others of their descendants no doubt remain also among the Krim Tartars. To the early Arab writers the Kipchaks were known as Gusses, a name by which we also meet with them in the Byzantine annals. This shows that they belonged to the great section of the Turks known as the Gusses or Oghuz Turks. . . . They first invaded the country west of the Volga at the end of the ninth century, from which time till their final dispersal by the Mongols in the thirteenth century they were very persistent enemies of Russia. After the Mongol conquest it is very probable that they became an important element in the various tribes that made up the Golden Horde or Khanate of Kipchak."—H. H. Howorth, *Hist. of the Mongols, pt. 1, p. 17.*—See, also, MONGOLS: A. D. 1229–1294, and RUSSIA: A. D. 1859–1876.

KIRCH-DENKERN, OR WELLINGHAUSEN, Battle of (1761). See GERMANY: A. D. 1761–1762.

KIRGHIZ, Russian subjugation of the. See RUSSIA: A. D. 1859–1876.

KIRIRI, The. See AMERICAN ABORIGINES: GUCK OR COCO GROUP.

KIRK OF SCOTLAND. See CHURCH OF SCOTLAND.

KIRKE'S LAMBS. See ENGLAND: A. D. 1685 (MAY—JULY).

KIRKI, Battle of (1817). See INDIA: A. D. 1816–1819.

KIRKSVILLE, Battle of. See UNITED STATES OF AM.: A. D. 1862 (JULY—SEPTEMBER: MISSOURI—ARKANSAS).

KIRRHA. See DELPHI.

KISSIA. See ELAM

KIT KAT CLUB, The. See CLUBS.

KITCHEN CABINET, President Jackson's. See UNITED STATES OF AM.: A. D. 1829.

KITCHEN-MIDDENS.—"Amongst the accumulations of Neolithic age which are thought by many archæologists to be oldest are the well-known 'Kjökkenmödingr' or kitchen-middens of Denmark. These are heaps and mounds composed principally of shells of edible molluscs, of which the most abundant are oyster, cockle, mussel, and periwinkle. Commingled with the shells occur bones of mammals, birds, and fish in less or greater abundance, and likewise many implements of stone, bone, and horn, together with potsherds. The middens are met with generally near the coast, and principally on the shores of the Lymfjord and the Kattegat; they would appear, indeed, never to be found on the borders of the North Sea. They form mounds or banks that vary in height from 3 or 5 feet up to 10 feet, with a width of 150 to 200 feet, and a length of sometimes nearly 350 yards. . . . The Danish savants (Forchhammer, Steenstrupp, and Worsaae), who first examined these curious shell mounds, came to the conclusion that they were the refuse-heaps which had accumulated round the dwellings of some ancient coast-tribe. . . . Shell-mounds of similar character occur in other countries."—J. Geikie, *Prehistoric Europe, ch. 15.*

KIT'S COTY HOUSE.—The popular name of a conspicuous Cromlech or stone burial monument in Kent, England, near Addington.

KITTIM.—The Hebrew name of the island of Cyprus. See, also, JAVAN.

KITUNAHAN FAMILY, The. See AMERICAN ABORIGINES: KITUNAHAN FAMILY.

KJÖKKENMÖDINGR. See KITCHEN-MIDDENS.

KLAMATHS, The. See AMERICAN ABORIGINES: MODOCS, &c.

KLEINE RATH, The. See SWITZERLAND: A. D. 1848–1890.

KLEISTHENES, Constitution of. See ATHENS: B. C. 510–507.

KLEOMENIC WAR, The. See GREECE: B. C. 280–146.

KLERUCHS. — "Another consequence of some moment arose out of this victory [of the Athenians over the citizens of Chalkis, or Chalcis, in the island of Eubœa, B. C. 506 — see ATHENS: B. C. 509–506]. The Athenians planted a body of 4,000 of their citizens as Kleruchs (lot-holders) or settlers upon the lands of the wealthy Chalkidian oligarchy called the Hippobotæ — proprietors probably in the fertile plain of Lelantum between Chalkis and Eretria. This is a system which we shall find hereafter extensively followed out by the Athenians in the days of their power; partly with the view of providing for their poorer citizens — partly to serve as garrison among a population either hostile or of doubtful fidelity. These Attic Kleruchs (I can find no other name by which to speak of them) did not lose their birthright as Athenian citizens. They were not colonists in the Grecian sense, and they are known by a totally different name — but they corresponded very nearly to the colonies formerly planted out on the conquered lands by Rome." — G. Grote, *Hist. of Greece, pt.* 2, *ch.* 31 (*v.* 4).

ALSO IN: A. Boeckh, *Public Economy of Athens, bk.* 3, *ch.* 18. — See, also, ATHENS: B. C. 440–437.

KLOSTER-SEVEN, Convention of. See GERMANY: A. D. 1757 (JULY—DECEMBER); and 1758.

KNECHTE, The. See SLAVERY, MEDIÆVAL: GERMANY.

KNIGHT-SERVICE. See FEUDAL TENURES.

KNIGHTHOOD, Orders of, and their modern imitations.—Alcantara. See ALCANTARA. . . . . **American Knights.** See UNITED STATES OF AM.: A. D. 1864 (OCTOBER). . . . . **Avis.** See AVIS. . . . **The Bath.** See BATH. . . . . **Black Eagle:** a Prussian Order instituted by Frederick III., Elector of Brandenburg, in 1701. . . . . **The Blue Ribbon.** See SERAPHIM. . . . . **Brethren of Dobrin.** See PRUSSIA: 13TH CENTURY. . . . . **Calatrava.** See CALATRAVA. . . . . **Christ:** a Papal Order, instituted by Pope John XXII., in 1319; also a Portuguese Order — see PORTUGAL: A. D. 1415–1460. . . . . **The Crescent:** instituted by René of Anjou, titular King of Naples, in 1448, but suppressed by Pope Paul II., in 1464; also a Turkish Order — see CRESCENT. . . . . **The Ecu.** See BOURBON: THE HOUSE OF. . . . . **The Elephant:** a Danish Order, instituted in 1693, by King Christian V. . . . . **The Garter.** See GARTER. . . . . **The Golden Circle.** See GOLDEN CIRCLE. . . . . **The Golden Fleece.** See GOLDEN FLEECE. . . . . **The Golden Horseshoe.** See VIRGINIA: A. D. 1710–1716. . . . . **The Golden Spur:** instituted by Pope Paul III., in 1550. . . . . **The Guelphs of Hanover.** See GUELPHS OF HANOVER. . . . . **The Holy Ghost.** See FRANCE: A. D. 1578–1580. . . . . **Hospitallers.** See HOSPITALLERS OF ST. JOHN. . . . . **The Indian Empire:** instituted by Queen Victoria, in 1878. . . . . **The Iron Cross:** a Prussian Order, instituted in 1815 by Frederick William III . . . . **The Iron Crown.** See FRANCE: A. D. 1804–1805. . . . . **The Legion of Honor.** See FRANCE: A. D. 1801–1803. . . . . **The Lion and the Sun: a Persian Order. . . . . The Lone Star.** See CUBA: A. D. 1845–1860. . . . **Malta.** See HOSPITALLERS. . . . . **Maccabees.** See INSURANCE. . . . . **Maria Theresa.** See GERMANY: A. D. 1757 (APRIL—JUNE). . . . . **La Merced.** See MERCED. . . . . **The Mighty Host.** See UNITED STATES OF AM.: A. D. 1864 (OCTOBER). . . . . **Our Lady of Montesa.** See OUR LADY . . . . **Polar Star:** Swedish. . . . . **Pythias.** See INSURANCE. . . . **Rhodes.** See HOSPITALLERS. . . . . **The Round Table.** See ARTHUR, KING. . . . . **St. Andrew:** a Scotch Order — see ST. ANDREW; also a Russian Order, instituted in 1698 by Peter the Great. . . . **St. George:** a Russian Order, founded by Catharine II. . . . . **St. Gregory:** an Order instituted in 1831 by Pope Gregory XVI. . . . . **St. Jago or Santiago.** See CALATRAVA. . . . . **St. James of Compostella.** See CALATRAVA. . . . . **St. Januarius:** instituted by Charles, King of the Two Sicilies, in 1738. . . . . **St. John.** See HOSPITALLERS OF ST. JOHN. . . . . **St. John of the Lateran:** instituted in 1560, by Pope Pius IV. . . . . **St. Lazarus.** See ST. LAZARUS. . . . . **St. Louis.** See FRANCE: A. D. 1698 (JULY). . . . . **St. Michael.** See ST. MICHAEL. . . . . **St. Michael and St. George.** See ST. MICHAEL, &c. . . . . **St. Patrick:** instituted by George III. of England, in 1783. . . . . **St. Stephen.** See ST. STEPHEN. . . . . **St. Thomas of Acre.** See ST. THOMAS. . . . . **Santiago.** See CALATRAVA. . . . . **The Seraphim.** See SERAPHIM. . . . . **The Sons of Liberty.** See UNITED STATES OF AM.: A. D. 1864 (OCTOBER). . . . **The Southern Cross.** See SOUTHERN CROSS. . . . **The Star.** See STAR. . . . . **Star of India.** See STAR OF INDIA. . . . . **The Starry Cross.** See STARRY CROSS. . . . . **The Swan.** See SWAN. . . . . **The Sword:** a Swedish Order — see SWORD; also a German Order — see LIVONIA: 12TH—13TH CENTURIES. . . . . **Templars.** See TEMPLARS. . . . . **Teutonic.** See TEUTONIC KNIGHTS. . . . . **The Thistle:** instituted by James V. of Scotland, in 1530. . . . . **The Tower and Sword.** See TOWER AND SWORD. . . . . **Victoria Cross.** See VICTORIA CROSS. . . . . **The White Camellia.** See UNITED STATES OF AM.: A. D. 1866–1871 . . . . **The White Cross:** an Order founded by the Grand Duke of Tuscany, in 1814. . . . . **White Eagle:** a Polish Order, instituted in 1325 by Ladislaus IV., and revived by Augustus in 1705.

KNIGHTS. See CHIVALRY; also, COMITATUS.

KNIGHTS BACHELORS. — "The word 'bachelor,' from whence has come 'bachelier,' does not signify 'bas chevalier,' but a knight who has not the number of 'bachelles' of land requisite to display a banner: that is to say, four 'bachelles.' The 'bachelle' was composed of ten 'maz,' or 'meix' (farms or domains), each of which contained a sufficiency of land for the work of two oxen during a whole year." — J. Froissart, *Chronicles* (*trans. by Johnes*), *bk.* 1, *ch.* 61, *foot-note* (*v.* 1).

ALSO IN: Sir W. Scott, *Essay on Chivalry.* — R. T. Hampson, *Origines Patriciæ, p.* 338.

KNIGHTS BANNERETS. — "The name [banneret] imports the bearer of a small banner, and, in this respect, he differed from the baron, who bore a gonfanon or banner of war, and the simple knight, who bore a penon. The banner,

properly so called, was a square flag; the penon, according to the illuminations of ancient manuscripts, was a small square, having two long triangles attached to the side opposite that which was fixed to the lance or spear. These pendant portions resembling tails were so denominated. Rastal defines a banneret to be a knight made upon the field of battle, with the ceremony of cutting off the point of his standard, and so making this like a banner. And such, he says, are allowed to display their arms on a banner in the king's army, like the barons. That was, no doubt, the mode of creation; but it appears . . . that a knight, or an esquire of four bacelles, or cow lands, and therefore, a bachelor, to whom the king had presented a banner on his first battle, became a banneret on the second.'

KNIGHTS OF LABOR. See Social Movements: A. D. 1869–1883.

KNIGHTS OF THE SHIRE.—During the thirteenth century there grew up in England the practice of sending to the Great Council of the king a certain number of knights from each shire to represent the "lesser baronage," which had formerly possessed the privilege of attending the council in person, but which had become more neglectful of attendance as their numbers increased In theory, these knights of the shire, as they came to be called, were representatives of that "lesser baronage" only. "But the necessity of holding their election in the County Court rendered any restriction of the electoral body physically impossible. The court was composed of the whole body of freeholders, and no sheriff could distinguish the 'aye, aye' of the yeoman from the 'aye, aye' of the lesser baron. From the first moment therefore of their attendance we find the knights regarded not as mere representatives of the baronage, but as knights of the shire, and by this silent revolution the whole body of the rural freeholders were admitted to a share in the government of the realm."—J. R. Green, *Short Hist. of the English People, ch.* 4.—The history of the knights of the shire is the history of the origin of county representation in the English Parliament. The representation of boroughs, or towns, has a history quite distinct. Of the leading part played by the knights of the shire in the development and establishment of the English Constitution Mr. Stubbs remarks ("Const Hist. of Eng.," ch. 17, sect. 272): "Both historical evidence and the nature of the case lead to the conviction that the victory of the constitution was won by the knights of the shires; they were the leaders of parliamentary debate; they were the link between the good peers and the good towns; they were the indestructible element of the house of commons; they were the representatives of those local divisions of the realm which were coeval with the historical existence of the people of England, and the interests of which were most directly attacked by the abuses of royal prerogative." See, also, Parliament, The English: Early Stages in its Evolution.

KNOW NOTHING PARTY, The. See United States of Am.: A. D. 1852.

KNOX, General Henry, in the Cabinet of President Washington. See United States of Am.: A. D. 1789–1792.

KNOX, John, and the Reformation in Scotland. See Scotland: A. D. 1547–1557, to 1558–1560.

KNOXVILLE: A. D. 1863 (September). Evacuated by the Confederates and occupied by the Union forces. See United States of Am.: A. D. 1863 (August—September: Tennessee).

A. D. 1863 (November—December).—Longstreet's siege. See United States of Am.: A. D. 1863 (October—December: Tennessee).

KNUT, OR CANUTE, ERICSSON, King of Sweden, A. D. 1167–1199.

KNYDUS, OR CNYDUS, Battle of (B. C. 394). See Greece: B. C. 399–387.

KOASSATI, The. See American Aborigines: Muskhogean Family.

KOLARIANS, The. See India: The Aboriginal Inhabitants.

KOLDING, Battle of (1849). See Scandinavian States (Denmark): A. D. 1848–1862.

KOLIN, Battle of. See Germany: A. D. 1757 (April—June).

KOLOMAN, King of Hungary, A. D. 1095–1114.

KOLUSCHAN FAMILY, The. See American Aborigines: Koluschan Family.

KOMANS, COMANS OR CUMANS, The. See Patchinaks; Kipchaks; Cossacks; also, Hungary: A. D 1114–1301.

KOMORN, Battle of (1849). See Austria: A. D. 1848–1849.

KONDUR, OR CONDORE, Battle of (1758). See India. A. D. 1758–1761.

KONIEH, Battle of (1832). See Turks: A. D. 1831–1840.

KONIGGRATZ, OR SADOWA, Battle of. See Germany: A. D. 1866.

KONSAARBRUCK, Battle of (1675). See Netherlands (Holland): A. D 1674–1678.

KOORDS, OR KURDS, The. See Carduchi.

KORAN, The.—"The Koran, as Mr. Kingsley quaintly, but truly, says, 'after all is not a book, but an irregular collection of Mohammed's meditations and notes for sermons.' It is not a code, it is not a journal, it is a mere gathering together of irregular scraps, written on palm-leaves and bones of mutton, which Abu-Bekr [the bosom friend of Mahomet and the first of the Caliphs or successors of the Prophet] put together without the slightest regard to chronological order, only putting the long fragments at the beginning, and the short fragments at the end. But so far from having the Koran of Mahomet, we have not even the Koran of Abu-Bekr. Caliph Othman [the third Caliph], we know, gave enormous scandal by burning all the existing copies, which were extremely discordant, and putting forth his own version as the 'textus ab omnibus receptus.' How much, then, of the existing Koran is really Mahomet's; how much has been lost, added, transposed, or perverted; when, where, and why each fragment was delivered, it is often impossible even to conjecture. And yet these baskets of fragments are positively worshipped."—E. A. Freeman, *Hist. and Conquests of the Saracens, lect.* 2.

Also in: S. Lane-Poole, *Studies in a Mosque, ch.* 4.—Sir W. Muir, *The Coran.*—T. Nöldeke, *Sketches from Eastern History, ch.* 2.—*The Koran; trans. by G. Sale.*—See, also, Mahometan Conquest: A. D. 609–632.

KORASMIANS, The. See Khuarezm.

KOREA.—"Like most regions of the extreme East, Korea is known to foreigners by a name which has little currency in the country itself. This term, belonging formerly to the petty state of Korié, has been extended by the Chinese and Japanese to the whole peninsula, under the forms of Kaokiuli, Korai, Kaoli. When all the principalities were fused into one monarchy, towards the close of the 14th century, the country, at that time subject to China, took the official title of Chaosien (Tsiosen)—that is, 'Serenity of the Morning'—in allusion to its geographical position east of the empire. . . . Although washed by two much-frequented seas, and yearly sighted by thousands of seafarers, Korea is one of the least known Asiatic regions. . . . From its very position between China and Japan, Korea could not fail to have been a subject of contention for its powerful neighbours. Before its fusion in one state it comprised several distinct principalities, whose limits were subject to frequent changes. These were, in the north, Kaokiuli (Kaoli), or Korea proper; in the centre, Chaosien and the 78 so-called 'kingdoms' of Chinese foundation, usually known as the San Kan (San Han), or 'Three Han'; in the south, Petsi, or Hiaksaï (Kudara), the Sinlo of the Chinese, or Siragi of the Japanese; beside the petty state of Kara, Zinna, or Mimana, in the south-east, round about the Bay of Tsiosan. The northern regions naturally gravitated towards China, whose rulers repeatedly interfered in the internal affairs of the country. But the inhabitants of the south, known in history by the Japanese name of Kmaso, or 'Herd of Bears,' were long subject to Japan, while at other times they made frequent incursions into Kiu-siu and Hondo, and even formed settlements on those islands. The first conquest of the country was made by the forces of the Queen Regent Zingu in the 3d century. Towards the end of the 16th the celebrated Japanese dictator and usurper Taïkosama, having conceived the project of conquering China, began with . . . Korea, under the pretext of old Japanese rights over the country of the Kmaso. After wasting the land he compelled the King to become his tributary, and left a permanent garrison in the peninsula. A fresh expedition, although interrupted by the death of Taïkosama, was equally successful. Tsu-sima remained in the hands of the Japanese, and from that time till the middle of the present century Korea continued in a state of vassalage, sending every year presents and tribute to Nippon. . . . Thanks to the aid sent by the Ming dynasty to Korea, in its victorious struggle with the other petty states of the peninsula, and in its resistance to Japan, its relations with China continued to be of the most friendly character. Admirers of Chinese culture, the native rulers felt honoured by the investiture granted them by the 'Son of Heaven.' But after the Manchu conquest of the Middle Kingdom, Korea remaining faithful to the cause of the Mings, the new masters of the empire invaded the peninsula, and in 1637 dictated a treaty, imposing on the Koreans a yearly tribute. . . . But although since that time the native ruler takes the title of 'Subject,' China exercises no real sovereign rights in Korea."—E. Reclus, *The Earth and its Inhabitants: Asia, v. 2, ch. 6.*—"Since the conclusion of that treaty [of 1637], Corea has been at peace with both her neighbours and able, till within the last twenty years, to maintain the seclusion she so much desired. [About] the beginning of the present century . . . the doctrine preached by Roman missionaries in China began to filter across the frontier, and to provoke a fitful and uncertain intercourse between them and the few Coreans who had been attracted by the new religion. . . . Persecution has followed persecution; but from Jacques Velloz, the first missionary to cross the frontier, who suffered martyrdom in 1800, to Mgr. Ridel, who has returned to Europe with health shattered by the anxieties and hardships undergone during the latest outbreak, there have always been some priests alternately tolerated or hiding in the country, and the spark lighted by the young Corean attaché has never been quite extinguished. . . . On July 7th, 1866, a Roman Catholic missionary arrived in a Corean boat at Chefoo, with a tale of dire persecution. Two bishops, nine priests, and a number of Christians of both sexes had been massacred, many of them after judicial tortures of atrocious cruelty. Three members of the mission only survived, and M Ridel had been chosen to carry the news to China, and endeavour to procure assistance. It was to the French authorities naturally, that he addressed himself; and both Admiral Roze, the Commandant of the French fleet in Chinese waters, and M. de Bellonet, then chargé-d'affaires at Peking, lent a sympathetic ear to his protest. . . . An expedition was accordingly resolved on. . . . Admiral Roze started from Chefoo with the expeditionary force on October 11th, arrived off Kang-hwa on the 14th, and occupied it, after a merely nominal resistance, two days later. The Coreans were apparently taken by surprise, having perhaps thought that the danger had passed. . . . The forts along the banks of the river were found ungarrisoned, and Kang-hwa itself, a considerable fortress containing large stores of munitions of war, was practically undefended. A letter was received, a few days later, inviting Admiral Roze to come or send delegates to Söul, to talk over matters in a friendly spirit; but he replied that, if the Corean authorities wished to treat, they had better come to Kang-hwa. This attitude was meant, no doubt, to be impressive, but the event proved it to be slightly premature. So far all had gone well; but the expedition was about to collapse with a suddenness contrasting remarkably with the expectations raised by M. de Bellonet's denunciations and Admiral Roze's hauteur. . . . The disastrous termination of . . . two movements appears to have persuaded Admiral Roze that the force at his disposal was insufficient to prosecute the enterprise to a successful issue, in the face of Corean hostility. It was no longer a question whether he should go to Söul or the Coreans come to him: the expedition was at a deadlock. He had rejected the first overtures, and was not strong enough to impose terms. A retreat was accordingly decided on. The city of Kang-hwa was burned, with its public offices and royal palace."—R. S. Gundry, *China and Her Neighbours, ch. 9.*—In 1866, when the French threatened Korea, the latter sought help from Japan and received none. Two years later, after the Japanese revolution which restored the Mikado to his full sovereignty, the Koreans declined to acknowledge his suzerainty, and bitterly hostile feelings grew up between the two peoples. The Japanese were restrained from

war with difficulty by their more conservative statesmen. Without war, they obtained from Korea, in 1876, an important treaty, which contained in the first article "the remarkable statement that 'Chosen, being an independent State, enjoys the same sovereign rights as does Japan' —an admission which was foolishly winked at by China from the mistaken notion that, by disavowing her connection with Korea, she should escape the unpleasantness of being called to account for the delinquencies of her vassal This preliminary advantage was more than doubled in value to Japan when, after the revolution in Söul in 1884, by which her diplomatic representative was compelled to flee for the second time from the Korean capital, she sent troops to avenge the insult and declined to remove them until China had made a similar concession with regard to the Chinese garrison, which had been maintained since the previous outbreak in 1882 in that city. By the Convention of Tientsin, which was negotiated in 1885 by Count Ito with the Viceroy Li Hung Chang, both parties agreed to withdraw their troops and not to send an armed force to Korea at any future date to suppress rebellion or disturbance without giving previous intimation to the other. This document was a second diplomatic triumph for Japan. . . . It is, in my judgment, greatly to be regretted that in the present summer [1894] her Government, anxious to escape from domestic tangles by a spirited foreign policy, has abandoned this statesmanlike attitude, and has embarked upon a headlong course of aggression in Korea, for which there appears to have been no sufficient provocation, and the ulterior consequences of which it is impossible to forecast. . . . Taking advantage of recent disturbances in the peninsula, which demonstrated with renewed clearness the impotence of the native Government to provide either a decent administration for its own subjects or adequate protection to the interests of foreigners, and ingeniously profiting by the loophole left for future interference in the Tientsin Agreement of 1885, Japan . . . (in July 1894) landed a large military force, estimated at 10,000 men, in Korea, and is in armed occupation of the capital. Li Hung Chang . . . responded by the despatch of the Chinese fleet and of an expeditionary force, marching overland into the northern provinces." —G. N. Curzon, *Problems of the Far East, ch.* 7. —"The ostensible starting-point of the trouble that resulted in hostilities was a local insurrection which broke out in May in one of the southern provinces of Corea. The cause of the insurrection was primarily the misrule of the authorities, with possibly some influence by the quarreling court factions at the capital. The Corean king applied at once to China as his suzerain for assistance in subduing the insurgents, and a Chinese force was sent. Japan, thereupon, claiming that Corea was an independent state and that China had no exclusive right to interfere, promptly began to pour large forces into Corea, to protect Japanese interests. By the middle of June a whole Japanese army corps was at Seoul, the Corean capital, and the Japanese minister soon formulated a radical scheme of administrative reforms which he demanded as indispensable to the permanent maintenance of order in the country. This scheme was rejected by the conservative faction which was in power at court, whereupon, on July 23, the Japanese forces attacked the palace, captured the king and held him as hostage for the carrying out of the reforms. The Chinese were meanwhile putting forth great efforts to make up for the advantage that their rivals had gained in the race for control of Corea, and to strengthen their forces in that kingdom. On the 25th a Chinese fleet carrying troops to Corea became engaged in hostilities with some Japanese war vessels, and one of the transports was sunk On August 1, the Emperor of Japan made a formal declaration of war on China, basing his action on the false claim of the latter to suzerainty over Corea, and on the course of China in opposing and thwarting the plan of reforms which were necessary to the progress of Corea and to the security of Japanese interests there. The counter-proclamation of the Chinese Emperor denounced the Japanese as wanton invaders of China's tributary state, and as aiming at the enslaving of Corea. On August 26 a treaty of offensive and defensive alliance against China was made between Japan and Corea. . . . A severe engagement at Ping-Yang, September 16, resulted in the rout of the Chinese and the loss of their last stronghold in Corea. A few days later the hostile fleets had a pitched battle off the mouth of the Yalu River, with the result that the Japanese were left in full control of the adjacent waters On the 26th of October the Japanese land forces brushed aside with slight resistance the Chinese on the Yalu, which is the boundary between Corea and China, and began their advance through the Chinese province of Manchuria, apparently aiming at Pekin "—*Political Science Quarterly, December*, 1894.—On the 3d of November, Port Arthur being then invested by the Japanese land and naval forces, while Marshal Yamagata, the Japanese commander, continued his victorious advance through Manchuria, Prince Kung made a formal appeal to the representatives of all the Powers for their intervention, acknowledging the inability of China to cope with the Japanese. On the 21st of November, Port Arthur, called the strongest fortress in China, was taken, after hard fighting from noon of the previous day. In retaliation for the murder and mutilation of some prisoners by the Chinese, the Japanese gave no quarter, and are accused of great atrocities. To the advance of the Japanese armies in the field, the Chinese opposed comparatively slight resistance, in several engagements of a minor character, until the 19th of December, when a battle of decided obstinacy was fought at Kungwasai, near Hai-tcheng. The Japanese were again the victors. Overtures for peace made by the Chinese government proved unavailing; the Japanese authorities declined to receive the envoys sent, for the reason that they were not commissioned with adequate powers. Nothing came of an earlier proffer of the good offices of the Government of the United States. Obstinate fighting occurred at Kai phing, which was captured by the Japanese on the 10th of January, 1895. On the 26th of January the Japanese began, both by land and sea, an attack on the stronghold of Wei-hai-wei, which was surrendered, with the Chinese fleet in its harbor, on the 12th of February. Shortly afterwards, China made another effort to obtain peace, the result of which is not known at this writing—April, 1895.

KOREISH, The. See MAHOMETAN CONQUEST: A. D. 609–632.

KORKYRA, OR CORCYRA.—The Greek island now known as Corfu, separated from the coast of Epirus by a strait only two to seven miles in breadth, bore in ancient times the name of Korkyra, or, rather, took that name from its ruling city. "Korkyra [the city] was founded by the Corinthians, at the same time (we are told) as Syracuse. . . . The island was generally conceived in antiquity as the residence of the Homeric Phæakians, and it is to this fact that Thucydides ascribes in part the eminence of the Korkyræan marine. According to another story, some Eretrians from Eubœa had settled there, and were compelled to retire. A third statement represents the Liburnians as the prior inhabitants,—and this perhaps is the most probable, since the Liburnians were an enterprising, maritime, piratical race, who long continued to occupy the more northerly islands in the Adriatic along the Illyrian and Dalmatian coast. . . . At the time when the Corinthians were about to colonize Sicily, it was natural that they should also wish to plant a settlement at Korkyra, which was a post of great importance for facilitating the voyage from Peloponnesus to Italy, and was further convenient for traffic with Epirus, at that period altogether non-Hellenic. Their choice of a site was fully justified by the prosperity and power of the colony, which, however, though sometimes in combination with the mother-city, was more frequently alienated from her and hostile, and continued so from an early period throughout most part of the three centuries from 700–400 B. C. . . . Notwithstanding the long-continued dissensions between Korkyra and Corinth, it appears that four considerable settlements on this same line of coast were formed by the joint enterprise of both,—Leukas and Anaktorium to the south of the mouth of the Ambrakiotic Gulf—and Apollonia and Epidamnus [afterwards called Dyrrhachium], both in the territory of the Illyrians at some distance to the north of the Akrokeraunian promontory [modern Cape Glossa, on the Albanian coast]. . . . Leukas, Anaktorium and Ambrakia are all referred to the agency of Kypselus the Corinthian. . . . The six colonies just named—Korkyra, Ambrakia, Anaktorium, Leukas [near the modern St. Maura], Apollonia, and Epidamnus—form an aggregate lying apart from the rest of the Hellenic name, and connected with each other, though not always maintained in harmony, by analogy of race and position, as well as by their common origin from Corinth."—G. Grote, *Hist. of Greece, pt.* 2, *ch.* 23.—See, also, IONIAN ISLANDS.

B. C. 435-432.—Quarrel with Corinth.—Help from Athens.—Events leading to the Peloponnesian War. See GREECE: B. C. 435–432.

B. C. 432.—Great sea-fight with the Corinthians.—Athenian aid. See GREECE: B. C. 432.

Modern history. See IONIAN ISLANDS; and CORFU.

KORONEA, OR CORONEA, Battle of (B. C. 394). See GREECE: B. C. 399–387.

KOS. See COS.

KOSCIUSKO, and the Polish revolt. See POLAND: A. D. 1793–1796.

KOSSÆANS, OR COSSÆANS, The.—A brave but predatory people in ancient times, occupying the mountains between Media and Persia, who were hunted down by Alexander the Great and the males among them exterminated. —G. Grote, *Hist. of Greece, pt.* 2, *ch.* 94.

KOSSOVA, Battle of (1389). See TURKS (THE OTTOMANS): A. D. 1360–1389.

KOSSUTH, Louis, and the Hungarian struggle for independence. See HUNGARY: A. D. 1815–1844, 1847–1849; and AUSTRIA: A. D. 1848-1849. . . . . **In America.** See UNITED STATES OF AM.: A. D. 1850–1851.

KOTZEBUE, Assassination of. See GERMANY: A. D. 1817–1820.

KOTZIM. See CHOZIM.

KOULEVSCHA, Battle of (1829). See TURKS: A. D. 1826–1829.

KOYUNJIK. See NINEVEH.

KRALE. See CRAL.

KRANNON, OR CRANNON, Battle of (B. C. 322). See GREECE: B. C. 323–322.

KRASNOE, Battle of. See RUSSIA: A. D. 1812 (JUNE—SEPTEMBER); and (OCTOBER—DECEMBER).

KRETE. See CRETE.

KRIM, The Khanate of. See MONGOLS: A. D. 1238–1391.

KRIM TARTARY. See CRIMEA.

KRIMESUS, The Battle of the. See SYRACUSE, THE FALL OF THE DIONYSIAN TYRANNY AT.

KRISSA.—KRISSÆAN WAR. See DELPHI.

KRONIUM, Battle of. See SICILY: B. C. 383.

KROTON. See SYBARIS.

KRYPTEIA, The.—A secret police and system of espionage maintained at Sparta by the ephors.—G. Grote, *Hist. of Greece, pt.* 2, *ch.* 6.

KSHATRIYAS. See CASTE SYSTEM OF INDIA.

KU KLUX KLAN, The. See UNITED STATES OF AM.: A. D. 1866–1871.

KUBLAI KHAN, The Empire of. See MONGOLS: A. D. 1229–1294; and CHINA: A. D. 1259–1294.

KUFA, The founding of. See BUSSORAH AND KUFA.

KULANAPAN FAMILY, The. See AMERICAN ABORIGINES: KULANAPAN FAMILY.

KULM, OR CULM, Battle of. See GERMANY: A. D. 1813 (AUGUST).

KULTURKAMPF, The. See GERMANY: A. D. 1873–1887; and PAPACY: A. D. 1870–1874.

KUNAXA, Battle of (B. C. 401). See PERSIA: B. C. 401–400.

KUNBIS. See CASTE SYSTEM OF INDIA.

KUNERSDORF, Battle of. See GERMANY: A. D. 1759 (JULY—NOVEMBER).

KURDISTAN: A. D. 1514.—Annexed to the Ottoman Empire. See TURKS: A. D. 1481–1520.

KURDS, OR KOORDS. See CARDUCHI, THE.

KUREEM KHAN, Shah of Persia, A. D. 1759–1779.

KURFÜRST. See GERMANY: A. D. 1125–1272.

KURUCS, Insurrection of the. See HUNGARY: A. D. 1487–1526.

KUSAN FAMILY, The. See AMERICAN ABORIGINES: KUSAN FAMILY.

KUSH.—KUSHITES. See Cush.—Cushites.

KUTAYAH, Peace of (1833). See Turks: A. D. 1831–1840.

KUTCHINS, The. See American Aborigines: Athapascan Family.

KUTSCHUK KAINARDJI, Battle and Treaty of (1774). See Turks: A. D. 1768–1774.

KYLON, Conspiracy of. See Athens: B. C. 612–595.

KYMRY, OR CYMRY, The.—The name which the Britons of Wales and Cumberland gave to themselves during their struggle with the Angles and Saxons, meaning "Cym-bro (Combrox) or the compatriot, the native of the country, the rightful owner of the soil. . . From the occupation by the English of the plain of the Dee and the Mersey, the Kymry dwelt in two lands, known in quasi-Latin as Cambria, in Welsh Cymru, which denotes the Principality of Wales, and Cumbria, or the kingdom of Cumberland. . . . Kambria was regularly used for Wales by such writers as Giraldus in the twelfth century, . . . but the fashion was not yet established of distinguishing between Cambria and Cumbria as we do."—J. Rhys, *Celtic Britain, ch.* 4.—The term Cymry or Kymry is sometimes used in a larger sense to denote the whole Brythonic branch of the Celtic race, as distinguished from the Goidelic, or Gaelic; but that use of it does not seem to be justified. On the question whether the name Kymry, or Cymry, bears any relation to that of the ancient Cimbri, see Cimbri and Teutones.

KYNOSSEMA, Battle of. See Cynossema.

KYNURIANS, OR CYNURIANS, The.—One of the three races of people who inhabited the Peloponnesian peninsula of Greece before the Dorian conquest,—the other two races being the Arcadians and the Achæans. "They were never (so far as history knows them) an independent population. They occupied the larger portion of the territory of Argolis, from Ornea, near the northern or Phliasian border, to Thyrea and the Thyreatis, on the Laconian border: and though belonging originally (as Herodotus imagines rather than asserts) to the Ionic race—they had been so long subjects of Argos in his time that almost all evidence of their ante-Dorian condition had vanished."—G. Grote, *Hist. of Greece, pt.* 2, *ch.* 4.

KYRENE. See Cyrenaica.

KYZICUS. See Cyzicus.

L.

LABARUM, The.—"The chief banner of the Christian emperors [Roman] was the so-called 'labarum.' Eusebius describes it as a long lance with a cross piece; to the latter a square silk flag was attached, into which the images of the reigning emperor and his children were woven. To the point of the lance was fastened a golden crown enclosing the monogram of Christ and the sign of the cross."—E. Guhl and W. Koner, *Life of the Greeks and Romans, sect.* 107.—See Christianity: A. D. 312–337.

LA BICOQUE, Battle of (1522). See France: A. D. 1520–1523.

LABOR ORGANIZATION. See Social Movements.

LABOR SETTLEMENTS. See South Australia: A. D. 1893–1895; and Victoria: A. D. 1893.

LABRADOR, The Name.—Labrador—Laboratoris Terra—is so called from the circumstance that Cortereal in the year 1500 stole thence a cargo of Indians for slaves.

LABUAN. See Borneo.

LABYRINTHS.—MAZES.—"The Labyrinths of the classical age and the quaint devices of later times, the Mazes, of which they were the prototypes, present to the archæologist a subject of investigation which hitherto has not received that degree of attention of which it appears so well deserving. . . . Labyrinths may be divided into several distinct classes, comprising complicated ranges of caverns, architectural labyrinths or sepulchral buildings, tortuous devices indicated by coloured marbles or cut in turf, and topiary labyrinths or mazes formed by clipped hedges. . . . Of the first class we may instance the labyrinth near Nauplia in Argolis, termed that of the Cyclops, and described by Strabo; also the celebrated Cretan example, which from the observations of modern travellers is supposed to have consisted of a series of caves, resembling in some degree the catacombs of Rome or Paris. It has been questioned, however whether such a labyrinth actually existed. . . . Of architectural labyrinths, the most extraordinary specimen was without doubt that at the southern end of the lake Mœris in Egypt, and about thirty miles from Arsinoe. Herodotus, who describes it very distinctly, says that . . . it consisted of twelve covered courts, 1,500 subterranean chambers, in which the bodies of the Egyptian princes and the sacred crocodiles were interred, and of as many chambers above ground, which last only he was permitted to enter."—E. Trollope, *Notices of Ancient and Mediæval Labyrinths* (*Archæological Journal, v.* 15).

Also in: Herodotus, *History, bk.* 2, *ch.* 148.

LA CADIE, OR ACADIA. See Nova Scotia.

LACEDÆMON. See Sparta: The City.

LACEDÆMONIAN EMPIRE, The. See Sparta: B. C. 404–403.

LACONIA. See Sparta: The City.

LACONIA, the American Province. See New England: A. D. 1621–1631.

LACUSTRINE HABITATIONS. See Lake Dwellings.

LADE, Naval Battle of (B. C. 495). See Persia: B. C. 521–493.

LADIES' PEACE, The. See Italy: A. D. 1527–1529.

LADISLAS, King of Naples, A. D. 1386–1414.

LADISLAUS I. (called Saint), King of Hungary, A. D. 1077–1095. . . . Ladislaus II., King of Hungary, 1162. . . . Ladislaus III., King of Hungary, 1204–1205. . . Ladislaus IV. (called The Cuman), King of Hungary, 1272–1290. . . . . Ladislaus V. (called The Posthumous), King of Hungary and Bohemia, 1439–1457. . . . . Ladislaus VI. (Jagellon), King of Hungary, 1440–1444; King of Poland, 1434–1444.

LADOCEA, OR LADOKEIA, Battle of.—Fought in what was called the Cleomenic War,

between Cleomenes, king of Sparta, and the Achæan League, B. C. 226. The battle was fought near the city of Megalopolis, in Arcadia, which belonged to the League and which was threatened by Cleomenes. The latter won a complete victory, and Lydiades, of Megalopolis, one of the noblest of the later Greeks, was slain.

LADRONES, The. See MARIANNES.

LADY, Original use of the title.—"Hlæfdige," the Saxon word from which our modern English word "lady" comes, was the highest female title among the West Saxons, being reserved for the king's wife.—E. A. Freeman, *Hist. of the Norman Conq. of Eng.*, v. 1, *note F.*

LADY OF THE ENGLISH.—By the West Saxons, the King's wife was called Lady, and when the Wessex king ruled England, his queen was known as the Lady of the English.

LADY DAY. See QUARTER DAYS.

LÆNLAND.—"Either bookland or folkland could be leased out by its holders [in early England]; and, under the name of 'lænland,' held by free cultivators."—W. Stubbs, *Const. Hist. of England, ch.* 5, *sect.* 36 (*v.* 1).

ALSO IN: J. M. Kemble, *The Saxons in England, bk.* 1, *ch.* 11.

LÆTI.—LÆT.—LAZZI.—"Families of the conquered tribes of Germany, who were forcibly settled within the 'limes' of the Roman provinces, in order that they might repeople desolated districts, or replace the otherwise dwindling provincial population—in order that they might bear the public burdens and minister to the public needs, i. e., till the public land, pay the public tribute, and also provide for the defence of the empire. They formed a semi-servile class, partly agricultural and partly military; they furnished corn for the granaries and soldiers for the cohorts of the empire, and were generally known in later times by the name of Læti or Liti."—F. Seebohm, *English Village Community, ch.* 8.—"There seems to be no reason for questioning that the eorl, ceorl and læt of the earliest English laws, those of Ethelbert, answer exactly to the edhiling, the friling and the lazzus of the old Saxons. Whether the Kentish læts were of German origin has been questioned. Lappenberg thinks they were 'unfree of kindred race.' K. Maurer thinks them a relic of ancient British population who came between the free wealh and the slave. . . . The name (lazzus—slow or lazy) signifies condition, not nationality. . . . The wer-gild of the Kentish læt was 40, 60, or 80 shillings, according to rank, that of the ceorl being 200."—W. Stubbs, *Const. Hist. of Eng., ch.* 4, *sect.* 31, *foot-note* (*v.* 1).

LA FAVORITA, Battle of (1797). See FRANCE: A. D. 1796-1797 (OCTOBER—APRIL).

LAFAYETTE in America. See UNITED STATES OF AM: A. D. 1778 (JUNE), (JULY—NOVEMBER); 1780 (JULY); 1781 (JANUARY—MAY), and (MAY—OCTOBER); 1824-1825. . . . .

And his part in the French Revolution. See FRANCE: A. D. 1789 (JULY) to 1792 (AUGUST).

LAFAYETTE COLLEGE. See EDUCATION, MODERN: AMERICA: A. D. 1769-1884.

LA FÈRE-CHAMPENOISE, Battle of (1814). See FRANCE: A. D. 1814 (JANUARY—MARCH).

LAGIDE PRINCES.—The Egyptian dynasty founded by Ptolemy Soter, the Macedonian general, is sometimes called the Lagide dynasty, with reference to the reputed father of Ptolemy, who bore the name of Lagus.

LAGOON ISLANDS. See POLYNESIA.

LAGOS, Naval Battle of. See ENGLAND: A. D. 1759 (AUGUST—NOVEMBER).

LAGTHING. See CONSTITUTION OF NORWAY.

LA HOGUE, Naval Battle of. See ENGLAND: A. D. 1692.

LAKE DWELLINGS.—"Among the most interesting relics of antiquity which have yet been discovered are the famous lake-dwellings of Switzerland, described by Dr. Keller and others. . . . Dr. Keller . . . has arranged them in three groups, according to the character of their substructure. [1] Those of the first group, the Pile Dwellings, are, he tells us, by far the most numerous in the lakes of Switzerland and Upper Italy. In these the substructure consists of piles of various kinds of wood, sharpened sometimes by fire, sometimes by stone hatchets or celts, and in later times by tools of bronze, and probably of iron, the piles being driven into the bottom of the lake at various distances from the shore. . . . [2] The Frame Pile-Dwellings are very rare. 'The distinction between this form and the regular pile-settlement consists in the fact that the piles, instead of having been driven into the mud of the lake, had been fixed by a mortise-and-tenon arrangement into split trunks, lying horizontally on the bed of the lake.' . . . [3] In the Fascine Dwellings, as Dr. Keller terms his third group of lake-habitations, the substructure consisted of successive layers of sticks or small stems of trees built up from the bottom of the lake till they reached above the lake-level. . . . Lake-dwellings have been met with in many other regions of Europe besides Switzerland and Italy, as in Bavaria, Austria, Hungary, Mecklenburg, Pomerania, France, Wales, Ireland, and Scotland. The 'Crannoges' of Ireland and Scotland were rather artificial islands than dwellings like those described above."—J. Geikie, *Prehistoric Europe.*

ALSO IN: F. Keller, *Lake Dwellings.*—R. Munro, *Ancient Scottish Lake Dwellings.*

LAKE FOREST UNIVERSITY. See EDUCATION, MODERN: AMERICA: A. D. 1769-1884.

LAKE GEORGE, Battle of. See CANADA: A. D. 1755 (SEPTEMBER).

LAMARTINE, and the French Government of 1848. See FRANCE: A. D. 1848 (FEBRUARY—MAY), and (APRIL—DECEMBER).

LAMAS.—LAMAISM.—"The development of the Buddhist doctrine which has taken place in the Panjab, Nepal, and Tibet . . . has resulted at last in the complete establishment of Lamaism, a religion not only in many points different from, but actually antagonistic to, the primitive system of Buddhism; and this not only in its doctrine, but also in its church organization." Tibet is "the only country where the Order has become a hierarchy, and acquired temporal power. Here, as in so many other countries, civilization entered and history began with Buddhism. When the first missionaries went there is not, however, accurately known; but Nepal was becoming Buddhist in the 6th century, and the first Buddhist king of Tibet sent to India for the holy scriptures in 632 A. D. A century afterwards an adherent of the native devil-worship drove the monks away, destroyed the monasteries, and burnt the holy books; but the blood of the martyrs was the seed of the

church — it returned triumphant after his death, and rapidly gained in wealth and influence. . . . As the Order became wealthy, rival abbots had contended for supremacy, and the chiefs had first tried to use the church as a means of binding the people to themselves, and then, startled at its progress, had to fight against it for their own privilege and power. When, in the long run, the crozier proved stronger than the sword, the Dalai Lama became in 1419 sole temporal sovereign of Tibet."—T. W. Rhys Davids, *Buddhism, ch.* 8-9 —"Up to the moment of its conversion to Buddhism a profound darkness had rested on [Tibet]. The inhabitants were ignorant and uncultivated, and their indigenous religion, sometimes called Bon, consisted chiefly of magic based on a kind of Shamanism. . . . The word is said to be of Tungusic origin, and to be used as a name for the earliest religion of Mongolia, Siberia and other Northern countries. . . . It is easy to understand that the chief function of the Shamans, or wizard-priests, was to exorcise evil demons, or to propitiate them by sacrifices and various magical practices. . . . The various gradations of the Tibetan hierarchy are not easily described, and only a general idea of them can be given. . . . First and lowest in rank comes the novice or junior monk, called Gethsul (Getzul). . . . Secondly and higher in rank we have the full monk, called Gelong (or Gelon). . . . Thirdly we have the superior Gelong or Khanpo (strictly mKhan po), who has a real right to the further title Lama. . . . As the chief monk in a monastery he may be compared to the European Abbot. . . . Some of the higher Khanpo Lamas are supposed to be living re-incarnations or re-embodiments of certain canonized saints and Bodhi-sattvas who differ in rank. These are called Avatara Lamas, and of such there are three degrees. . . . There is also a whole class of mendicant Lamas. . . . Examples of the highest Avataras are the two quasi-Popes, or spiritual Kings, who are supreme Lamas of the Yellow sect—the one residing at Lhassa, and the other at Tashi Lunpo (Krashi Lunpo), about 100 miles distant. . . . The Grand Lama at Lhassa is the Dalai Lama, that is, 'the Ocean-Lama, or one whose power and learning are as great as the ocean. . . . The other Grand Lama, who resides in the monastery of Tashi Lunpo, is known in Europe under the names of the Tashi Lama."—Sir M. Monier-Williams, *Buddhism, lect.* 11. —"Kublai-Khan, after subduing China [see CHINA: A. D. 1259-1294], adopted the Buddhist doctrines, which had made considerable progress among the Tartars. In the year 1261 he raised a Buddhist priest named Mati to the dignity of head of the Faith in the empire. This priest is better known under the name of Pakbo Lama, or supreme Lama: he was a native of Thibet, and had gained the good graces and confidence of Kublai, who, at the same time that he conferred on him the supreme sacerdotal office, invested him with the temporal power in Thibet, with the titles of 'King of the Great and Precious Law,' and 'Institutor of the Empire.' Such was the origin of the Grand Lamas of Thibet, and it is not impossible that the Tartar Emperor, who had had frequent communications with the Christian missionaries, may have wished to create a religious organisation after the model of the Romish hierarchy."—Abbé Huc, *Christianity in China, Tartary and Thibet, v.* 2, *p.* 10.

ALSO IN: The same, *Journey through Tartary, Thibet and China, v.* 2.—W. W. Rockhill, *The Land of the Lamas.*

LAMBALLE, Madame de, The death of. See FRANCE: A. D. 1792 (AUGUST—SEPTEMBER).

LAMBETH, Treaty of.—A treaty of Sept. 11, A. D. 1217, which was, in a certain sense, the sequel of Magna Carta. The barons who extorted the Great Charter from King John in 1215 were driven subsequently to a renewal of war with him. They renounced their allegiance and offered the crown to a French prince, Louis, husband of Blanche of Castile, who was John's niece. The pretensions of Louis were maintained after John's death, against his young son, Henry III. The cause of the latter triumphed in a decisive battle fought at Lincoln, May 20, 1217, and the contest was ended by the treaty named above. "The treaty of Lambeth is, in practical importance, scarcely inferior to the Charter itself."—W. Stubbs, *Const. Hist. of Eng.*

LAMEGO, The Cortes of. See PORTUGAL: A. D. 1095-1325.

LAMIAN WAR, The. See GREECE: B. C. 323-322

LAMMAS DAY. See QUARTER DAYS.

LAMONE, Battle of (1425). See ITALY: A. D. 1412-1447.

LAMPADARCHY, The. See LITURGIES.

LANCASTER, Chancellorship of the Duchy of.—"The Chancellorship of the Duchy of Lancaster is an office more remarkable for its antiquity than for its present usefulness. It dates from the time of Henry the Fourth, when the County of Lancashire was under a government distinct from the rest of the Kingdom. About the only duty now associated with the office is the appointment of magistrates for the county of Lancashire. In the other English and Welsh counties, these appointments are made by the Lord High Chancellor, who is the head of the Judicial system. The duties of the Chancellor of the Duchy of Lancaster are thus exceedingly light. The holder of the office is often spoken of as 'the maid of all work to the Cabinet,' from the fact that he is accorded a place in the Cabinet without being assigned any special duties likely to occupy the whole of his time. Usually the office is bestowed upon some statesman whom it is desirable for special reasons to have in the Cabinet, but for whom no other office of equal rank or importance is available."—E. Porritt, *The Englishman at Home, ch.* 8.

LANCASTER, House of. See ENGLAND: A. D. 1399-1471.

LANCASTRIANS. See ENGLAND: A. D. 1455-1471.

LANCES, Free.—With Sir John Hawkwood and his "free company" of English mercenaries, "came first into Italy [about 1360] the use of the term 'lances,' as applied to hired troops; each 'lance' being understood to consist of three men; of whom one carried a lance, and the others were bowmen. . . . They mostly fought on foot, having between each two archers a lance, which was held as men hold their hunting-spears in a boar-hunt."—T. A. Trollope, *Hist. of the Commonwealth of Florence, v.* 2, *p.* 144.

LAND GRANTS FOR SCHOOLS IN THE UNITED STATES. See EDUCATION, MODERN: AMERICA: A. D. 1785-1800; 1862; and 1862-1886.

LAND LEAGUE.—LAND LAWS, Irish. See IRELAND: A. D. 1870–1894; 1878–1879; and 1881–1882.

LAND REGISTRY. See LAW, COMMON: A. D. 1630–1641; 1854–1882; 1889.

LANDAMMANN. See SWITZERLAND: A. D. 1803–1848.

LANDAU: A. D. 1648.—Cession to France. See GERMANY: A. D. 1648.

A. D. 1702-1703.—Taken and retaken. See GERMANY: A. D. 1702; and 1703.

A. D. 1704.—Taken by the Allies. See GERMANY: A. D. 1704.

A. D. 1713.—Taken and retained by France. See UTRECHT: A. D. 1712–1714.

LANDEN, OR NEERWINDEN, Battle of. See FRANCE: A. D. 1693 (JULY).

LANDFRIEDE.—FEHDERECHT.—THE SWABIAN LEAGUE.—"Landfriede—Peace of the Land. The expression, Public Peace, which, in deference to numerous and high authorities I have generally used in the text, is liable to important objections. 'A breach of the public peace' means, in England, any open disorder or outrage. But [in mediæval Germany] the Landfriede (Pax publica) was a special act or provision directed against the abuse of an ancient and established institution,—the Fehderecht (jus diffidationis, or right of private warfare). The attempts to restrain this abuse were, for a long time, local and temporary . . . The first energetic measure of the general government to put down private wars was that of the diet of Nürnberg (1466). . . . The Fehde is a middle term between duel and war. Every affront or injury led, after certain formalities, to the declaration, addressed to the offending party, that the aggrieved party would be his foe, and that of his helpers and helpers'-helpers. . . . I shall not go into an elaborate description of the evils attendant on the right of diffidation or private warfare (Fehderecht); they were probably not so great as is commonly imagined."—L. Ranke, *Hist. of the Reformation in Germany*, *v.* 1, *pp.* 77 (*footnote*), 71, *and* 81.—"The right of diffidation, or of private warfare, had been the immemorial privilege of the Germanic nobles—a privilege as clear as it was ancient, which no diet attempted to abolish, but which, from the mischiefs attending its exercise, almost every one had endeavoured to restrain. . . . Not only state could declare war against state, prince against prince, noble against noble, but any noble could legally defy the emperor himself." In the reign of Frederick III. (1440–1493) efforts were made to institute a tribunal—an imperial chamber—which should have powers that would operate to restrain these private wars; but the emperor and the college of princes could not agree as to the constitution of the court proposed. To attain somewhat the same end, the emperor then "established a league both of the princes and of the imperial cities, which was destined to be better observed than most preceding confederations. Its object was to punish all who, during ten years, should, by the right of diffidation, violate the public tranquillity. He commenced with Swabia, which had ever been regarded as the imperial domain; and which, having no elector, no governing duke, no actual head other than the emperor himself, and, consequently, no other acknowledged protector, was sufficiently disposed to his views. In its origin the Swabian league consisted only of six cities, four prelates, three counts, sixteen knights; but by promises, or reasoning, or threats, Frederic soon augmented it. The number of towns was raised to 22, of prelates to 13, of counts to 12, of knights or inferior nobles to 350. It derived additional strength from the adhesion of princes and cities beyond the confines of Swabia; and additional splendour from the names of two electors, three margraves, and other reigning princes. It maintained constantly on foot 10,000 infantry and 1,000 cavalry,—a force generally sufficient for the preservation of tranquillity. Of its salutary effects some notion may be formed from the fact that, in a very short period, one-and-forty bandit dens were stormed, and that two powerful offenders, George duke of Bavaria, and duke Albert of Munich, were compelled by an armed force to make satisfaction for their infraction of the public peace."—S. A. Dunham, *Hist. of the Germanic Empire*, *v.* 2, *pp.* 281–283.—The final suppression of the Fehderecht was brought about in the succeeding reign, of Maximilian, by the institution of the Imperial Chamber and the organization of the Circles to enforce its decrees. See GERMANY: A. D. 1493–1519.

LANDO, Pope, A. D. 913–914.

LANDRECIES: A. D. 1647.—Spanish siege and capture. See NETHERLANDS (SPANISH PROVINCES): A. D. 1647–1648.

A. D. 1655.—Siege and capture by Turenne. See FRANCE: A. D. 1653–1656.

A. D. 1659.—Ceded to France. See FRANCE: A. D. 1659–1661.

A. D. 1794.—Siege and capture by the Allies.—Recovery by the French. See FRANCE: A. D. 1794 (MARCH—JULY).

LANDRIANO, Battle of (1529). See ITALY: A. D. 1527–1529.

LANDSHUT, Battle of (1760). See GERMANY: A. D. 1760.....(1809.) See GERMANY: A. D. 1809 (JANUARY—JUNE).

LANDSQUENETS.—"After the accession of Maximilian I. [Emperor, A. D. 1493–1519], the troops so celebrated in history under the name of 'Landsquenets' began to be known in Europe. They were native Germans, and soon rose to a high degree of military estimation. That Emperor, who had studied the art of war, and who conducted it on principles of Tactics, armed them with long lances; divided them into regiments, composed of ensigns and squads; compelled them to submit to a rigorous discipline, and retained them under their standards after the conclusion of the wars in which he was engaged. . . . Pikes were substituted in the place of their long lances, under Charles V."—Sir N. W. Wraxall, *Hist. of France*, 1574–1610, *v.* 2, *p.* 188.

LANDSTING. See SCANDINAVIAN STATES (DENMARK—ICELAND): A. D. 1849–1874; and CONSTITUTION OF SWEDEN.

LANDWEHR, The. See FYRD.

LANGENSALZA, Battle at (1075). See SAXONY: A. D. 1073–1075.....(1866.) See GERMANY: A. D. 1866.

LANGOBARDI, The. See LOMBARDS.

LANGPORT, Battle of. See ENGLAND: A. D. 1645 (JULY—SEPTEMBER).

LANG'S NEK, Battle of (1881). See South Africa: A. D. 1806–1881.

LANGSIDE, Battle of (1568). See Scotland: A. D. 1561–1568.

LANGUE D'OC.—"It is well known that French is in the main a descendant from the Latin, not the Latin of Rome, but the corrupter Latin which was spoken in Gaul. Now these Latin-speaking Gauls did not, for some reason, say 'est,' 'it is,' for 'yes,' as the Romans did; but they used a pronoun, either 'ille,' 'he,' or 'hoc,' 'this.' When, therefore, a Gaul desired to say 'yes,' he nodded, and said 'he' or else 'this,' meaning 'He is so,' or 'This is so.' As it happens the Gauls of the north said 'ille,' and those of the south said 'hoc,' and these words gradually got corrupted into two meaningless words, 'oui' and 'oc.' It is well known that the people in the south of France were especially distinguished by using the word 'oc' instead of 'oui' for 'yes,' so that their 'dialect' got to be called the 'langue d'oc,' and this word Languedoc gave the name to a province of France."—C. F. Keary, *Dawn of History, ch* 3.

Also in: F. Hueffer, *The Troubadours, ch.* 1.—Sir G. C. Lewis, *The Romance Languages, p.* 52, *and after.*

LANGUEDOC.—When, as a consequence of the Albigensian wars, the dominions of the Counts of Toulouse were broken up and absorbed for the most part in the domain of the French crown, the country which had been chiefly ravaged in those wars, including Septimania and much of the old county of Toulouse, acquired the name by which its language was known—Languedoc. The 'langue d'oc' was spoken likewise in Provence and in Aquitaine; but it gave a definite geographical name only to the region between the Rhone and the Garonne. See Albigenses: A. D. 1217–1229; also, Provence: A. D. 1179–1207.

LANNES, Marshal, Campaigns of. See France: A D. 1800–1801 (May–February); Germany: A. D. 1806 (October); Spain: A. D. 1808 (September—December), 1808–1809 (December—March), 1809 (February—July); and Germany: A. D. 1809 (January—June).

LANSDOWNE, Lord, The Indian administration of. See India: A. D 1880–1893.

LAON: The last capital of the Carolingian kings.—The rock-lifted castle and stronghold of Laon, situated in the modern department of Aisne, about 74 miles northeast from Paris, was the last refuge and capital—sometimes the sole dominion—of the Carolingian kings, in their final struggle with the new dynasty sprung from the Dukes of France. The "King of Laon" and the "King of St. Denis," as the contestants are sometimes called, disputed with one another for a monarchy which was small when the sovereignty of the two had been united in one. In 991 the "King of Laon" was betrayed to his rival, Hugh Capet, and died in prison. "Laon ceased to be a capital, and became a quiet country town; the castle, relic of those days, stood till 1832, when it was rased to the ground."—G. W. Kitchin, *Hist. of France, v.* 1, *bk.* 3, *ch.* 2.

Also in: Sir F. Palgrave, *Hist. of Normandy and England, bk.* 1, *pt.* 2, *ch.* 4, *pt.* 1–2 (*v.* 2).—See, also, France: A. D. 877–987.

A. D. 1594.—Siege and capture by Henry IV. See France: A. D. 1593–1598.

LAON, Battle of. See France: A. D. 1814 (January—March).

LAPITHÆ, The.—A race which occupied in early times the valley of the Peneus, in Thessaly; "a race which derived its origin from Almopia in Macedonia, and was at least very nearly connected with the Minyans and Æolians of Ephyra."—C. O. Müller, *Hist. and Antiq. of the Doric Race, bk.* 1, *ch* 1.

LA PLATA, Provinces of. See Argentine Republic.

LA PUERTA, Battle of (1814). See Colombian States: A. D. 1810–1821.

LARGS, Battle of. See Scotland: A D 1263.

LARISSA.—There were several ancient cities in Greece and Asia Minor called Larissa See Argos, and Perrhæbians.

LAROCHEJACQUELIN, Henri de, and the insurrection in La Vendée. See France A. D. 1793 (March—April); (June); and (July—December).

LA ROCHELLE. See Rochelle

LA ROTHIERE, Battle of. See France. A. D. 1814 (January—March).

LA SALLE'S EXPLORATIONS. See Canada: A. D 1669–1687.

LAS CASAS, The humane labors of. See Slavery: Modern: of the Indians.

LASSALLE, and German Socialism. See Social Movements: A. D. 1862–1864

LASSI, OR LAZZI, The. See Læti.

LASWARI, Battle of (1803). See India: A. D. 1798–1805.

LATERAN, The.—"The Lateran derives its name from a rich patrician family, whose estates were confiscated by Nero. . . . It afterwards became an imperial residence, and a portion of it . . . was given by Constantine to Pope Melchiades in 312,—a donation which was confirmed to St. Sylvester, in whose reign the first basilica was built here. . . . The ancient Palace of the Lateran was the residence of the popes for nearly 1,000 years. . . . The modern Palace of the Lateran was built from designs of Fontana by Sixtus V. In 1693 Innocent XII. turned it into a hospital,—in 1438 Gregory XVI. appropriated it as a museum."—A. J C. Hare, *Walks in Rome, ch.* 13.

LATHES OF KENT.—"The county of Kent [England] is divided into six 'lathes,' of nearly equal size, having the jurisdiction of the hundreds in other shires. The lathe may be derived from the Jutish 'lething' (in modern Danish 'leding')—a military levy."—T. P. Taswell-Langmead, *English Const. Hist., ch.* 1, *foot-note.*

LATHOM HOUSE, Siege of. See England: A D. 1644 (January).

LATIFUNDIA.—The great slave-tilled estates of the Romans, which swallowed up the properties of the small land-holders of earlier times, were called Latifundia.

LATIN CHURCH, The.—The Roman Catholic Church (see Papacy) is often referred to as the Latin Church, in distinction from the Greek or Orthodox Church of the East.

LATIN EMPIRE AT CONSTANTINOPLE. See Romania, The Empire of.

LATIN LANGUAGE IN THE MIDDLE AGES. See Education, Mediæval.

"LATIN NAME," The.—"We must . . . explain what was meant in the sixth century of Rome [third century B. C.] by the 'Latin name.'

. . . The Latin name was now extended far beyond its old geographical limits, and was represented by a multitude of flourishing cities scattered over the whole of Italy, from the frontier of Cisalpine Gaul to the southern extremity of Apulia. . . . Not that they were Latins in their origin, or connected with the cities of the old Latium: on the contrary they were by extraction Romans; they were colonies founded by the Roman people, and consisting of Roman citizens: but the Roman government had resolved that, in their political relations, they should be considered, not as Romans, but as Latins; and the Roman settlers, in consideration of the advatages which they enjoyed as colonists, were content to descend politically to a lower condition than that which they had received as their birthright. The states of the Latin name, whether cities of old Latium or Roman colonies, all enjoyed their own laws and municipal government, like the other allies . . . . They were also so much regarded as foreigners that they could not buy or inherit land from Roman citizens; nor had they generally the right of intermarriage with Romans But they had two peculiar privileges: one, that any Latin who left behind him a son in his own city, to perpetuate his family there, might remove to Rome, and acquire the Roman franchise; the other, that every person who had held any magistracy or distinguished office in a Latin state, might become at once a Roman citizen."—T. Arnold, *Hist. of Rome, ch.* 41.

LATIN UNION, The. See MONEY AND BANKING: A. D. 1853–1874.

LATINS, Subjugation of, by the Romans. See ROME: B. C. 339–338.

LATIUM.—THE OLD LATINS.—"The plain of Latium must have been in primeval times the scene of the grandest conflicts of nature, while the slowly formative agency of water deposited, and the eruptions of mighty volcanoes upheaved, the successive strata of that soil on which was to be decided the question to what people the sovereignty of the world should belong. Latium is bounded on the east by the mountains of the Sabines and Aequi, which form part of the Apennines; and on the south by the Volscian range rising to the height of 4,000 feet, which is separated from the main chain of the Apennines by the ancient territory of the Hernici, the table-land of the Sacco (Trerus, a tributary of the Liris), and stretching in a westerly direction terminates in the promontory of Terracina. On the west its boundary is the sea, which on this part of the coast forms but few and indifferent harbours. On the north it imperceptibly merges into the broad highlands of Etruria. The region thus enclosed forms a magnificent plain traversed by the Tiber, the 'mountain-stream' which issues from the Umbrian, and by the Anio, which rises in the Sabine mountains. Hills here and there emerge, like islands, from the plain; some of them steep limestone cliffs, such as that of Soracte in the north-east, and that of the Circeian promontory on the south-west, as well as the similar though lower height of the Janiculum near Rome; others volcanic elevations, whose extinct craters had become converted into lakes which in some cases still exist; the most important of these is the Alban range, which, free on every side, stands forth from the plain between the Volscian chain and the river Tiber. Here settled the stock which is known to history under the name of the Latins, or, as they were subsequently called by way of distinction from the Latin communities beyond the bounds of Latium, the 'Old Latins' ('prisci Latini'). But the territory occupied by them, the district of Latium, was only a small portion of the central plain of Italy. All the country north of the Tiber was to the Latins a foreign and even hostile domain, with whose inhabitants no lasting alliance, no public peace, was possible, and such armistices as were concluded appear always to have been for a limited period. The Tiber formed the northern boundary from early times. . . . We find, at the time when our history begins, the flat and marshy tracts to the south of the Alban range in the hands of Umbro-Sabellian stocks, the Rutuli and Volsci; Ardea and Velitrae are no longer in the number of originally Latin towns. Only the central portion of that region between the Tiber, the spurs of the Apennines, the Alban Mount, and the sea—a district of about 700 square miles, not much larger than the present canton of Zurich—was Latium proper, the 'plain,' as it appears to the eye of the observer from the heights of Monte Cavo. Though the country is a plain, it is not monotonously flat. With the exception of the sea-beach which is sandy and formed in part by the accumulations of the Tiber, the level is everywhere broken by hills of tufa moderate in height, though often somewhat steep, and by deep fissures of the ground. These alternating elevations and depressions of the surface lead to the formation of lakes in winter; and the exhalations proceeding in the heat of summer from the putrescent organic substances which they contain engender that noxious fever-laden atmosphere, which in ancient times tainted the district as it taints it at the present day."—T. Mommsen, *Hist. of Rome, bk.* 1, *ch.* 8.—See, also, ITALY, ANCIENT.

LATT, OR LIDUS, The. See SLAVERY: MEDIÆVAL: GERMANY.

LATTER DAY SAINTS, Church of. See MORMONISM: A. D. 1805–1830.

LAUD, Archbishop, Church tyranny of. See ENGLAND: A. D. 1633–1640.

LAUDER BRIDGE. See SCOTLAND: A. D. 1482–1488.

LAUDERDALE, Duke of. His oppression in Scotland. See SCOTLAND: A. D. 1669–1679.

LAUFFENBURG, Captured by Duke Bernhard (1637). See GERMANY: A. D. 1634–1639.

LAURAS.—"The institution of Lauras was the connecting link between the hermitage and the monastery, in the later and more ordinary use of that word. . . . A Laura was an aggregation of separate cells, under the not very strongly defined control of a superior, the inmates meeting together only on the first and last days, the old and new Sabbaths, of each week, for their common meal in the refectory and for common worship. . . . The origin of the word 'Laura' is uncertain. . . . Probably it is another form of 'labra,' the popular term in Alexandria for an alley or narrow court."—I. G. Smith, *Christian Monasticism, pp.* 38–39.

LAUREATE, English Poets.—"From the appointment of Chaucer about five hundred years have elapsed, and during that period a long line of poets have held the title of Laureate. For the first two hundred years they were

somewhat irregularly appointed, but from the creation of Richard Edwards in 1561, they come down to the present time without interruption. The selection of the Laureate has not always been a wise one, but the list contains the names of a few of our greatest authors, and the honour was certainly worthily bestowed upon Edmund Spenser, Ben Jonson, John Dryden, Robert Southey, William Wordsworth, and Alfred Tennyson. As the custom of crowning successful poets appears to have been in use since the origin of poetry itself, the office of Poet Laureate can certainly boast of considerable antiquity, and the laurel wreath of the Greeks and Romans was an envied trophy long before our Druidical forefathers held aloft the mistletoe bough in their mystic rites. From what foreign nation we first borrowed the idea of a King of the Poets is doubtful."—W. Hamilton, *Origin of the Office of Poet Laureate* (*Royal Hist. Soc., Transactions, v.* 8).—The following is a list of the Poets Laureate of England, with the dates of their appointment: Geoffrey Chaucer, 1368; Sir John Gower, 1400; Henry Scogan; John Kay; Andrew Bernard, 1486; John Skelton, 1489; Robert Whittington, 1512; Richard Edwards, 1561; Edmund Spenser, 1590; Samuel Daniel, 1598; Ben Jonson, 1616; Sir William Davenant, 1638; John Dryden, 1670; Thomas Shadwell, 1688; Nahum Tate, 1692; Nicholas Rowe, 1715; Rev. Laurence Eusden, 1718; Colley Cibber, 1730; William Whitehead, 1757; Thomas Warton, 1785; Henry James Pye, 1790; Robert Southey, 1818; William Wordsworth, 1843; Alfred Tennyson, 1850.—W. Hamilton, *The Poets Laureate of England.*

LAURIUM, Silver Mines of.—These mines, in Attica, were owned and worked at an early time by the Athenian state, and seem to have yielded a large revenue, more or less of which was divided among the citizens. It was by persuading the Athenians to forego that division that Themistocles secured money to build the fleet which made Athens a great naval power. The mines were situated in the southern part of Attica, in a district of low hills, not far from the promontory of Sunium.—G. Grote, *Hist. of Greece, pt.* 2, *ch.* 39.

LAUSITZ. See BRANDENBURG.

LAUTULÆ, Battle of. See ROME: B. C. 343–290.

LAW, John, and his Mississippi Scheme. See FRANCE: A. D. 1717–1720; and LOUISIANA: A. D. 1717–1718.

LAW.*

The subject is here treated with reference to the history of the rights of persons and property, and that of procedure, rather than in its political and economic aspects, which are discussed under other heads. And those parts of the history of law thus considered which enter into our present systems are given the preference in space,—purely historical matters, such as the Roman Law, being treated elsewhere, as indicated in the references placed at the end of this article:

Admiralty Law.

A. D. 1183.—Law as to Shipwrecks.—"The Emperor Constantine, or Antonine (for there is some doubt as to which it was), had the honour of being the first to renounce the claim to shipwrecked property in favor of the rightful owner. But the inhuman customs on this subject were too deeply rooted to be eradicated by the wisdom and vigilance of the Roman law givers. The legislation in favor of the unfortunate was disregarded by succeeding emperors, and when the empire itself was overturned by the northern barbarians, the laws of humanity were swept away in the tempest, and the continual depredations of the Saxons and Normans induced the inhabitants of the western coasts of Europe to treat all navigators who were thrown by the perils of the sea upon their shores as pirates, and to punish them as such, without inquiry or discrimination. The Emperor Andronicus Comnenus, who reigned at Constantinople in 1183, made great efforts to repress this inhuman practice. His edict was worthy of the highest praise, but it ceased to be put in execution after his death. . . . Valin says, it was reserved to the ordinances of Lewis XIV. to put the finishing stroke towards the extinction of this species of piracy, by declaring that shipwrecked persons and property were placed under the special protection and safe guard of the crown, and the punishment of death without hope of pardon, was pronounced against the guilty."—James Kent, *International Law, edited by J. T. Abdy, p.* 81.

A. D. 1537.—Jurisdiction.—The Act of 28 Henry VIII., c. 15, granted jurisdiction to the Lord High Admiral of England.

A. D. 1575.—Jurisdiction.—"The Request of the Judge of the Admiralty, to the Lord Chief Justice of her Majesty's Bench, and his Colleagues, and the Judges' Agreement 7th May 1575,"—by which the long controversy between these Courts as to their relative jurisdiction was terminated, will be found in full in *Benedict's American Admiralty, 3d ed., p.* 41.

A. D. 1664.—Tide-mark.—The space between high and low water mark is to be taken as part of the sea, when the tide is in.—Erastus C. Benedict, *American Admiralty, 3d ed., by Robert D. Benedict, p.* 35, *citing Sir John Constable's Case, Anderson's Rep.* 89.

A. D. 1789.—United States Judiciary Act.—The Act of 1789 declared admiralty jurisdiction to extend to all cases "where the seizures are made on waters which are navigable from the sea by vessels of ten or more tons burthen."—*Judiciary Act, U. S. Stat. at Large, v.* 1, *p.* 76.

A. D. 1798.—Lord Stowell and Admiralty Law.—"Lord Mansfield, at a very early period of his judicial life, introduced to the notice of the English bar the Rhodian laws, the Consolato del mare, the laws of Oleron, the treatises of Roccus, the laws of Wisbuy, and, above all, the marine ordinances of Louis XIV., and the commentary of Valin. These authorities were cited by him in Luke v. Lyde [2 Burr. 882], and from that time a new direction was given to English studies, and new vigor, and more liberal

*Prepared for this work by Austin Abbott, Dean of the New York University Law School.

and enlarged views, communicated to forensic investigations. Since the year 1798, the decisions of Sir William Scott (now Lord Stowell) on the admiralty side of Westminster Hall, have been read and admired in every region of the republic of letters, as models of the most cultivated and the most enlightened human reason. . . . The doctrines are there reasoned out at large, and practically applied. The arguments at the bar, and the opinions from the bench, are intermingled with the greatest reflections, . . . the soundest policy, and a thorough acquaintance with all the various topics which concern the great social interests of mankind."—James Kent, *Commentaries, pt. 5, lect. 42.*

A. D. 1841-1842.—Jurisdiction.—The act 3 and 4 Vic., c. 65, restored to the English Admiralty some jurisdiction of which it had been deprived by the Common Law Courts.—*Benedict's Am. Admiralty, p. 56.*

A. D. 1845.—Extension of Admiralty Jurisdiction.—"It took the Supreme Court of the United States more than fifty years to reject the antiquated doctrine of the English courts, that admiralty jurisdiction was confined to salt water, or water where the tide ebbed and flowed. Congress in 1845 passed an act extending the admiralty jurisdiction of the Federal courts to certain cases upon the great lakes, and the navigable waters connecting the same. The constitutionality of this act was seriously questioned, and it was not till 1851 that the Supreme Court, by a divided court, in the case of the Genesee Chief, which collided with another vessel on Lake Ontario, sustained the constitutionality of the act, and repudiated the absurd doctrine that tides had anything to do with the admiralty jurisdiction conferred by the constitution upon Federal courts."—Lyman Trumbull, *Precedent versus Justice, American Law Review, v. 27, p. 324.*—See, also, *Act of* 1845, 5 *U. S. Stat. at L. 726.*

A. D. 1873.—Division of Loss in case of Collision settled by Judicature Act.—"The rule that where both ships are at fault for a collision each shall recover half his loss from the other, contradicts the old rule of the common law that a plaintiff who is guilty of contributory negligence can recover nothing. This conflict between the common law and the law of the Admiralty was put an end to in 1873 by the Judicature Act of that year, which (s. 25, subs. 9) provides that 'if both ships shall be found to have been in fault' the Admiralty rule shall prevail. . . There can be no doubt that in some instances it works positive injustice; as where it prevents the innocent cargo-owner from recovering more than half his loss from one of the two wrong-doing shipowners. And recent cases show that it works in an arbitrary and uncertain manner when combined with the enactments limiting the shipowner's liability for damage done by his ship. The fact, however, remains, that it has been in operation with the approval of the shipping community for at least two centuries, and probably for a much longer period; and an attempt to abolish it at the time of the passing of the Judicature Acts met with no success. The true reason of its very general acceptance is probably this—that it gives effect to the principle of distributing losses at sea, which is widely prevalent in maritime affairs. Insurance, limitation of shipowner's liability, and general average contribution are all connected, more or less directly, with this principle."—R. G. Marsden, *Two Points of Admiralty Law, Law Quarterly Review, v. 2, pp. 357-362.*

For an enumeration of the various Maritime codes with their dates, see *Benedict's Am. Admiralty, pp. 91-97, and Davis' Outlines of International Law, pp. 5, 6, &c.*

Common Law.*

A. D. 449-1066.—Trial by Jury unknown to Anglo-Saxons.—"It may be confidently asserted that trial by jury was unknown to our Anglo-Saxon ancestors; and the idea of its existence in their legal system has arisen from a want of attention to the radical distinction between the members or judges composing a court, and a body of men apart from that court, but summoned to attend it in order to determine conclusively the facts of the case in dispute. This is the principle on which is founded the intervention of a jury; and no trace whatever can be found of such an institution in Anglo-Saxon times."—W. Forsyth, *Trial by Jury, p. 45.*

A. D. 630.—The first Written Body of English Law.—"The first written body of English Law is said to have been promulgated in the Heptarchy by Ethelbert, about the year 630, and enacted with the consent of the states of his kingdom."—Joseph Parke, *Hist. of Chancery, p. 14.*

A. D. 871-1066.—The King's Peace.—1. The technical use of "the king's peace" is, I suspect, connected with the very ancient rule that a breach of the peace in a house must be atoned for in proportion to the householder's rank. If it was in the king's dwelling, the offender's life was in the king's hand. This peculiar sanctity of the king's house was gradually extended to all persons who were about his business, or specially under his protection; but when the Crown undertook to keep the peace everywhere, the king's peace became coincident with the general peace of the kingdom, and his especial protection was deemed to be extended to all peaceable subjects. In substance, the term marks the establishment of the conception of public justice, exercised on behalf of the whole commonwealth, as something apart from and above the right of private vengeance,—a right which the party offended might pursue or not, or accept composition for, as he thought fit. The private bloodfeud, it is true, formally and finally disappeared from English jurisprudence only in the present century; but in its legalized historical shape of the wager of battle it was not a native English institution.—Sir Frederick Pollock, *Essays in Jurisprudence and Ethics, p. 205.*—See, also, KING'S PEACE.

A. D. 1066.—Inquisition, parent of Modern Jury.—"When the Normans came into England they brought with them, not only a far more vigorous and searching kingly power than had been known there, but also a certain product of the exercise of this power by the Frankish kings and the Norman dukes; namely, the use of the inquisition in public administration, i. e., the practice of ascertaining facts by summoning together by public authority a number of people most likely, as being neighbors, to know and tell the truth, and calling for their answer under oath. This was the parent of the modern jury.

* Including legislation in modification of it.

. . . With the Normans came also another novelty, the judicial duel — one of the chief methods for determining controversies in the royal courts; and it was largely the cost, danger, and unpopularity of the last of these institutions which fed the wonderful growth of the other."— J. B. Thayer, *The Older Modes of Trial* (*Harvard Law Review*, *v.* 5, *p.* 45).

A. D. 1066-1154.—Trial by Jury unknown to Anglo-Normans.— "The same remark which has already been made, with reference to the absence of all mention of the form of jury trial in the Anglo-Saxon Laws, applies equally to the first hundred years after the Conquest. It is incredible that so important a feature of our jurisprudence, if it had been known, would not have been alluded to in the various compilations of law which were made in the reigns of the early Norman kings. . . . Although the form of the jury did not then exist, the rudiments of that mode of trial may be distinctly traced, in the selection from the neighborhood where the dispute arose, of a certain number of persons, who after being duly sworn testified to the truth of the facts within their own knowledge. This is what distinguishes the proceeding from what took place among the Anglo-Saxons — namely, the choosing a limited number of probi homines to represent the community, and give testimony for them."— W. Forsyth, *Trial by Jury*, *pp.* 82–90. —See, also, JURY: TRIAL BY.

A. D. 1066-1154.—The Curia Regis. — "As a legal tribunal the jurisdiction of the Curia was both civil and criminal, original and appellate. As a primary court it heard all causes in which the king's interests were concerned, as well as all causes between the tenants-in-chief of the crown, who were too great to submit to the local tribunals of the shire and the hundred. As an appellate court it was resorted to in those cases in which the powers of the local courts had been exhausted or had failed to do justice. By virtue of special writs, and as a special favor, the king could at his pleasure call up causes from the local courts to be heard in his own court according to such new methods as his advisers might invent. Through the issuance of these special writs the king became practically the fountain of justice, and through their agency the new system of royal law, which finds its source in the person of the king, was brought in to remedy the defects of the old, unelastic system of customary law which prevailed in the provincial courts of the people. The curia followed the person of the king, or the justiciar in the king's absence."—Hannis Taylor, *Origin and Growth of the English Constitution*, *pt.* 1, *pp* 245–246.

A. D. 1066-1215.—Purchasing Writs.—"The course of application to the curia regis was of this nature. The party suing paid, or undertook to pay, to the king a fine to have justitiam et rectam in his court: and thereupon he obtained a writ or precept, by means of which he commenced his suit; and the justices were authorized to hear and determine his claim."— Reeves' (Finlason's) *Hist. Eng. Law*, *v.* 1, *p.* 267.

A. D. 1077.—Trial by Battle.— "The earliest reference to the battle, I believe, in any account of a trial in England, is at the end of the case of Bishop Wulfstan v. Abbot Walter, in 1077. The controversy was settled, and we read: 'Thereof there are lawful witnesses . . . who said and heard this, ready to prove it by oath and battle.' This is an allusion to a common practice in the Middle Ages, that of challenging an adversary's witness, or perhaps to one method of disposing of cases where witnesses were allowed on opposite sides and contradicted each other. . . . Thus, as among nations still, so then in the popular courts and between contending private parties, the battle was often the ultima ratio, in cases where their rude and unrational methods of trial yielded no results. It was mainly in order to displace this dangerous . . . mode of proof that the recognitions — that is to say, the first organized form of the jury — were introduced. These were regarded as a special boon to the poor man, who was oppressed in many ways by the duel. It was by enactment of Henry II. that this reform was brought about, first in his Norman dominions (in 1150–52), before reaching the English throne, and afterwards in England, sometime after he became king, in 1154."—J. B. Thayer, *The Older Modes of Trial* (*Harvard Law Review*, *v.* 5, *pp.* 66–67).—See, also: WAGER OF BATTLE.

A. D. 1100 (circa).—Origin of Statutes of Limitation.—"Our ancestors, instead of fixing a given number of years as the period within which legal proceedings to recover real property must be resorted to, had recourse to the singular expedient of making the period of limitation run from particular events or dates. From the time of Henry I. to that of Henry III., on a writ of right, the time within which a descent must be shown was the time of King Henry I. (Co. Litt. 114b). In the twentieth year of Henry III., by the Statute of Merton (c. 8) the date was altered to the time of Henry II. Writs of 'mort d'ancestor' were limited to the time of the last return of King John into England; writs of novel disseisin to the time of the king's first crossing the sea into Gascony. In the previous reign, according to Glanville (lib. 13, c. 33), the disseisin must have been since the last voyage of King Henry II. into Normandy. So that the time necessary to bar a claim varied materially at different epochs. Thus matters remained until the 3 Edw. I. (Stat. West. 1, c. 39), when, as all lawyers are aware, the time within which a writ of right might be brought was limited to cases in which the seisin of the ancestor was since the time of King Richard I., which was construed to mean the beginning of that king's reign (2 Inst. 238), a period of not less than eighty-six years. The legislature having thus adopted the reign of Richard I. as the date from which the limitation in a real action was to run, the courts of law adopted it as the period to which, in all matters of prescription or custom, legal memory, which till then had been confined to the time to which living memory could go back, should thenceforth be required to extend. Thus the law remained for two centuries and a half, by which time the limitation imposed in respect of actions to recover real property having long become inoperative to bar claims which had their origin posterior to the time of Richard I., and having therefore ceased practically to afford any protection against antiquated claims, the legislature, in 32d of Henry VIII. (c. 2), again interfered, and on this occasion, instead of dating the period of limitation from some particular event or date, took the wiser course of prescribing a fixed number of years as the limit within

which a suit should be entertained. . . . It was of course impossible that as time went on the adoption of a fixed epoch, as the time from which legal memory was to run, should not be attended by grievous inconvenience and hardship. Possession, however long, enjoyment, however interrupted, afforded no protection against stale and obsolete claims, or the assertion of long abandoned rights. And as parliament failed to intervene to amend the law, the judges set their ingenuity to work, by fictions and presumptions, to atone for the supineness of the legislature. . . . They first laid down the somewhat startling rule that from the usage of a lifetime the presumption arose that a similar usage had existed from a remote antiquity. Next, as it could not but happen that, in the case of many private rights, especially in that of easements, which had a more recent origin, such a presumption was impossible, judicial astuteness to support possession and enjoyment, which the law ought to have invested with the character of rights, had recourse to the questionable theory of lost grants. Juries were first told that from user, during living memory, or even during twenty years, they might presume a lost grant or deed; next they were recommended to make such presumption; and lastly, as the final consummation of judicial legislation, it was held that a jury should be told, not only that they might, but also that they were bound to presume the existence of such a lost grant, although neither judge nor jury, nor any one else, had the shadow of a belief that any such instrument had ever really existed. . . . When the doctrine of presumptions had proceeded far towards its development, the legislature at length interfered, and in respect of real property and of certain specified easements, fixed certain periods of possession or enjoyment as establishing presumptive rights."—C. J. Cockburn, *in Bryant v. Foot, L. R.* 2 *Q. B.*, 161; *s. c.* (*Thayer's Cases on Evidence*, 94).

A. D. 1110 (circa).—The King's Peace superior to the Peace of the Subject.—"We find in the so-called laws of Henry I, that wherever men meet for drinking, selling, or like occasions, the peace of God and of the lord of the house is to be declared between them. The amount payable to the host is only one shilling, the king taking twelve, and the injured party, in case of insult, six. Thus the king is already concerned, and more concerned than any one else; but the private right of the householder is distinctly though not largely acknowledged. We have the same feeling well marked in our modern law by the adage that every man's house is his castle, and the rule that forcible entry may not be made for the execution of ordinary civil process against the occupier: though for contempt of Court arising in a civil cause, it may, as not long ago the Sheriff of Kent had to learn in a sufficiently curious form. The theoretical stringency of our law of trespass goes back, probably, to the same origin. And in a quite recent American textbook we read, on the authority of several modern cases in various States of the Union, that 'a man assaulted in his dwelling is not obliged to retreat, but may defend his possession to the last extremity.'"—F. Pollock, *The King's Peace* (*Law Quarterly Review*, *v.* 1, *pp.* 40–41).

A. D. 1135.—Abeyance of the King's Peace.—"The King's Peace is proclaimed in general terms at his accession. But, though generalized in its application, it still was subject to a strange and inconvenient limit in time. The fiction that the king is everywhere present, though not formulated, was tacitly adopted; the protection once confined to his household was extended to the whole kingdom. The fiction that the king never dies was yet to come. It was not the peace of the Crown, an authority having continuous and perpetual succession, that was proclaimed, but the peace of William or Henry. When William or Henry died, all authorities derived from him were determined or suspended; and among other consequences, his peace died with him. What this abeyance of the King's Peace practically meant is best told in the words of the Chronicle, which says upon the death of Henry I. (anno 1135): 'Then there was tribulation soon in the land, for every man that could forthwith robbed another.' Order was taken in this matter (as our English fashion is) only when the inconvenience became flagrant in a particular case. At the time of Henry III.'s death his son Edward was in Palestine. It was intolerable that there should be no way of enforcing the King's Peace till the king had come back to be crowned; and the great men of the realm, by a wise audacity, took upon them to issue a proclamation of the peace in the new king's name forthwith. This good precedent being once made, the doctrine of the King's Peace being in suspense was never afterwards heard of."—F. Pollock, *The King's Peace* (*Law Quarterly Review*, *v.* 1, *pp.* 48–49).

A. D. 1154-1189.—Origin of Unanimity of Jury.—"The origin of the rule as to unanimity may, I think, be explained as follows: In the assise as instituted in the reign of Henry II. it was necessary that twelve jurors should agree in order to determine the question of disseisin; but this unanimity was not then secured by any process which tended to make the agreement compulsory. The mode adopted was called, indeed, an afforcement of the jury; but this term did not imply that any violence was done to the conscientious opinions of the minority. It merely meant that a sufficient number were to be added to the panel until twelve were at last found to agree in the same conclusion; and this became the verdict of the assise. . . . The civil law required two witnesses at least, and in some cases a greater number, to establish a fact in dispute; as, for instance, where a debt was secured by a written instrument, five witnesses were necessary to prove payment. These would have been called by our ancestors a jurata of five. At the present day, with us no will is valid which is not attested by at least two witnesses. In all countries the policy of the law determines what it will accept as the minimum of proof. Bearing then in mind that the jury system was in its inception nothing but the testimony of witnesses informing the court of facts supposed to lie within their own knowledge, we see at once that to require that twelve men should be unanimous was simply to fix the amount of evidence which the law deemed to be conclusive of a matter in dispute."—W. Forsyth, *Hist. of Trial by Jury*, *ch.* 11, *sect.* 1.

A. D. 1154-1189.—Reign of Law initiated.—"The reign of Henry II. initiates the rule of law. The administrative machinery, which had been regulated by routine under Henry I., is now made a part of the constitution, enunciated

in laws, and perfected by a steady series of reforms. The mind of Henry II. was that of a lawyer and man of business. He set to work from the very beginning of the reign to place order on a permanent basis, and, recurring to the men and measures of his grandfather, to complete an organization which should make a return to feudalism impossible."—W. Stubbs, *Select Charters of Eng. Const. Hist., p.* 21.

A. D. 1164-1176.—Trial by Assize.—"The first mention of the trial by assise in our existing statutes occurs in the Constitutions of Clarendon, A. D. 1164 [see ENGLAND: A. D. 1162–1170], where it was provided that if any dispute arose between a layman and a clerk as to whether a particular tenement was the property of the Church or belonged to a lay fief, this was to be determined before the chief justiciary of the kingdom, by the verdict of twelve lawful men. . . . This was followed by the Statute of Northampton, A. D. 1176, which directs the justices, in case a lord should refuse to give to the heir the seisin of his deceased ancestor, 'to cause a recognition to be made by means of twelve lawful men as to what seisin the deceased had on the day of his death;' and also orders them to inquire in the same manner in cases of novel disseisin."—W. Forsyth, *Trial by Jury, ch.* 6, *sect.* 3.

A. D. 1165 (circa).—Justice bought and sold.—"The king's justice was one great source of his revenue, and he sold it very dear. Observe that this buying and selling was not in itself corruption, though it is hard to believe that corruption did not get mixed up with it. Suitors paid heavily not to have causes decided in their favour in the king's court, but to have them heard there at all. The king's justice was not a matter of right, but of exceptional favour; and this was especially the case when he undertook, as he sometimes did, to review and overrule the actual decisions of local courts, or even reverse, on better information, his own previous commands. And not only was the king's writ sold, but it was sold at arbitrary and varying prices, the only explanation of which appears to be that in every case the king's officers took as much as they could get. Now we are in a position to understand that famous clause of the Great Charter: 'To no man will we sell, nor to none deny or delay, right or justice.' The Great Charter comes about half a century after the time of which we have been speaking; so in that time, you see, the great advance had been made of regarding the king's justice as a matter not of favour but of right. And besides this clause there is another which provides for the regular sending of the king's judges into the counties. Thus we may date from Magna Carta the regular administration of a uniform system of law throughout England. What is more, we may almost say that Magna Carta gave England a capital. For the king's court had till then no fixed seat; it would be now at Oxford, now at Westminster, now at Winchester, sometimes at places which by this time are quite obscure. But the Charter provided that causes between subject and subject which had to be tried by the king's judges should be tried not where the king's court happened to be, but in some certain place; and so the principal seat of the courts of justice, and ultimately the political capital of the realm, became established at Westminster."—Sir F. Pollock, *Essays in Jurisprudence and Ethics, p.* 209.

A. D. 1166.—Assize of Clarendon. See ENGLAND: A. D. 1162–1170.

A. D. 1176.—Justices in Eyre.—"It has been generally supposed that justices in Eyre (justitiarii itinerantes) were first established in 1176, by Henry II., for we find it recorded that in that year, in a great counsel held at Northampton, the king divided the realm into six parts, and appointed three traveling justices to go each circuit, so that the number was eighteen in all. . . . But although the formal division of the kingdom into separate circuits may have been first made by Henry II., yet there is no doubt that single justiciars were appointed by William I., a few years after the Conquest, who visited the different shires to administer justice in the king's name, and thus represented the curia regis as distinct from the hundred and county courts."—W. Forsyth, *Trial by Jury, pp.* 81–82.

A. D. 1189.—Legal Memory.—Its effect.—"No doubt usage for the last fifty or sixty years would be some evidence of usage 700 years ago, but if the question is to be considered as an ordinary question of fact, I certainly for one would very seldom find a verdict in support of the right as in fact so ancient. I can hardly believe, for instance, that the same fees in courts of justice which were till recently received by the officers as ancient fees attached to their ancient offices were in fact received 700 years ago; or that the city of London took before the time of Richard I. the same payments for measuring corn and coals and oysters that they do now. I have no doubt the city of Bristol did levy dues in the Avon before the time of legal memory, and that the mayor, as head of that corporation, got some fees at that time; but I can hardly bring myself to believe that the mayor of Bristol at that time received 5s. a year from every ship above sixty tons burthen which entered the Avon; yet the claim of the city of Bristol to their ancient mayor's dues, of which this is one, was established before Lord Tenterden, in 1828. I think the only way in which verdicts in support of such claims, and there are many such, could have properly been found, is by supposing that the jury were advised that, in favor of the long continued user, a presumption arose that it was legal, on which they ought to find that the user was immemorial, if that was necessary to legalize it, unless the contrary was proved; that presumption not being one purely of fact, and to be acted on only when the jury really entertained the opinion that in fact the legal origin existed. This was stated by Parke B., on the first trial of Jenkins v. Harvey, 1 C. M. & R. 894, as being his practice, and what he considered the correct mode of leaving the question to the jury; and that was the view of the majority of the judges in the Court of Exchequer Chamber in Shephard v. Payne, 16 C. B. (N. S.) 132; 33 L. J. (C. P.) 158. This is by no means a modern doctrine; it is as ancient as the time of Littleton, who, in his Tenures, § 170, says that all are agreed that usage since the time of Richard I. is a title; some, he says, have thought it the only title of prescription, but that others have said 'that there is also another title of prescription that was at the common law before any statute of limitation of writs, &c., and that it was where a custom or usage or other thing hath been used for time whereof mind of man runneth not to the contrary. And they have said that

this is proved by the pleading where a man will plead a title of prescription of custom. He shall say that such a custom hath been used from time whereof the memory of men runneth not to the contrary, that is as much as to say, when such a matter is pleaded, that no man then alive hath heard any proof of the contrary, nor hath no knowledge to the contrary; and insomuch that such title of prescription was at the common law, and not put out by any statute, ergo, it abideth as it was at the common law; and the rather that the said limitation of a writ of right is of so long time past. 'Ideo quaere de hoc.' It is practically the same thing whether we say that usage as far back as proof extends is a title, though it does not go so far back as the year 1189; or that such usage is to be taken in the absence of proof to the contrary to establish that the usage began before that year; and certainly the lapse of 400 years since Littleton wrote has added force to the remark, 'the rather that the limitation of a writ of right is of so long time past.' But either way, proof that the origin of the usage was since that date, puts an end to the title by prescription; and the question comes round to be whether the amount of the fee, viz. 18s, is by itself sufficient proof that it must have originated since."—J. Blackburn, *in Bryant v. Foot, L. R. 2 Q. B., 161; s. c. (Thayer's Cases on Evidence, p. 88).*

A. D. 1194.—English Law Repositories.—"The extant English judicial records do not begin until 1194 (Mich. 6 Rich. I.). We have a series of such records from 1384 (6 Rich. II.). The first law treatise by Glanvill was not written before 1187. The law reports begin in 1292. The knowledge of the laws of England prior to the twelfth century is in many points obscure and uncertain. From that time, however, the growth and development of these laws can be traced in the parliamentary and official records, treatises, and law reports."—John F. Dillon, *The Laws and Jurisprudence of England and America, pp. 28–29.*

A. D. 1199.—Earliest instance of Action for Trespass.—"A case of the year 1199 (2 Rot. Cur. Reg. 34) seems to be the earliest reported instance of an action of trespass in the royal courts. Only a few cases are recorded during the next fifty years. But about 1250 the action came suddenly into great popularity. In the 'Abbreviatio Placitorum,' twenty-five cases are given of the single year 1252–1253. We may infer that the writ, which had before been granted as a special favor, became at that time a writ of course. In Britton (*f.* 49), pleaders are advised to sue in trespass rather than by appeal, in order to avoid 'la perilouse aventure de batayles.' Trespass in the popular courts of the hundred and county was doubtless of far greater antiquity than the same action in the Curia Regis. Several cases of the reign of Henry I, are collected in Bigelow, Placita Anglo-Normannica, 89, 98, 102, 127."—J. B. Ames, *The Disseisin of Chattels (Harvard Law Review, v. 3, p. 29, note).*

A. D. 1208.—Evidence: Attesting Witnesses.—"From the beginning of our records, we find cases, in a dispute over the genuineness of a deed, where the jury are combined with the witnesses to the deed. This goes back to the Franks; and their custom of requiring the witness to a document to defend it by battle also crossed the channel, and is found in Glanville (lib. X., c. 12). . . . In these cases the jury and the witnesses named in the deed were summoned together, and all went out and conferred privately as if composing one body; the witnesses did not regularly testify in open court. Cases of this kind are found very early, e. g. in 1208–1209 (Pl. Ab. 68, col. 1, Berk.). . . . In the earlier cases these witnesses appear, sometimes, to have been conceived of as a constituent part of the jury; it was a combination of business-witnesses and community-witnesses who tried the case,—the former supplying to the others their more exact information, just as the hundredors, or those from another county, did in the cases before noticed. But in time the jury and the witnesses came to be sharply discriminated. Two or three cases in the reign of Edward III. show this. In 1337, 1338 and 1349, we are told that they are charged differently; the charge to the jury is to tell the truth (a lour ascient) to the best of their knowledge, while that to the witnesses is to tell the truth and loyally inform the inquest, without saying anything about their knowledge (sans lour scient); 'for the witnesses,' says Thorpe, C. J., in 1349, 'should say nothing but what they know as certain, i. e., what they see and hear.' . . . By the Statute of York (12 Edw. II. c. 2), in 1318, it was provided that while process should still issue to the witnesses as before, yet the taking of the inquest should not be delayed by their absence. In this shape the matter ran on for a century or two. By 1472 (Y. B. 12 Edw. IV. 4, 9), we find a change. It is said, with the assent of all the judges, that process for the witnesses will not issue unless asked for. As late, certainly, as 1489 (Y. B. 5 H. VII. 8), we find witnesses to deeds still summoned with the jury. I know of no later case. In 1549–1550 Brooke, afterwards Chief Justice of the Common Bench, argues as if this practice was still known: 'When the witnesses . . . are joined to the inquest,' etc.; and I do not observe anything in his Abridgment, published in 1568, ten years after his death, to indicate that it was not a recognized part of the law during all his time. It may, however, well have been long obsolescent. Coke (Inst. 6 b.) says of it, early in the seventeenth century, 'and such process against witnesses is vanished;' but when or how he does not say. We may reasonably surmise, if it did not become infrequent as the practice grew, in the fifteenth century, of calling witnesses to testify to the jury in open court, that, at any rate, it must have soon disappeared when that practice came to be attended with the right, recognized, if not first granted, in the statute of 1562–1563 (5 Eliz. c. 9, s. 6), to have legal process against all sorts of witnesses."—James B. Thayer, *in Harvard Law Rev., v. 5, pp. 302–5, also in Sel. Cas. Ev. pp. 771–773.*—"After the period reached in the passage above quoted, the old strictness as to the summoning of attesting witnesses still continued under the new system. As the history of the matter was forgotten, new reasons were invented, and the rule was extended to all sorts of writings."—J. B. Thayer, *Select Cases on Evidence, p. 773.*

A. D. 1215 (ante).—Courts following the King.—"Another point which ought not to be forgotten in relation to the King's Court is its migratory character. The early kings of England were the greatest landowners in the country, and besides their landed estates they had

rights over nearly every important town in England, which could be exercised only on the spot. They were continually travelling about from place to place, either to consume in kind part of their revenues, or to hunt or to fight. Wherever they went the great officers of their court, and in particular the chancellor with his clerks, and the various justices had to follow them. The pleas, so the phrase went, 'followed the person of the king,' and the machinery of justice went with them."—Sir J. F. Stephen, *Hist. of the Criminal Law of England*, *v.* 1, *p.* 87.

A. D. 1215.—Magna Charta.—"With regard to the administration of justice, besides prohibiting all denials or delays of it, it fixed the court of Common Pleas at Westminster, that the suitors might no longer be harassed with following the King's person in all his progresses; and at the same time brought the trial of issues home to the very doors of the freeholders by directing assizes to be taken in the proper counties, and establishing annual circuits. It also corrected some abuses then incident to the trials by wager of law and of battle; directing the regular awarding of inquest for life or member; prohibited the King's inferior ministers from holding pleas of the crown, or trying any criminal charge, whereby many forfeitures might otherwise have unjustly accrued to the exchequer: and regulated the time and place of holding the inferior tribunals of justice, the county court, sheriff's tourn, and court leet. . . . And, lastly (which alone would have merited the title that it bears, of the great charter,) it protected every individual of the nation in the free enjoyment of his life, his liberty and his property, unless declared to be forfeited by the judgment of his peers, or the law of the land."—Owen Flintoff, *Laws of Eng.*, *p.* 184.—See, also, ENGLAND: A. D. 1215.

A. D. 1216.—Distinction between Common and Statute Law now begins.—"The Chancellors, during this reign [John 1199-1216], did nothing to be entitled to the gratitude of posterity, and were not unworthy of the master whom they served. The guardians of law were the feudal barons, assisted by some enlightened churchmen, and by their efforts the doctrine of resistance to lawless tyranny was fully established in England, and the rights of all classes of the people were defined and consolidated. We here reach a remarkable era in our constitutional history. National councils had met from the most remote times; but to the end of this reign their acts not being preserved are supposed to form a part of the lex non scripta, or common law. Now begins the distinction between common and statute law, and henceforth we can distinctly trace the changes which our juridical system has undergone. These changes were generally introduced by the Chancellor for the time being."—Lord Campbell, *Lives of the Chancellors*, *v.* 1, *p.* 115.

A. D. 1216-1272.—Henry de Bracton.—"It is curious that, in the most disturbed period of this turbulent reign, when ignorance seemed to be thickening and the human intellect to decline, there was written and given to the world the best treatise upon law of which England could boast, till the publication of Blackstone's Commentaries, in the middle of the eighteenth century. It would have been very gratifying to me if this work could have been ascribed with certainty to any of the Chancellors whose lives have been noticed. The author, usually styled Henry de Bracton, has gone by the name of Brycton, Britton, Briton, Breton, and Brets; and some have doubted whether all these names are not imaginary. From the elegance of his style, and the familiar knowledge he displays of the Roman law, I cannot doubt that he was an ecclesiastic who had addicted himself to the study of jurisprudence; and as he was likely to gain advancement from his extraordinary proficiency, he may have been one of those whom I have commemorated, although I must confess that he rather speaks the language likely to come from a disappointed practitioner rather than of a Chancellor who had been himself in the habit of making Judges. For comprehensiveness, for lucid arrangement, for logical precision, this author was unrivalled during many ages. Littleton's work on Tenures, which illustrated the reign of Edward IV., approaches Bracton; but how barbarous are, in comparison, the commentaries of Lord Coke, and the law treatises of Hale and of Hawkins!"—Lord Campbell, *Lives of the Chancellors*, *v.* 1, *p.* 139.—For opposite view see 9 *American Bar Ass'n Rep.*, *p.* 193.

A. D. 1217.—Dower.—"The additional provision made in the edition of 1217 to the provisions of the earlier issues of the Charter in respect of widow's rights fixed the law of dower on the basis on which it still rests. The general rule of law still is that the widow is entitled for her life to a third part of the lands of which her husband was seized for an estate of inheritance at any time during the marriage. At the present day there are means provided which are almost universally adopted, of barring or defeating the widow's claim. The general rule of law, however, remains the same. The history of the law of dower deserves a short notice, which may conveniently find a place here. It seems to be in outline as follows. Tacitus noticed the contrast of Teutonic custom and Roman law, in that it was not the wife who conferred a dowry on the husband, but the husband on the wife. By early Teutonic custom, besides the bride-price, or price paid by the intending husband to the family of the bride, it seems to have been usual for the husband to make gifts of lands or chattels to the bride herself. These appear to have taken two forms. In some cases the husband or his father executed before marriage an instrument called 'libellum dotis,' specifying the nature and extent of the property to be given to the wife. . . . Another and apparently among the Anglo-Saxons a commoner form of dower is the 'morning gift.' This was the gift which on the morning following the wedding the husband gave to the wife, and might consist either of land or chattels. . . . By the law as stated by Glanvil the man was bound to endow the woman 'tempore desponsationis ad ostium ecclesiae.' The dower might be specified or not. If not specified it was the third part of the freehold which the husband possessed at the time of betrothal. If more than a third part was named, the dower was after the husband's death cut down to a third. A gift of less would however be a satisfaction of dower. It was sometimes permitted to increase the dower when the freehold available at the time of betrothal was small, by giving the wife a third part or less of subsequent acquisitions. This however must have been expressly granted at the time of betrothal. A woman could never claim more than

had been granted 'ad ostium ecclesiæ.' Dower too might be granted to a woman out of chattels personal, and in this case she would be entitled to a third part. In process of time however, this species of dower ceased to be regarded as legal, and was expressly denied to be law in the time of Henry IV. A trace of it still remains in the expression in the marriage service, 'with all my worldly goods I thee endow.'"—Kenelm E. Digby, *Hist. of the Law of Real Property, pp.* 126-128 (*4th ed.*).

A. D. 1258.—Provisions of Oxford; no Writs except de Cursu.—"The writ had originally no connection whatever with the relief sought, it had been a general direction to do right to the plaintiff, or as the case might be, but, long before the time now referred to, this had been changed. . . . It appears that even after the writ obtained by the plaintiff had come to be connected with the remedy sought for, . . . a writ to suit each case was framed and issued, but the Provisions of Oxford (1258) expressly forbade the Chancellor to frame new writs without the consent of the King and his Council. It followed that there were certain writs, each applicable to a particular state of circumstances and leading to a particular judgment, which could be purchased by an intending plaintiff. These writs were described as writs 'de cursu,' and additions to their number were made from time to time by direction of the King, of his Council or of Parliament."—D. M. Kerly, *Hist. of Equity, p.* 9.

A. D. 1258.—Sale of Judicial Offices.—"The Norman Kings, who were ingenious adepts in realizing profit in every opportunity, commenced the sale of Judicial Offices. The Plantagenets followed their example. In Madox, chap. II., and in the Cottoni Posthuma, may be found innumerable instances of the purchase of the Chancellorship, and accurate details of the amount of the consideration monies. . . . What was bought must, of course, be sold, and justice became henceforth a marketable commodity. . . . The Courts of Law became a huckster's shop; every sort of produce, in the absence of money, was bartered for 'justice.'"—J. Parke, *Hist of Eng. Chancery, p.* 23.

A. D. 1265.—Disappearance of the Office of Chief Justiciary.—"Towards the end of this reign [Henry III.] the office of Chief Justiciary, which had often been found so dangerous to the Crown, fell into disuse. Hugh le Despenser, in the 49th of Henry III., was the last who bore the title The hearing of common actions being fixed at Westminster by Magna Charta, the Aula Regia was gradually subdivided and certain Judges were assigned to hear criminal cases before the King himself, wheresoever he might be, in England. These formed the Court of King's Bench. They were called 'Justitiarii ad placita coram Rege,' and the one who was to preside 'Capitalis Justiciarius.' He was inferior in rank to the Chancellor, and had a salary of only one hundred marks a year, while the Chancellor had generally 500. Henceforth the Chancellor, in rank, power, and emolument, was the first magistrate under the Crown, and looked up to as the great head of the profession of the law."—Lord Campbell, *Lives of the Chancellors*, v. 1, *pp.* 139-140.

A. D. 1275.—Statute of Westminster the First; Improvement of the Law.—"He [Robert Burnel] presided at the Parliament which met in May, 1275, and passed the 'Statute of Westminster the First,' deserving the name of a Code rather than an Act of Parliament. From this chiefly, Edward I. has obtained the name of 'the English Justinian'—absurdly enough, as the Roman Emperor merely caused a compilation to be made of existing laws,—whereas the object now was to correct abuses, to supply defects, and to remodel the administration of justice. Edward deserves infinite praise for the sanction he gave to the undertaking; and from the observations he had made in France, Sicily, and the East, he may, like Napoleon, have been personally useful in the consultations for the formation of the new Code,—but the execution of the plan must have been left to others professionally skilled in jurisprudence, and the chief merit of it may safely be ascribed to Lord Chancellor Burnel, who brought it forward in Parliament. The statute is methodically divided into fifty-one chapters. . . . It provides for freedom of popular elections, then a matter of much moment, as sheriffs, coroners, and conservators of the peace were still chosen by the free holders in the county court, and attempts had been made unduly to influence the elections of knights of the shire, almost from the time when the order was instituted. . . . It amends the criminal law, putting the crime of rape on the footing to which it has been lately restored, as a most grievous but not a capital offence. It embraces the subject of 'Procedure' both in civil and criminal matters, introducing many regulations with a view to render it cheaper, more simple, and more expeditious. . . . As long as Burnel continued in office the improvement of the law rapidly advanced,—there having been passed in the sixth year of the King's reign the 'Statute of Gloucester;' in the seventh year of the King s reign the 'Statute of Mortmain;' in the thirteenth year of the King's reign the 'Statute of Westminster the Second,' the 'Statute of Winchester,' and the 'Statute of Circumspecte agatis;' and in the eighteenth year of the King's reign the 'Statute of Quo Warranto,' and the 'Statute of Quia Emptores.' With the exception of the establishment of estates tail, which proved such an obstacle to the alienation of land till defeated by the fiction of Fines and Common Recoveries,—these laws were in a spirit of enlightened legislation, and admirably accommodated the law to the changed circumstances of the social system,—which ought to be the object of every wise legislation."—Lord Campbell, *Lives of the Chancellors*, v. 1, *pp.* 143-146.—See, also, ENGLAND: A. D. 1275-1295, and 1279.

A. D. 1278.—Foundation of Costs at Common Law.—"The Statute of Gloucester, 6 Edw. I c. i., is the foundation of the common law jurisdiction as to costs, and by that statute it was enacted that in any action where the plaintiff recovered damages, he should also recover costs. . . . By the Judicature Act, 1875, O. L. V., the Legislature gave a direct authority to all the judges of the Courts constituted under the Judicature Act, and vested in them a discretion which was to guide and determine them, according to the circumstances of each case, in the disposition of costs."—Sydney Hastings, *Treatise on Torts, p.* 879.

A. D. 1285.—Statute of Westminster II.; Writs in Consimili Casu.—"The inadequacy

of the common form writs to meet every case was, to some extent, remedied by the 24th Chapter of the Statute of Westminster II., which, after providing for one or two particular cases to meet which no writ existed, provides further that 'whensoever from henceforth it shall fortune in Chancery that in one case a writ is found, and, in like case falling under like law is found none, the clerks of the Chancery shall agree in making a writ or shall adjourn the Plaintiffs until the next Parliament, and the cases shall be written in which they cannot agree, and be referred until the next Parliament; and, by consent of the men learned in the Law a writ shall be made, that it may not happen, that the King's Court should fail in ministering justice unto Complainants.' . . . The words of the statute give no power to make a completely new departure; writs are to be framed to fit cases similar to, but not identical with, cases falling within existing writs, and the examples given in the statute itself are cases of extension of remedies against a successor in title of the raiser of a nuisance, and for the successor in title of a person who had been disseised of his common. Moreover the form of the writ was debated upon before, and its sufficiency determined by the judges, not by its framers, and they were, as English judges have always been, devoted adherents to precedent. In the course of centuries, by taking certain writs as starting points, and accumulating successive variations upon them, the judges added great areas to our common law, and many of its most famous branches, assumpsit, and trover and conversion for instance, were developed in this way, but the expansion of the Common Law was the work of the 15th and subsequent centuries, when, under the stress of eager rivalry with the growing equitable jurisdiction of the Chancery, the judges strove, not only by admitting and developing actions upon the case, but also by the use of fictitious actions, following the example of the Roman Praetor, to supply the deficiencies of their system."—D. M Kerly, *Hist. of Equity, pp.* 10-11.

A. D. 1285.—Writ of Elegit.—The Writ of Elegit "is a judicial writ given by the statute Westm. 2, 13 Edw. I., c. 18, either upon a judgment for a debt, or damages; or upon the forfeiture of a recognizance taken in the king's court. By the common law a man could only have satisfaction of goods, chattels, and the present profits of lands, by the . . . writs of 'fieri facias,' or 'levari facias;' but not the possession of the lands themselves; which was a natural consequence of the feudal principles, which prohibited the alienation, and of course the encumbering of the fief with the debts of the owner. . . . The statute therefore granted this writ (called an 'elegit,' because it is in the choice or the election of the plaintiff whether he will sue out this writ or one of the former), by which the defendant's goods and chattels are not sold, but only appraised; and all of them (except oxen and beasts of the plough) are delivered to the plaintiff, at such reasonable appraisement and price, in part of satisfaction of his debt. If the goods are not sufficient, then the moiety or one-half of his freehold lands, which he had at the time of the judgment given, whether held in his own name, or by any other in trust for him, are also to be delivered to the plaintiff; to hold, till out of the rents and profits thereof the debt be levied, or till the defendant's interest be expired; as till the death of the defendant, if he be tenant for life or in tail."—Wm. Blackstone, *Commentaries, bk.* 3, *ch.* 27.

A. D. 1290.—Progress of the Common Law Right of Alienation.—"The statute of Quia Emptores, 18 Edw. I., finally and permanently established the free right of alienation by the sub-vassal, without the lord's consent; . . . and it declared, that the grantee should not hold the land of his immediate feoffor, but of the chief lord of the fee, of whom the grantor himself held it. . . . The power of involuntary alienation, by rendering the land answerable by attachment for debt, was created by the statute of Westm. 2, 13 Edw. I, c. 18, which granted the elegit; and by the statutes merchant or staple, of 13 Edw. I., and 27 Edw. III., which gave the extent. These provisions were called for by the growing commercial spirit of the nation. To these we may add the statute of 1 Edw. III., taking away the forfeiture or alienation by the king's tenants in capite, and substituting a reasonable fine in its place; . . . and this gives us a condensed view of the progress of the common law right of alienation from a state of servitude to freedom."—J. Kent, *Commentaries, pt.* 6, *lect.* 67.

A. D. 1292.—Fleta.—"Fleta, so called from its composition in the Fleet prison by one of the justices imprisoned by Edward I., is believed to have been written about the year 1292, and is nothing but an abbreviation of Bracton, and the work called 'Britton,' which was composed between the years 1290 and 1300, is of the same character, except that it is written in the vernacular language, French, while Granvil, Bracton and Fleta are written in Latin."—Thomas J. Semmes. 9 *American Bar Association Rep., p.* 193.

A. D. 1300 (circa).—The King's Peace a Common Right.—"By the end of the thirteenth century, a time when so much else of our institutions was newly and strongly fashioned for larger uses, the King's Peace had fully grown from an occasional privilege into a common right. Much, however, remained to be done before the king's subjects had the full benefit of this. . . . A beginning of this was made as early as 1195 by the assignment of knights to take an oath of all men in the kingdom that they would keep the King's Peace to the best of their power. Like functions were assigned first to the old conservators of the peace, then to the justices who superseded them, and to whose office a huge array of powers and duties of the most miscellaneous kind have been added by later statutes. . . . Then the writ 'de securitate pacis' made it clear beyond cavil that the king's peace was now, by the common law, the right of every lawful man."—F. Pollock, *The King's Peace*, (*Law Quarterly Rev., v.* 1, *p.* 49).

A. D. 1307-1509.—The Year Books.—"The oldest reports extant on the English law, are the Year Books . . . , written in law French, and extend from the beginning of the reign of Edward II, to the latter end of the reign of Henry VIII, a period of about two hundred years. . . . The Year Books were very much occupied with discussions touching the forms of writs, and the pleadings and practice in real actions, which have gone entirely out of use."—J. Kent, *Commentaries, pt.* 3, *lect.* 21.

A. D. 1316.—Election of Sheriffs abolished.—"Until the time of Edward II. the sheriff was elected by the inhabitants of the several counties; but a statute of the 9th year of that reign abolished election, and ever since, with few exceptions, the sheriff has been appointed, upon nomination by the king's councillors and the judges of certain ranks, by the approval of the crown. . . . The office of sheriff is still in England one of eminent honor, and is conferred on the wealthiest and most notable commoners in the counties."—*New American Cyclopædia, v.* 14, *p.* 585.

A. D. 1326-1377.—Jurors cease to be Witnesses.—"The verdict of . . . the assize was founded on the personal knowledge of the jurors themselves respecting the matter in dispute, without hearing the evidence of witnesses in court. But there was an exception in the case of deeds which came into controversy, and in which persons had been named as witnessing the grant or other matter testified by the deed. . . . This seems to have paved the way for the important change whereby the jury ceasing to be witnesses themselves, gave their verdict upon the evidence brought before them at the trials. . . . Since the jurors themselves were originally mere witnesses, there was no distinction in principle between them and the attesting witnesses; so that it is by no means improbable that the latter were at first associated with them in the discharge of the same function, namely, the delivery of a verdict, and that gradually, in the course of years, a separation took place. This separation, at all events, existed in the reign of Edward III.; for although we find in the Year Books of that period the expression, 'the witnesses were joined to the assize,' a clear distinction is, notwithstanding, drawn between them." —W. Forsyth, *Trial by Jury, pp.* 124 *and* 128.

A. D. 1362.—Pleading in the English tongue.—Enrollment in Latin.—"The Statute 36 Edward III., c. 15, A. D. 1362, enacted that in future all pleas should be 'pleaded, shewed, defended, answered, debated, and judged in the English tongue:' the lawyers, on the alert, appended a proviso that they should be 'entered and enrolled' in Latin, and the old customary terms and forms retained."—J. Parke, *Hist. of Chancery, p.* 43.

A. D. 1368.—Jury System in Civil Trials.—"As it was an essential principle of the jury trial from the earliest times, that the jurors should be summoned from the hundred where the cause of action arose, the court, in order to procure their attendance, issued in the first instance a writ called a venire facias, commanding the sheriff or other officer to whom it was directed, to have twelve good and lawful men for the neighborhood in court upon a day therein specified, to try the issue joined between the parties. And this was accordingly done, and the sheriff had his jury ready at the place which the court had appointed for its sitting. But when the Court of Common Pleas was severed from the Curia Regis, and became stationary at Westminster (a change which took place in the reign of King John, and was the subject of one of the provisions of Magna Charta), it was found to be very inconvenient to be obliged to take juries there from all parts of the country. And as justices were already in the habit of making periodical circuits for the purpose of holding the assize in pleas of land, it was thought advisable to substitute them for the full court in banc at Westminster, in other cases also. The statute 13 Edw. I. c. 30, was therefore passed, which enacted that these justices should try other issues: 'wherein small examination was required,' or where both parties desired it, and return the inquests into the court above. This led to an alteration in the form of the venire: and instead of the sheriff being simply ordered to bring the jurors to the courts at Westminster on a day named, he was now required to bring them there on a certain day, 'nisi prius,' that is, unless before that day the justices of assize came into his county, in which case the statute directed him to return the jury, not to the court, but before the justices of assize."—W. Forsyth, *Hist. of Trial by Jury, pp.* 139–140.

A. D. 1382.—Peaceable Entry.—"This remedy by entry must be pursued according to statute 5 Rich. II., st. I., c. 8, in a peaceable and easy manner; and not with force or strong hand. For, if one turns or keeps another out of possession forcibly, this is an injury of both a civil and a criminal nature. The civil is remedied by an immediate restitution; which puts the ancient possessor in statu quo: the criminal injury, or public wrong, by breach of the king's peace, is punished by fine to the King."—W. Blackstone, *Commentaries, bk.* 3, *p.* 179.

A. D. 1383-1403.—Venue to be laid in proper Counties.—"The statutes 6 Rich. II., c. 2, and 4 Hen. IV., c. 18, having ordered all writs to be laid in their proper counties, this, as the judges conceived, empowered them to change the venue, if required, and not to insist rigidly on abating the writ: which practice began in the reign of James the First. And this power is discretionally exercised, so as to prevent, and not to cause, a defect of justice. . . . And it will sometimes remove the venue from the proper jurisdiction . . . , upon a suggestion, duly supported, that a fair and impartial trial cannot be had therein."—W. Blackstone, *Commentaries, bk.* 3, *p.* 294.

A. D. 1388.—Prohibition against Citation of Roman Law in Common-law Tribunals.—"In the reign of Edward III. the exactions of the court of Rome had become odious to the king and the people. Edward, supported by his Parliament, resisted the payment of the tribute which his predecessors from the Conquest downwards, but more particularly from the time of John, had been accustomed to pay to the court of Rome; . . . the name of the Roman Law, which in the reigns of Henry II. and III., and of Edward I., had been in considerable favor at court, and even . . . with the judges, became the object of aversion. In the reign of Richard II. the barons protested that they would never suffer the kingdom to be governed by the Roman law, and the judges prohibited it from being any longer cited in the common law tribunals."—G. Spence, *Equity Jurisdiction of the Court of Chancery, v.* 1, *p.* 346.

A. D. 1436.—Act to prevent interference with Common Law Process.—"In 1436, an act was passed with the concurrence of the Chancellor, to check the wanton filing of bills in Chancery in disturbance of common law process. The Commons, after reciting the prevailing grievance, prayed 'that every person from this time forward vexed in Chancery for matter

determinable by the common law, have action against him that so vexed him, and recover his damages.' The King answered, 'that no writ of subpoena be granted hereafter till security be found to satisfy the party so vexed and grieved for his damages and expenses, if it so be that the matter may not be made good which is contained in the bill.' "—Lord Campbell, *Lives of the Chancellors, v.* 1, *p.* 272.

A. D. 1450 (circa).—Evidence.—Number of Witnesses.—"It is then abundantly plain that by this time [the middle of the 15th century] witnesses could testify in open court to the jury. That this was by no means freely done seems also plain. Furthermore, it is pretty certain that this feature of a jury trial, in our day so conspicuous and indispensable, was then but little considered and of small importance."—J. B. Thayer, *Select Cases on Evidence, p.* 1071.

ALSO IN: The same, *The Jury and its Development* (*Harvard Law Rev., v.* 5, *p.* 360).

A. D. 1456.—Demurrers to Evidence.—"Very soon, as it seems, after the general practice began of allowing witnesses to testify to the jury, an interesting contrivance for eliminating the jury came into existence, the demurrer upon evidence. Such demurrers, like others, were demurrers in law; but they had the effect to withdraw from the jury all consideration of the facts, and, in their pure form, to submit to the court two questions, of which only the second was, in strictness, a question of law: (1) Whether a verdict for the party who gave the evidence could be given, as a matter of legitimate inference and interpretation from the evidence; (2) As a matter of law. Of this expedient, I do not observe any mention earlier than the year 1456, and it is interesting to notice that we do not trace the full use of witnesses to the jury much earlier than this."—J. B. Thayer, *Law and Fact in Jury Trials* (*Harvard Law Rev., v.* 4, *p.* 162).

ALSO IN: The same, *Select Cases on Evidence, p.* 149.

A. D. 1470.—Evidence.—Competency of Witnesses.—"Fortescue (De Laud. c. 26), who has the earliest account (about 1470) of witnesses testifying regularly to the jury, gives no information as to any ground for challenging them. But Coke, a century and a third later, makes certain qualifications of the assertion of the older judges, that 'they had not seen witnesses challenged.' He mentions as grounds of exclusion, legal infamy, being an 'infidel,' of non-sane memory, 'not of discretion,' a party interested, 'or the like.' And he says that 'it hath been resolved by the justices [in 1612] that a wife cannot be produced either against or for her husband, quia sunt duae animae in carne una.' He also points out that 'he that challengeth a right in the thing in demand cannot be a witness.' Here are the outlines of the subsequent tests for the competency of witnesses. They were much refined upon, particularly the excluding ground of interest; and great inconveniences resulted. At last in the fourth and fifth decades of the present century, in England, nearly all objections to competency were abolished, or turned into matters of privilege."—J. B. Thayer, *Select Cases on Evidence, p.* 1070.

A. D. 1473.—Barring Entails.—Taltarum's Case.—"The common-law judges at this time were very bold men, having of their own authority repealed the statute De Donis, passed in the reign of Edward I., which authorized the perpetual entail of land,—by deciding in Taltarum's Case, that the entail might be barred through a fictitious proceeding in the Court of Common Pleas, called a 'Common Recovery;'—the estate being adjudged to a sham claimant,—a sham equivalent being given to those who ought to succeed to it,—and the tenant in tail being enabled to dispose of it as he pleases, in spite of the will of the donor."—Lord Campbell, *Lives of the Chancellors, v.* 1, *pp.* 309–310.

A. D. 1481-1505.—Development of Actions of Assumpsit.—"It is probable that the willingness of equity to give pecuniary relief upon parol promises hastened the development of the action of assumpsit. Fairfax, J., in 1481, advised pleaders to pay more attention to actions on the case, and thereby diminish the resort to chancery; and Fineux, C. J., remarked, in 1505, after that advice had been followed and sanctioned by the courts, that it was no longer necessary to sue a subpoena in such cases. Brooke, in his 'Abridgment,' adds to this remark of Fineux, C. J.: 'But note that he shall have only damages by this [action on the case], but by subpoena the chancellor may compel him to execute the estate or imprison him ut dicitur.' "—J. B. Ames, *Specific Performance of Contracts* (*The Green Bag, v.* 1, *p.* 26).

A. D. 1484.—Statutes to be in English.—"In opening the volumes of our laws, as printed by authority 'from original records and authentic manuscripts,' we are struck with a change upon the face of these Statutes of Richard III., which indicates as true a regard for the liberty of the subjects as the laws themselves. For the first time the laws to be obeyed by the English people are enacted in the English tongue."—Charles Knight, *Hist. of Eng., v.* 2, *p.* 200.

A. D. 1499 (circa).—Copyright.—"From about the period of the introduction of printing into this country, that is to say, towards the end of the fifteenth century, English authors had, in accordance with the opinion of the best legal authorities, a right to the Copyright in their works, according to the Common Law of the Realm, or a right to their 'copy' as it was anciently called, but there is no direct evidence of the right until 1558. The Charter of the Stationers' Company, which to this day is charged with the Registration of Copyright, was granted by Philip and Mary in 1556. The avowed object of this corporation was to prevent the spread of the Reformation. Then there followed the despotic jurisdiction of the Star Chamber over the publication of books, and the Ordinances and the Licensing Act of Charles II. At the commencement of the 18th century there was no statutory protection of Copyright. Unrestricted piracy was rife. The existing remedies of a bill in equity and an action at law were too cumbrous and expensive to protect the authors' Common Law rights, and authors petitioned Parliament for speedier and more effectual remedies. In consequence, the 8 Anne, c. 19, the first English Statute providing for the protection of Copyright, was passed in 1710. This Act gave to the author the sole liberty of publication for 14 years, with a further term of fourteen years, provided the author was living at the expiration of the first term, and enacted provisions for the forfeiture of piratical copies and for the imposition of penalties in cases of piracy. But in obtaining this Act, the

authors placed themselves very much in the position of the dog in the fable, who dropped the substance in snatching at the shadow, for, while on the one hand they obtained the remedial measures they desired, on the other, the Perpetual Copyright to which they were entitled at the Common Law was reduced to the fixed maximum term already mentioned, through the combined operation of the statute and the judicial decisions to be presently referred to. But notwithstanding the statute, the Courts continued for some time to recognise the rights of authors at Common Law, and numerous injunctions were granted to protect the Copyright in books, in which the term of protection granted by the statute of Anne had expired, and which injunctions therefore could only have been granted on the basis of the Common Law right. In 1769 judgment was pronounced in the great Copyright case of Millar v. Taylor. The book in controversy was Thomson's 'Seasons,' in which work the period of Copyright granted by the statute of Anne had expired, and the question was directly raised, whether a Perpetual Copyright according to Common Law, and independent of that statute, remained in the author after publication. Lord Mansfield, one of the greatest lawyers of all times, maintained in his judgment that Copyright was founded on the Common Law, and that it had not been taken away by the statute of Anne, which was intended merely to give for a term of years a more complete protection. But, in 1774 this decision was overruled by the House of Lords in the equally celebrated pendent case of Donaldson v. Beckett, in which the Judges consulted were equally divided on the same point, Lord Mansfield and Sir William Blackstone being amongst those who were of opinion that the Common Law right had not been taken away by the statute of Anne. But owing to a point of etiquette, namely that of being peer as well as one of the Judges, Lord Mansfield did not express his opinion, and in consequence, the House of Lords, influenced by a specious oration from Lord Camden, held (contrary to the opinion of the above-mentioned illustrious Jurists), that the statute had taken away all Common Law rights after publication, and hence that in a published book there was no Copyright except that given by the statute. This judgment caused great alarm amongst those who supposed that their Copyright was perpetual. Acts of Parliament were applied for, and in 1775 the Universities obtained one protecting their literary property."—T. A. Romer, *Copyright Law Reform* (*Law Mag. & Rev., 4th ser., v.* 12, *p.* 231).

A. D. 1499.—Action of Ejectment.—"The writ of 'ejectione firmæ' . . . . out of which the modern action of ejectment has gradually grown into its present form, is not of any great antiquity. . . . The Court of Common Pleas had exclusive jurisdiction of real actions while ejectment could be brought in all three of the great common law courts. . . . The practitioners in the King's Bench also encouraged ejectment, for it enabled them to share in the lucrative practice of the Common Pleas. . . . In the action of 'ejectione firmæ,' the plaintiff first only recovered damages, as in any other action of trespass. . . . The courts, consequently following, it is said, in the footsteps of the courts of equity, . . . introduced into this action a species of relief not warranted by the original writ, . . . viz., a judgment to recover the term, and a writ of possession thereupon. Possibly the change was inspired by jealousy of the chancery courts. It cannot be stated precisely when this change took place. In 1383 it was conceded by the full court that in 'ejectione firmæ' the plaintiff could no more recover his term than in trespass he could recover damages for a trespass to be done. . . . But in 1466 it was agreed by opposing counsel that the term could be recovered, as well as damages. The earliest reported decision to this effect was in 1499, and is referred to by Mr. Reeves as the most important adjudication rendered during the reign of Henry VII., for it changed the whole system of remedies for the trial of controverted titles to land, and the recovery of real property."—Sedgwick and Wait, *Trial of Title to Land* (*2nd ed.*), *sect.* 12–25.—"Ejectment is the form of action now retained in use in England under the Statute of 3 and 4 Wm. IV., c. 7, § 36, which abolished all other forms of real actions except dower. It is in general use in some form in this country, and by it the plaintiff recovers, if at all, upon the strength of his own title, and not upon the weakness of that of the tenant, since possession is deemed conclusive evidence of title as to all persons except such as can show a better one."—Washburn, *Real Property* (*5th ed.*), *v.* 1, *p.* 465.

A. D. 1504-1542.—Consideration in Contracts.—"To the present writer it seems impossible to refer consideration to a single source. At the present day it is doubtless just and expedient to resolve every consideration into a detriment to the promisee incurred at the request of the promisor. But this definition of consideration would not have covered the cases of the 16th century. There were then two distinct forms of consideration: (1) detriment; (2) a precedent debt. Of these detriment was the more ancient, having become established in substance, as early as 1504. On the other hand no case has been found recognizing the validity of a promise to pay a precedent debt before 1542. These two species of consideration, so different in their nature, are, as would be surmised, of distinct origin. The history of detriment is bound up with the history of special assumpsit, whereas the consideration based upon a precedent debt must be studied in the development of 'indebitatus assumpsit.'"—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Review, v.* 2, *pp.* 1–2).

A. D. 1520.—The Law of Parol Guaranty.—"It was decided in 1520, that one who sold goods to a third person on the faith of the defendant's promise that the price should be paid, might have an action on the case upon the promise. This decision introduced the whole law of parol guaranty. Cases in which the plaintiff gave his time or labor were as much within the principle of the new action as those in which he parted with property. And this fact was speedily recognized. In Saint-Germain's book, published in 1531, the student of law thus defines the liability of a promisor: 'If he to whom the promise is made have a charge by reason of the promise, . . . he shall have an action for that thing that was promised, though he that made the promise have no worldly profit by it.' From that day to this a detriment has always been deemed a valid consideration for a promise if incurred at the promisor's request."—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Rev., v.* 2, *p.* 14).

A. D. 1535.—Statute of Uses.—"Before the passing of the Statute of Uses in the twenty-seventh year of Henry VIII, attempts had been made to protect by legislation the interests of creditors, of the king, and of the lords, which were affected injuriously by feoffments to uses. . . . The object of that Statute was by joining the possession or seisen to the use and interest (or, in other words, by providing that all the estate which would by the common law have passed to the grantee to uses should instantly be taken out of him and vested in 'cestui que use'), to annihilate altogether the distinction between the legal and beneficial ownership, to make the ostensible tenant, in every case also the legal tenant, liable to his lord for feudal dues and services,—wardship, marriage, and the rest. . . . By converting the use into the legal interest the Statute did away with the power of disposing of interests in lands by will, which had been one of the most important results of the introduction of uses. Probably these were the chief results aimed at by the Statute of Uses. A strange combination of circumstances—the force of usage by which practices had arisen too strong even for legislation to do away with, coupled with an almost superstitious adherence on the part of the courts to the letter of the statute—produced the curious result, that the effect of the Statute of Uses was directly the reverse of its purpose, that by means of it secret conveyances of the legal estate were introduced, while by a strained interpretation of its terms the old distinction between beneficial or equitable and legal ownership was revived. What may be called the modern law of Real Property and the highly technical and intricate system of conveyancing which still prevails, dates from the legislation of Henry VIII."—Kenelm E. Digby, *Hist. of the Law of Real Property* (*4th ed.*), *pp.* 343–345.

A. D. 1540-1542.—Testamentary Power.—"The power of disposing by will of land and goods has been of slow growth in England. The peculiar theories of the English land system prevented the existence of a testamentary power over land until it was created by the Statute of Wills (32 & 34 Hen. VIII.) extended by later statutes, and although a testamentary power over personal property is very ancient in this country, it was limited at common law by the claims of the testator's widow and children to their 'reasonable parts' of his goods. The widow was entitled to one third, or if there were no children to one half of her husband's personal estate; and the children to one third, or if there was no widow to one half of their father's personal estate, and the testator could only dispose by his will of what remained. Whether the superior claims of the widow and children existed all over England or only in some counties by custom is doubted; but . . . by Statutes of William and Mary, Will. III. and Geo. I., followed by the Wills Act (1 Vict. c. 26), the customs have been abolished, and a testator's testamentary power now extends to all his real and personal property."—Stuart C. Macaskie, *The Law of Executors and Administrators*, *p.* 1.

A. D. 1542.—Liability in Indebitatus Assumpsit on an Express Promise.—"The origin of indebitatus assumpsit may be explained in a few words: Slade's case [4 Rep., 92a], decided in 1603, is commonly thought to be the source of this action. But this is a misapprehension. 'Indebitatus assumpsit' upon an express promise is at least sixty years older than Slade's case. The evidence of its existence throughout the last half of the sixteenth century is conclusive. There is a note by Brooke, who died in 1558, as follows: 'where one is indebted to me, and he promises to pay before Michaelmas, I may have an action of debt on the contract, or an action on the case on the promise.'"—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Rev.*, *v.* 2, *p.* 16).

A. D. 1557.—Statute of Uses Rendered Nugatory.—"Twenty-two years after the passing of this statute (Mich. Term 4 & 5 Ph. & M.) the judges by a decision practically rendered the Statute nugatory by holding that the Statute will not execute more than one use, and that if there be a second use declared the Statute will not operate upon it. The effect of this was to bring again into full operation the equitable doctrine as to uses in lands."—A. H. Marsh, *Hist. of the Court of Chancery*, *pp.* 122–123.

A. D. 1580.—Equal Distribution of Property.—"In Holland, all property, both real and personal, of persons dying intestate, except land held by feudal tenure, was equally divided among the children, under the provisions of an act passed by the States in 1580. This act also contained a further enlightened provision, copied from Rome, and since adopted in other Continental Countries, which prohibited parents from disinheriting their children except for certain specified offences. Under this legal system, it became customary for parents to divide their property by will equally among their children, just as the custom of leaving all the property to the eldest son grew up under the laws of England. The Puritans who settled New England adopted the idea of the equal distribution of property, in case there was no will—giving to the eldest son, however, in some of the colonies a double portion, according to the Old Testament injunction,—and thence it has spread over the whole United States."—D. Campbell, *The Puritan in Holland, England and America*, *v.* 2, *p.* 452.

A. D. 1589.—Earliest notice of Contract of Insurance.—"The first notice of the contract of insurance that appears in the English reports, is a case cited in Coke's Reports [6 Coke's Rep., 47b], and decided in the 31st of Elizabeth; and the commercial spirit of that age gave birth to the statute of 43rd Elizabeth, passed to give facility to the contract, and which created the court of policies of assurance, and shows by its preamble that the business of marine insurance had been in immemorial use, and actively followed. But the law of insurance received very little study and cultivation for ages afterwards; and Mr. Park informs us that there were not forty cases upon matters of insurance prior to the year 1756, and even those cases were generally loose nisi prius notes, containing very little information or claim to authority."—J. Kent, *Commentaries*, *pt.* 5, *lect.* 48.

A. D. 1592.—A Highwayman as a Chief-Justice.—"In 1592, Elizabeth appointed to the office of Chief-Justice of England a lawyer, John Popham, who is said to have occasionally been a highwayman until the age of thirty. At first blush this seems incredible, but only because such false notions generally prevail regarding the character of the time. The fact is that neither piracy nor robbery was considered particularly discreditable at the court of Elizabeth. The

queen knighted Francis Drake for his exploits as a pirate, and a law on the statute-books, passed in the middle of the century, gave benefit of clergy to peers of the realm when convicted of highway robbery. Men may doubt, if they choose, the stories about Popham, but the testimony of this statute cannot be disputed."—D. Campbell, *The Puritan in Holland, England and America*, *v.* 1. *p.* 366.

A. D. 1650-1700. — Evidence. — "Best Evidence Rule."—"This phrase is an old one. During the latter part of the seventeenth century and the whole of the eighteenth, while rules of evidence were forming, the judges and text writers were in the habit of laying down two principles; namely, (1) that one must bring the best evidence that he can, and (2) that if he does this, it is enough. These principles were the beginning, in the endeavor to give consistency to the system of evidence before juries. They were never literally enforced,— they were principles and not exact rules; but for a long time they afforded a valuable test. As rules of evidence and exceptions to the rules became more definite, the field for the application of the general principle of the 'Best Evidence' was narrower. But it was often resorted to as a definite rule and test in a manner which was very misleading. This is still occasionally done, as when we are told in McKinnon v. Bliss, 21 N. Y., p. 218, that 'it is a universal rule founded on necessity, that the best evidence of which the nature of the case admits is always receivable.' Greenleaf's treatment of this topic (followed by Taylor) is perplexing and antiquated. A juster conception of it is found in Best, Evid. s. 88. Always the chief example of the 'Best Evidence' principle was the rule about proving the contents of a writing. But the origin of this rule about writings was older than the 'Best Evidence' principle; and that principle may well have been a generalization from this rule, which appears to be traceable to the doctrine of profert. That doctrine required the actual production of the instrument which was set up in pleading. In like manner, it was said, in dealing with the jury, that a jury could not specifically find the contents of a deed unless it had been exhibited to them in evidence. And afterwards when the jury came to hear testimony from witnesses, it was said that witnesses could not undertake to speak to the contents of a deed without the production of the deed itself. . . . Our earliest records show the practice of exhibiting charters and other writings to the jury."—J. B. Thayer, *Select Cases on Evidence*, *p.* 726.

A. D. 1600.—Mortgagee's Right to Possession.—"When this country was colonized, about A. D. 1600, the law of mortgage was perfectly well settled in England. It was established there that a mortgage, whether by deed upon condition, by trust deed, or by deed and defeasance, vested the fee, at law, in the mortgagee, and that the mortgagee, unless the deed reserved possession to the mortgagor, was entitled to immediate possession. Theoretically our ancestors brought this law to America with them. Things ran on until the Revolution. Mortgages were given in the English form, by deed on condition, by deed and defeasance, or by trust deed. It was not customary in Plymouth or Massachusetts Bay, and it is probable that it was not customary elsewhere, to insert a provision that the mortgagor, until default in payment, should retain possession. Theoretically, during the one hundred and fifty years from the first settlement to the Revolution, the English rules of law governed all these transactions, and, as matter of book law, every mortgagee of a house or a farm was the owner of it, and had the absolute right to take possession upon the delivery of the deed. But the curious thing about this is, that the people generally never dreamed that such was the law."—H. W. Chaplin, *The Story of Mortgage Law* (*Harvard Law Review*, *v.* 4, *p.* 12).

A. D. 1601-1602.—Malicious Prosecution.—"The modern action for malicious prosecution, represented formerly by the action for conspiracy, has brought down to our own time a doctrine which is probably traceable to the practice of spreading the case fully upon the record, namely, that what is a reasonable and probable cause for a prosecution is a question for the court. That it is a question of fact is confessed, and also that other like questions in similar cases are given to the jury. Reasons of policy led the old judges to permit the defendant to state his case fully upon the record, so as to secure to the court a greater control over the jury in handling the facts, and to keep what were accounted questions of law, i. e., questions which it was thought should be decided by the judges out of the jury's hands. Gawdy, J., in such a case, in 1601-2, 'doubted whether it were a plea, because it amounts to a non culpabilis. . . . But the other justices held that it was a good plea, per doubt del lay gents.' Now that the mode of pleading has changed, the old rule still holds; being maintained, perhaps, chiefly by the old reasons of policy."—J. B. Thayer, *Law and Fact in Jury Trials* (*Harvard Law Rev.*, *v.* 4, *p.* 147).

ALSO IN: The same, *Select Cases on Evidence*, *p.* 150.

A. D. 1603. — Earliest reported case of Bills of Exchange.—"The origin and history of Bills of Exchange and other negotiable instruments are traced by Lord Chief Justice Cockburn in his judgment in Goodwin v. Robarts [L. R. 10 Ex., pp. 346-358]. It seems that bills were first brought into use by the Florentines in the twelfth century. From Italy the use of them spread to France, and eventually they were introduced into England. The first English reported case in which they are mentioned is Martin v. Boure (Cro. Jac. 3), decided in 1603. At first the use of Bills of Exchange seems to have been confined to foreign bills between English and foreign merchants. It was afterwards extended to domestic bills between traders, and finally to bills of all persons whether traders or not. The law throughout has been based on the custom of merchants respecting them; the old form of declaration on bill used always to state that it was drawn 'secundum usum et consuetudinem mercatorum.'"—M. D. Chalmers, *Bills of Exchange*, *p. xliv.*, *introd.*— See, also, MONEY AND BANKING, MEDIÆVAL.

A. D. 1604.—Death Inferred from Long Absence.—"It is not at all modern to infer death from a long absence; the recent thing is the fixing of a time of seven years, and putting this into a rule. The faint beginning of it, as a common-law rule, and one of general application in all questions of life and death, is found, so far as our recorded cases show, in Doe d. George v. Jesson (January, 1805). Long before this time,

in 1604, the 'Bigamy Act' of James I. had exempted from the scope of its provisions, and so from the situation and punishment of a felon (1) those persons who had married a second time when the first spouse had been beyond the seas for seven years, and (2) those whose spouse had been absent for seven years, although not beyond the seas,—'the one of them not knowing the other to be living within that time.' This statute did not treat matters altogether as if the absent party were dead; it did not validate the second marriage in either case. It simply exempted a party from the statutory penalty."—J. B. Thayer, *Presumptions and the Law of Evidence* (*Harvard Law Review*, *v.* 3, *p.* 151).

A. D. 1609.—First Recognition of Right to Sue for Quantum Meruit.—"There seems to have been no recognition of the right to sue upon an implied 'quantum meruit' before 1609. The innkeeper was the first to profit by the innovation. Reciprocity demanded that, if the law imposed a duty upon the innkeeper to receive and keep safely, it should also imply a promise on the part of the guest to pay what was reasonable. The tailor was in the same case with the innkeeper, and his right to recover upon a quantum meruit was recognized in 1610." [Six Carpenters' Case, 8 Rep., 147a.]—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Rev.*, *v.* 2, *p.* 58).

A. D. 1623.—Liability of Gratuitous Bailee to be Charged in Assumpsit, established.—"The earliest attempt to charge bailees in assumpsit were made when the bailment was gratuitous. These attempts, just before and after 1600, were unsuccessful, because the plaintiffs could not make out any consideration. The gratuitous bailment was, of course, not a benefit, but a burden to the defendant; and, on the other hand, it was not regarded as a detriment, but an advantage to the plaintiff. But in 1623 it was finally decided, not without a great straining, it must be conceded, of the doctrine of consideration, that a bailee might be charged in assumpsit on a gratuitous bailment."—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Review*, *v.* 2, *p.* 6, *citing Wheatley v. Low*, *Palm.*, 281; *Cro. Jac.* 668).

A. D. 1625 (circa).—Experiment in Legislation.—Limitation in time.—"The distinction between temporary and permanent Legislation is a very old one." It was a distinction expressed at Athens; but "we have no such variety of name. All are alike Acts of Parliament. Acts in the nature of new departures in the Law of an important kind are frequently limited in time, very often with a view of gaining experience as to the practical working of a new system before the Legislature commits itself to final legislation on the subject, sometimes, no doubt, by way of compromise with the Opposition, objecting to the passing of such a measure at all. Limitation in time often occurs in old Acts. Instances are the first Act of the first Parliament of Charles I. (1 Car. 1., c. 1), forbidding certain sports and pastimes on Sunday, and permitting others. The Book of Sports of James I. had prepared the mind of the people for that more liberal observance of Sunday which had been so offensive to the Puritans of Elizabeth's reign, but it had not been down to that time acknowledged by the Legislature. This was now done in 1625, the Act was passed for the then Parliament, continued from time to time, and finally (the experiment having apparently succeeded) made perpetual in 1641. Another instance is the Music Hall Act of 1752 passed it is said on the advice of Henry Fielding, in consequence of the disorderly state of the music halls of the period, and perhaps still more on account of the Jacobite songs sometimes sung at such places. It was passed for three years, and, having apparently put an end to local disaffection, was made perpetual in 1755. Modern instances are the Ballot Act, 1872, passed originally for eight years, and now annually continued, the Regulation of Railways Act, 1873, creating a new tribunal, the Railway Commission, passed originally for five years, and annually continued until made perpetual by the Railway and Canal Traffic Act, 1888; the Employers' Liability Act, 1880, a new departure in Social Legislation, expiring on the 31st December, 1887, and since annually continued; and the Shop Hours Regulation Act, 1886, a similar departure, expiring in 1888, and continued for the present Session. . . . (2) Place.—It is in this respect that the Experimental method of Parliament is most conspicuous. A law is enacted binding only locally, and is sometimes extended to the whole or a part of the realm, sometimes not. The old Statute of Circumspecte Agatis (13 Edw. I., stat. 4) passed in 1285 is one of the earliest examples. The point of importance in it is that it was addressed only to the Bishop of Norwich, but afterwards seems to have been tacitly admitted as law in the case of all dioceses, having probably been found to have worked well at Norwich. It was not unlike the Rescripts of the Roman emperors, which, primarily addressed to an individual, afterwards became precedents of general law."—James William (*Law Mag. & Rev.*, *Lond.* 1888-9), *4th ser.*, *v.* 14, *p.* 306.

A. D. 1630-1641.—Public Registry.—"When now we look to the United States, we find no difficulty in tracing the history of the institution on this side of the Atlantic. The first settlers of New York coming from Holland, brought it with them. In 1636, the Pilgrims of Plymouth, coming also from Holland, passed a law requiring that for the prevention of frauds all conveyances, including mortgages and leases, should be recorded. Connecticut followed in 1639, the Puritans of Massachusetts in 1641; Penn, of course, introduced it into Pennsylvania. Subsequently every State of the Union established substantially the same system."—R. Campbell, *The Puritan in Holland, England and America*, *v.* 2, *p.* 463.

A. D. 1650 (circa).—Law regarded as a Luxury.—"Of all the reforms needed in England, that of the law was perhaps the most urgent. In the general features of its administration the system had been little changed since the days of the first Edward. As to its details, a mass of abuses had grown up which made the name of justice nothing but a mockery. Twenty thousand cases, it was said, stood for judgment in the Court of Chancery, some of them ten, twenty, thirty years old. In all the courts the judges held their positions at the pleasure of the crown. They and their clerks, the marshals, and the sheriffs exacted exorbitant fees for every service, and on their cause-list gave the preference to the suitor with the longest purse. Legal documents were written in a barbarous jargon which none but the initiated could understand.

The lawyers, for centuries, had exercised their ingenuity in perfecting a system of pleading, the main object of which seems to have been to augment their charges, while burying the merits of a cause under a tangle of technicalities which would secure them from disentombment. The result was that law had become a luxury for the rich alone."—D. Campbell, *The Puritan in Holland, England and America, v.* 2, *pp.* 888–884.

A. D. 1657.—Perhaps the first Indebitatus Assumpsit for Money paid to Defendant by Mistake.—"One who received money from another to be applied in a particular way was bound to give an account of his stewardship. If he fulfilled his commission, a plea to that effect would be a valid discharge. If he failed for any reason to apply the money in the mode directed, the auditors would find that the amount received was due to the plaintiff, who would have a judgment for its recovery. If, for example, the money was to be applied in payment of a debt erroneously supposed to be due from the plaintiff to the defendant, . . . the intended application of the money being impossible, the plaintiff would recover the money in Account. Debt would also lie in such cases. . . . By means of a fiction of a promise implied in law 'Indebitatus Assumpsit' because concurrent with Debt, and thus was established the familiar action of Assumpsit for money had and received to recover money paid to the defendant by mistake. Bonnel v. Fowke (1657) is, perhaps, the first action of the kind."—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Rev., v.* 2, *p.* 66).

A. D. 1670.—Personal Knowledge of Jurors.—"The jury were still required to come from the neighborhood where the fact they had to try was supposed to have happened; and this explains the origin of the venue (vicintum), which appears in all indictments and declarations at the present day. It points out the place from which the jury must be summoned. . . . And it was said by the Court of Common Pleas in Bushell's case (A. D. 1670), that the jury being returned from the vicinage whence the cause of action arises, the law supposes them to have sufficient knowledge to try the matters in issue, 'and so they must, though no evidence were given on either side in court';—and the case is put of an action upon a bond to which the defendant pleads solvit ad diem, but offers no proof:—where, the court said 'the jury is directed to find for the plaintiff, unless they know payment was made of their own knowledge, according to the plea.' This is the meaning of the old legal doctrine, which is at first sight somewhat startling, that the evidence in court is not binding evidence to a jury. Therefore acting upon their own knowledge, they were at liberty to give a verdict in direct opposition to the evidence, if they so thought fit."—W. Forsyth, *Trial by Jury, pp.* 184–186.

A. D. 1678.—The Statute of Frauds.—"During Lord Nottingham's period of office, and partly in consequence of his advice, the Statute of Frauds was passed. Its main provisions are directed against the enforcement of verbal contracts, the validity of verbal conveyances of interests in land, the creation of trusts of lands without writing, and the allowance of nuncupative wills. It also made equitable interests in lands subject to the owner's debts to the same extent as legal interests were. The statute carried into legislative effect principles which had, so far back as the time of Bacon's orders, been approved by the Court of Chancery, and by its operation in the common law courts it must often have obviated the necessity for equitable interference. In modern times it has not infrequently been decried, especially so far as it restricts the verbal proof of contracts, but in estimating its value and operation at the time it became a law it must be remembered that the evidence of the parties to an action at law could not then be received, and the Defendant might have been charged upon the uncorroborated statement of a single witness which he was not allowed to contradict, as Lord Eldon argued many years afterwards, when the action upon the case for fraud was introduced at law. It was therefore a most reasonable precaution, while this unreasonable rule continued, to lay down that the Defendant should be charged only upon writing signed by him."—D. M. Kerly, *Hist. of Equity, p.* 170.

A. D. 1680.—Habeas Corpus and Personal Liberty.—"The language of the great charter is, that no freeman shall be taken or imprisoned but by the lawful judgment of his equals, or by the law of the land. And many subsequent old statutes expressly direct, that no man shall be taken or imprisoned by suggestion or petition to the king or his council, unless it be by legal indictment, or the process of the common law. By the petition of right, 3 Car. I., it is enacted, that no freeman shall be imprisoned or detained without cause shown. . . By 16 Car. I., c. 10, if any person be restrained of his liberty . . . , he shall, upon demand of his counsel, have a writ of habeas corpus, to bring his body before the court of king's bench or common pleas, who shall determine whether the cause of his commitment be just. . . . And by 31 Car. II., c. 2, commonly called the habeas corpus act, the methods of obtaining this writ are so plainly pointed out and enforced, that, . . . no subject of England can be long detained in prison, except in those cases in which the law requires and justifies such detainer. And, . . . it is declared by 1 W. and M. St. 2, c. 2, that excessive bail ought not be required."—W. Blackstone, *Commentaries, I.*, 135.—J. Kent, *Commentaries, pt.* 4, *lect.* 24.—For the text of the Habeas Corpus Act of 1679 see ENGLAND: A. D. 1679 (MAY).

A. D. 1683-1771.—Subsequent Birth of a Child revokes a Will.—"The first case that recognized the rule that the subsequent birth of a child was a revocation of a will of personal property, was decided by the court of delegates, upon appeal, in the reign of Charles II.; and it was grounded upon the law of the civilians [Overbury v. Overbury, 2 Show Rep., 253]. . . . The rule was applied in chancery to a devise of real estate, in Brown v. Thompson [I Ld. Raym. 441]; but it was received with doubt by Lord Hardwicke and Lord Northington. The distinction between a will of real and personal estate could not well be supported; and Lord Mansfield declared, that he saw no ground for a distinction. The great point was finally and solemnly settled, in 1771, by the court of exchequer, in Christopher v. Christopher [Dicken's Rep. 445], that marriage and a child, were a revocation of a will of land."—J. Kent, *Commentaries, pt.* 6, *lect.* 68.

A. D. 1688.—Dividing Line between Old and New Law.—The dividing line between the ancient and the modern English reports may, for the sake of convenient arrangement, be placed at the revolution in the year 1688. "The distinction between the old and new law seems then to be more distinctly marked. The cumbersome and oppressive appendages of the feudal tenures were abolished in the reign of Charles II., and the spirit of modern improvement, . . . began then to be more sensibly felt, and more actively diffused. The appointment of that great and honest lawyer, Lord Holt, to the station of chief justice of the King's Bench, gave a new tone and impulse to the vigour of the common law."—J. Kent, *Commentaries, pt. 3, lect. 21.*

A. D. 1689.—First instance of an Action sustained for Damages for a Breach of Promise to Account.—"It is worthy of observation that while the obligation to account is created by law, yet the privity without which such an obligation cannot exist is, as a rule, created by the parties to the obligation. . . . Such then being the facts from which the law will raise an obligation to account, the next question is, How can such an obligation be enforced, or, what is the remedy upon such an obligation? It is obvious that the only adequate remedy is specific performance, or at least specific reparation. An action on the case to recover damages for a breach of the obligation, even if such an action would lie, would be clearly inadequate, as it would involve the necessity of investigating all the items of the account for the purpose of ascertaining the amount of the damages, and that a jury is not competent to do. In truth, however, such an action will not lie. If, indeed, there be an actual promise to account, either an express or implied in fact, an action will lie for the breach of that promise; but as such a promise is entirely collateral to the obligation to account, and as therefore a recovery on the promise would be no bar to an action on the obligation, it would seem that nominal damages only could be recovered in an action on the promise, or at the most only such special damages as the plaintiff had suffered by the breach of the promise. Besides the first instance in which an action on such a promise was sustained was as late as the time of Lord Holt [Wilkyns v. Wilkyns, Carth. 89], while the obligation to account has existed and been recognized from early times."—C. C. Langdell, *A Brief Survey of Equity Jurisdiction* (*Harvard Law Rev., v. 2, pp. 250–251*).

A. D. 1689-1710.—Lord Holt and the Law of Bailments.—"The most celebrated case which he decided in this department was that of Coggs v. Bernard, in which the question arose, 'whether, if a person promises without reward to take care of goods, he is answerable if they are lost or damaged by his negligence?' In a short compass he expounded with admirable clearness and accuracy the whole law of bailment, or the liability of the person to whom goods are delivered for different purposes on behalf of the owner; availing himself of his knowledge of the Roman civil law, of which most English lawyers were as ignorant as of the Institutes of Menu. . . . He then elaborately goes over the six sorts of bailment, showing the exact degree of care required on the part of the bailee in each, with the corresponding degree of negligence which will give a right of action to the bailor. In the last he shows that, in consideration of the trust, there is an implied promise to take ordinary care; so that, although there be no reward, for a loss arising from gross negligence the bailee is liable to the bailor for the value of the goods. Sir William Jones is contented that his own masterly 'Essay on the Law of Bailment' shall be considered merely as a commentary upon this judgment; and Professor Story, in his 'Commentaries on the Law of Bailments,' represents it as 'a prodigious effort to arrange the principles by which the subject is regulated in a scientific order.'"—Lord Campbell, *Lives of the Chief Justices, v. 2, pp. 113–114.*

A. D. 1703.—Implied Promises recognized.—"The value of the discovery of the implied promise in fact was exemplified . . . in the case of a parol submission to an award. If the arbitrators awarded the payment of a sum of money, the money was recoverable in debt, since an award, after the analogy of a judgment, created a debt. But if the award was for the performance of a collateral act, . . . there was, originally, no mode of compelling compliance with the award, unless the parties expressly promised to abide by the decision of the arbitrators. Tilford v. French (1663) is a case in point. So, also, seven years later, 'it was said by Twisden, J., [Anon., 1 Vent. 69], that if two submit to an award, this contains not a reciprocal promise to perform, but there must be an express promise to ground an action upon it.' This doctrine was abandoned by the time of Lord Holt, who, . . . said: 'But the contrary has been held since; for if two men submit to the award of a third person, they do also thereby promise expressly to abide by his determination, for agreeing to refer is a promise in itself.'"—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Review, v. 2, p. 62*).

A. D. 1706.—Dilatory Pleas.—"Pleas to the jurisdiction, to the disability, or in abatement, were formerly very often used as mere dilatory pleas, without any foundation of truth, and calculated only for delay; but now by statute 4 and 5 Ann., c. 16, no dilatory plea is to be admitted, without affidavit made of the truth thereof, or some probable matter shown to the court to induce them to believe it true."—W. Blackstone, *Commentaries, bk. 3, p. 302.*

A. D. 1710.—Joint Stock Companies: Bubble Act.—"The most complicated, as well as the most modern, branch of the law of artificial persons relates to those which are formed for purposes of trade. They are a natural accompaniment of the extension of commerce. An ordinary partnership lacks the coherence which is required for great undertakings. Its partners may withdraw from it, taking their capital with them, and the 'firm' having as such no legal recognition, a contract made with it could be sued upon, according to the common law of England, only in an action in which the whole list of partners were made plaintiffs or defendants. In order to remedy the first of these inconveniences, partnerships were formed upon the principle of joint-stock, the capital invested in which must remain at a fixed amount, although the shares into which it is divided may pass from hand to hand. This device did not however obviate the difficulty in suing, nor did it relieve the partners, past and present, from liability for debts in excess of their, past or present, shares in the concern.

In the interest not only of the share-partners, but also of the public with which they had dealings, it was desirable to discourage the formation of such associations; and the formation of joint-stock partnerships, except such as were incorporated by royal charter, was accordingly, for a time, prohibited in England by the 'Bubble Act,' 6 Geo. I, c. 18. An incorporated trading company, in accordance with the ordinary principles regulating artificial persons, consists of a definite amount of capital to which alone creditors of the company can look for the satisfaction of their demands, divided into shares held by a number of individuals who, though they participate in the profits of the concern, in proportion to the number of shares held by each, incur no personal liability in respect of its losses. An artificial person of this sort is now recognized under most systems of law. It can be formed, as a rule, only with the consent of the sovereign power, and is described as a 'societe,' or 'compagnie,' 'anonyme,' an 'Actiengesellschaft,' or 'joint-stock company limited.' A less pure form of such a corporation is a company the shareholders in which incur an unlimited personal liability. There is also a form resembling a partnership 'en commandite,' in which the liability of some of the shareholders is limited by their shares, while that of others is unlimited. Subject to some exceptions, any seven partners in a trading concern may, and partners whose number exceeds twenty must, according to English law, become incorporated by registration under the Companies Acts, with either limited or unlimited liability as they may determine at the time of incorporation."—Thomas Erskine Holland, *Elements of Jurisprudence, 5th ed., p.* 298.

A. D. 1711.—Voluntary Restraint of Trade.—"The judicial construction of Magna Charta is illustrated in the great case of Mitchell v. Reynolds (1 P. W., 181), still the leading authority upon the doctrine of voluntary restraint of trade, though decided in 1711, when modern mercantile law was in its infancy. The Court (Chief Justice Parker), distinguishing between voluntary and involuntary restraints of trade, says as to involuntary restraints: 'The first reason why such of these, as are created by grant and charter from the crown and by-laws generally are void, is drawn from the encouragement which the law gives to trade and honest industry, and that they are contrary to the liberty of the subject. Second, another reason is drawn from Magna Charta, which is infringed by these acts of power. That statute says: Nullus liber homo, etc., disseizetur de libero tenemento, vel libertatibus vel liberis consuetudinibus suis, etc.; and these words have been always taken to extend to freedom of trade.'"—Frederick N. Judson, 14 *American Bar Ass'n Rept., p.* 236.

A. D. 1730.—Special Juries.—"The first statutory recognition of their existence occurs so late as in the Act 3 Geo. II., ch. 25. But the principle seems to have been admitted in early times. We find in the year 1450 (29 Hen. VI.) a petition for a special jury. . . . The statute of George II. speaks of special juries as already well known, and it declares and enacts that the courts at Westminster shall, upon motion made by any plaintiff, prosecutor, or defendant, order and appoint a jury to be struck before the proper officer of the court where the cause is depending, 'in such manner as special juries have been and are usually struck in such courts respectively upon trials at bar had in the said courts.'"—W. Forsyth, *Trial by Jury, pp.* 143–144.

A. D. 1730.—Written Pleadings to be in English.—"There was one great improvement in law proceedings which, while he [Lord King] held the Great Seal, he at last accomplished. From very ancient times the written pleadings, both in criminal and civil suits, were, or rather professed to be, in the Latin tongue, and while the jargon employed would have been very perplexing to a Roman of the Augustan Age, it was wholly unintelligible to the persons whose life, property, and fame were at stake. This absurdity had been corrected in the time of the Commonwealth, but along with many others so corrected, had been reintroduced at the Restoration, and had prevailed during five succeeding reigns. The attention of the public was now attracted to it by a petition from the magistracy of the North Riding of the county of York, representing the evils of the old law language being retained in legal process and proceedings, and praying for the substitution of the native tongue. The bill, by the Chancellor's direction, was introduced in the House of Commons, and it passed there without much difficulty. In the Lords it was fully explained and ably supported by the Lord Chancellor, but it experienced considerable opposition. . . . Amidst heavy forebodings of future mischief the bill passed, and mankind are now astonished that so obvious a reform should have been so long deferred."—Lord Campbell, *Lives of the Chancellors, v.* 4, *p.* 504.

A. D. 1739-1744.—Oath according to one's Religion.—"Lord Hardwick established the rule that persons, though not Christians, if they believe in a divinity, may be sworn according to the ceremonies of their religion, and that the evidence given by them so sworn is admissible in courts of justice, as if, being Christians, they had been sworn upon the Evangelists. This subject first came before him in Ramkissenseat v. Barker, where, in a suit for an account against the representatives of an East India Governor, the plea being overruled that the plaintiff was an alien infidel, a cross bill was filed, and an objection being made that he could only be sworn in the usual form, a motion was made that the words in the commission, 'on the holy Evangelists,' should be omitted, and that the commissioners should be directed to administer an oath to him in the manner most binding on his conscience. . . . The point was afterwards finally settled in the great case of Omychund v. Barker, where a similar commission to examine witnesses having issued, the Commissioners certified 'That they had sworn the witnesses examined under it in the presence of Brahmin or priest of the Gentoo religion, and that each witness touched the hand of the Brahmin,—this being the most solemn form in which oaths are administered to witnesses professing the Gentoo religion.' Objection was made that the deposition so taken could not be read in evidence; and on account of the magnitude of the question, the Lord Chancellor called in the assistance of the three chiefs of the common law Courts.—After a very long, learned, and ingenious argument, which may be perused with pleasure, they concurred in the opinion that the depositions were admissible."—Lord Campbell, *Lives of the Chancellors. v.* 5, *pp.* 69–70.

A. D. 1750.—Dale v. Hall, 1 Wils., 281, understood to be the first reported case of an action of special assumpsit sustained against a common carrier, on his implied contract.—"Assumpsit, . . . was allowed, in the time of Charles I., in competition with Detinue and Case against a bailee for custody. At a later period Lord Holt suggested that one might 'turn an action against a common carrier into a special assumpsit (which the law implies) in respect of his hire.' Dale v. Hall (1750) is understood to have been the first reported case in which that suggestion was followed."—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Rev.*, *v.* 2, *p.* 63).

A. D. 1750-1800.—Demurrer to Evidence.—"Near the end of the last century demurrers upon evidence were rendered useless in England, by the decision in the case of Gibson v. Hunter (carrying down with it another great case, that of Lickbarrow v. Mason, which, like the former, had come up to the Lords upon this sort of demurrer), that the party demurring must specify upon the record the facts which he admits. That the rule was a new one is fairly plain from the case of Cocksedge v. Fanshawe, ten years earlier. It was not always followed in this country, but the fact that it was really a novelty was sometimes not understood."—J. B. Thayer, *Law and Fact in Jury Trials* (*Harvard Law Rev.*, *v.* 4, *p.* 147).

ALSO IN: The same, *Select Cases on Evidence*, *p.* 149.

A. D. 1756-1788.—Lord Mansfield and Commercial Law.—"In the reign of Geo. II., England had grown into the greatest manufacturing and commercial country in the world, while her jurisprudence had by no means been expanded or developed in the same proportion. . . . Hence, when questions necessarily arose respecting the buying and selling of goods,—respecting the affreightment of ships,—respecting marine insurances,—and respecting bills of exchange and promissory notes, no one knew how they were to be determined. . . . Mercantile questions were so ignorantly treated when they came into Westminster Hall, that they were usually settled by private arbitration among the merchants themselves. If an action turning upon a mercantile question was brought in a court of law, the judge submitted it to the jury, who determined it according to their own notions of what was fair, and no general rule was laid down which could afterwards be referred to for the purpose of settling similar disputes. . . . When he [Lord Mansfield] had ceased to preside in the Court of King's Bench, and had retired to enjoy the retrospect of his labors, he read the following just eulogy bestowed upon them by Mr. Justice Buller, in giving judgment in the important case of Lickbarrow v. Mason, respecting the effect of the indorsement of a bill of lading:—'Within these thirty years the commercial law of this country has taken a very different turn from what it did before. Lord Hardwicke himself was proceeding with great caution, not establishing any general principle, but decreeing on all the circumstances put together. Before that period we find that, in courts of law, all the evidence in mercantile cases was thrown together; they were left generally to a jury; and they produced no general principle. From that time, we all know, the great study has been to find some certain general principle, which shall be known to all mankind, not only to rule the particular case then under consideration, but to serve as a guide for the future. Most of us have heard these principles stated, reasoned upon, enlarged, and explained, till we have been lost in admiration at the strength and stretch of the understanding. And I should be very sorry to find myself under a necessity of differing from any case upon this subject which has been decided by Lord Mansfield, who may be truly said to be the founder of the commercial law of this country.'. . . With regard to bills of exchange and promissory notes, Lord Mansfield first promulgated many rules that now appear to us to be as certain as those which guide the planets in their orbits. For example, it was till then uncertain whether the second indorser of a bill of exchange could sue his immediate indorser without having previously demanded payment from the drawer. . . . He goes on to explain [in Heylyn v. Adamson, 2 Burr., 669], . . . that the maker of a promissory note is in the same situation as the acceptor of a bill of exchange, and that in suing the indorser of the note it is necessary to allege and to prove a demand on the maker. . . . Lord Mansfield had likewise to determine that the indorser of a bill of exchange is discharged if he receives no notice of there having been a refusal to accept by the drawee (Blesard v. Hirst, 6 Burr., 2670); and that reasonable time for giving notice of the dishonor of a bill or note is to be determined by the Court as matter of law, and is not to be left to the jury as matter of fact, they being governed by the circumstances of each particular case. (Tindal v. Brown, 1 Term. Rep., 167.) It seems strange to us how the world could go on when such questions of hourly occurrence, were unsettled. . . . There is another contract of infinite importance to a maritime people. . . . I mean that between shipowners and merchants for the hiring of ships and carriage of goods. . . . Till his time, the rights and liabilities of these parties had remained undecided upon the contingency, not unlikely to arise, of the ship being wrecked during the voyage, and the goods being saved and delivered to the consignee at an intermediate port. Lord Mansfield settled that freight is, due pro rata itineris—in proportion to the part of the voyage performed. . . . Lord Mansfield's familiarity with the general principles of ethics, . . . availed him on all occasions when he had to determine on the proper construction and just fulfilment of contracts. The question having arisen, for the first time, whether the seller of goods by auction, with the declared condition that they shall be sold to 'the highest bidder,' may employ a 'puffer,'—an agent to raise the price by bidding,—he thus expressed himself: [Bexwell v. Christie, Cowp., 395] '. . . The basis of all dealings ought to be good faith; so more especially in these transactions, where the public are brought together upon a confidence that the articles set up to sale will be disposed of to the highest real bidder. That can never be the case if the owner may secretly enhance the price by a person employed for that purpose. . . . I cannot listen to the argument that it is a common practice . . . ; the owner violates his contract with the public if, by himself or his agent, he bids upon his goods, and no subsequent bidder is bound to take the goods at the price at which they are knocked down to him.'"—Lord Campbell, *Lives of the Chief Justices*, *v.* 2, *pp.* 808-814.

A. D. 1760.—Judicial Independence.—"A glance into the pages of the Judges of England, by Foss, will show with what ruthless vigour the Stuarts exercised their prerogative of dismissing Judges whose decisions were displeasing to the court. Even after the Revolution, the prerogative of dismissal, which was supposed to keep the Judges dependent on the Crown, was jealously defended. When in 1692 a Bill passed both Houses of Parliament, establishing the independence of Judges by law, and confirming their salaries, William III. withheld his Royal assent. Bishop Burnet says, with reference to this exercise of the Veto, that it was represented to the King by some of the Judges themselves, that it was not fit that they should be out of all dependence on the Court. When the Act of Settlement secured that no Judge should be dismissed from office, except in consequence of a conviction for some offence, or the address of both Houses of Parliament, the Royal jealousy of the measure is seen by the promise under which that arrangement was not to take effect till the deaths of William III. and of Anne, and the failure of their issue respectively, in other words, till the accession of the House of Hanover. It was not till the reign of George III. that the Commissions of the Judges ceased to be void on the demise of the Crown."—J. G. S. MacNeill, *Law Mag. and Rev. 4th series, v.* 16 (1890-91), *p.* 202.

A. D. 1760.—Stolen Bank Notes the Property of a Bona Fide Purchaser.—"The law of bills of exchange owes much of its scientific and liberal character to the wisdom of the great jurist, Lord Mansfield. Sixteen years before the American Revolution, he held that bank notes, though stolen, become the property of the person to whom they are bona fide delivered for value without knowledge of the larceny. This principle is later affirmed again and again as necessary to the preservation of the circulation of all the paper in the country, and with it all its commerce. Later there was a departure from this principle in the noted English case of Gill v. Cubitt, in which it was held that if the holder for value took it under circumstances which ought to have excited the suspicion of a prudent and careful man, he could not recover. This case annoyed courts and innocent holders for years, until it was sat upon, kicked, cuffed, and overruled, and the old doctrine of 1760 re-established, which is now the undisputed and settled law of England and this country."—Wm. A. McClean, *Negotiable Paper* (*The Green Bag, v.* 5, *p.* 86).

A. D. 1768.—Only one Business Corporation Chartered in this Country before the Declaration of Independence.—"Pennsylvania is entitled to the honor of having chartered the first business corporation in this country, 'The Philadelphia Contributionship for Insuring Houses from Loss by Fire.' It was a mutual insurance company, first organized in 1752, but not chartered until 1768. It was the only business corporation whose charter antedated the Declaration of Independence. The next in order of time were: 'The Bank of North America,' chartered by Congress in 1781 and, the original charter having been repealed in 1785, by Pennsylvania in 1787; 'The Massachusetts Bank,' chartered in 1784; 'The Proprietors of Charles River Bridge,' in 1785; 'The Mutual Assurance Company' (Philadelphia), in 1786; 'The Associated Manufacturing Iron Co.' (N. Y.), in 1786. These were the only joint-stock business corporations chartered in America before 1787. After that time the number rapidly increased, especially in Massachusetts. Before the close of the century there were created in that State about fifty such bodies, at least half of them turn-pike and bridge companies. In the remaining States combined, there were perhaps as many more. There was no great variety in the purposes for which these early companies were formed. Insurance, banking, turn-pike roads, toll-bridges, canals, and, to a limited extent, manufacturing were the enterprises which they carried on."—S. Williston, *Hist. of the Law of Business Corporations before* 1800 (*Harvard Law Review, v.* 2, *pp.* 165–166).

A. D. 1776.—Ultimate property in land.—"When, by the Revolution, the Colony of New York became separated from the Crown of Great Britain, and a republican government was formed, The People succeeded the King in the ownership of all lands within the State which had not already been granted away, and they became from thenceforth the source of all private titles."—Judge Comstock, *People v. Rector, etc., of Trinity Church*, 22 *N. Y.*, 44–46.—"It is held that only such parts of the common law as, with the acts of the colony in force on April 19, 1775, formed part of the law of the Colony on that day, were adopted by the State; and only such parts of the common and statute law of England were brought by the colonists with them as suited their condition, or were applicable to their situation. Such general laws thereupon became the laws of the Colony until altered by common consent, or by legislative enactment. The principles and rules of the common law as applicable to this country are held subject to modification and change, according to the circumstances and condition of the people and government here. . . . By the English common law, the King was the paramount proprietor and source of all title to all land within his dominion, and it was considered to be held mediately or immediately of him. After the independence of the United States, the title to land formerly possessed by the English Crown in this country passed to the People of the different States where the land lay, by virtue of the change of nationality and of the treaties made. The allegiance formerly due, also, from the people of this country to Great Britain was transferred, by the Revolution, to the governments of the States."—James Gerard, *Titles to Real Estate* (*3rd ed.*), *pp.* 26 *and* 5.—"Hence the rule naturally follows, that no person can, by any possible arrangement, become invested with the absolute ownership of land. But as that ownership must be vested somewhere, or great confusion, if not disturbance, might result, it has, therefore, become an accepted rule of public law that the absolute and ultimate right of property shall be regarded as vested in the sovereign or corporate power of the State where the land lies. This corporate power has been naturally and appropriately selected for that purpose, because it is the only one which is certain to survive the generations of men as they pass away. Wherever that sovereign power is represented by an individual, as in England, there the absolute right of property to all land in the kingdom is vested in that individual

Whoever succeeds to the sovereignty, succeeds to that right of property and holds it in trust for the nation. In this country, where the only sovereignty recognized in regard to real property, is represented by the State in its corporate capacity, that absolute right of property is vested in the State."—Anson Bingham, *Law of Real Property*, *p.* 3.

A. D. 1778.—First Instance of Assumpsit upon a Vendor's Warranty.—"A vendor who gives a false warranty may be charged to-day, of course, in contract; but the conception of such a warranty, as a contract is quite modern. Stuart v. Wilkens [3 Doug., 18], decided in 1778, is said to have been the first instance of an action of assumpsit upon a vendor's warranty."—J. B. Ames, *Hist. of Assumpsit* (*Harvard Law Rev.*, *v.* 2, *p.* 8).

A. D. 1783.—Lord Mansfield laid foundation of Law of Trade-Marks.—"The symbolism of commerce, conventionally called 'trade-marks,' is, according to Mr. Browne, in his excellent work on trade-marks, as old as commerce itself. The Egyptians, the Chinese, the Babylonians, the Greeks, the Romans, all used various marks or signs to distinguish their goods and handiwork. The right to protection in such marks has come to be recognized throughout the civilized world. It is, however, during the last seventy or eighty years that the present system of jurisprudence has been built up. In 1742 Lord Hardwick refused an injunction to restrain the use of the Great Mogul stamp on cards. In 1783 Lord Mansfield laid the foundation of the law of trade-marks as at present developed, and in 1816, in the case of Day v. Day, the defendant was enjoined from infringing the plaintiff's blacking label. From that time to the present day there have arisen a multitude of cases, and the theory of the law of trade-marks proper may be considered as pretty clearly expounded. In 1875 the Trade-marks Registration Act provided for the registration of trade-marks, and defined what could in future properly be a trade-mark. In this country the Act of 1870, corrected by the Act of 1881, provided for the registration of trade-marks. The underlying principle of the law of trade-marks is that of preventing one man from acquiring the reputation of another by fraudulent means, and of preventing fraud upon the public; in other words, the application of the broad principles of equity."—Grafton D. Cushing, *Cases Analogous to Trade-marks* (*Harvard Law Rev.*, *v.* 4, *p.* 321).

A. D. 1790.—Stoppage in Transitu, and Rights of Third Person under a Bill of Lading.—"Lord Loughborough's most elaborate common law judgment was in the case of Lichbarrow v. Mason, when he presided in the court of Exchequer Chamber, on a writ of error from the Court of King's Bench. The question was one of infinite importance to commerce—'Whether the right of the unpaid seller of goods to stop them while they are on their way to a purchaser who has become insolvent, is divested by an intermediate sale to a third person, through the indorsement of the bill of lading, for a valuable consideration?' He concluded by saying:—'From a review of all the cases it does not appear that there has ever been a decision against the legal right of the consignor to stop the goods in transitu before the case which we have here to consider. The rule which we are now to lay down will not disturb but settle the notions of the commercial port of this country on a point of very great importance, as it regards the security and good faith of their transactions. For these reasons we think the judgment of the Court of King's Bench ought to be reversed.' But a writ of error being brought in the House of Lords, this reversal was reversed, and the right of the intermediate purchaser as against the original seller, has ever since been established."—Lord Campbell, *Lives of the Chancellors*, *v.* 6, *pp.* 138-139.

A. D. 1792.—Best-Evidence rule.—"In Grant v. Gould, 2 H. Bl. p. 104 (1792), Lord Loughborough said: 'That all common law courts ought to proceed upon the general rule, namely, the best evidence that the nature of the case will admit, I perfectly agree.' But by this time it was becoming obvious that this 'general rule' was misapplied and over-emphasized. Blackstone, indeed, repeating Gilbert, had said in 1770, in the first editions of his Commentaries (III. 368) as it was said in all the later ones: 'The one general rule that runs through all the doctrine of trials is this, that the best evidence the nature of the case will admit of shall always be required, if possible to be had; but, if not possible, then the best evidence that can be had shall be allowed. For if it be found that there is any better evidence existing than is produced, the very not producing it is a presumption that it would have detected some falsehood that at present is concealed.' But in 1794, the acute and learned Christian, in editing the twelfth edition, pointed out the difficulties of the situation: 'No rule of law,' he said, 'is more frequently cited, and more generally misconceived, than this. It is certainly true when rightly understood; but it is very limited in its extent and application. It signifies nothing more than that, if the best legal evidence cannot possibly be produced, the next best legal evidence shall be admitted.'"—J. B. Thayer, *Select Cases on Evidence*, *p.* 732.

A. D. 1794.—First Trial by Jury in U. S. Supreme Court.—"In the first trial by jury at the bar of the Supreme Court of the United States, in 1794, Chief-Justice Jay, after remarking to the jury that fact was for the jury and law for the court, went on to say: 'You have, nevertheless, a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy.' But I am disposed to think that the common-law power of the jury in criminal cases does not indicate any right on their part; it is rather one of those manifold illogical and yet rational results, which the good sense of the English people brought about, in all parts of their public affairs, by way of easing up the rigor of a strict application of rules."—J. B. Thayer, *Law and Fact in Jury Trials* (*Harvard Law Review*, *v.* 4, *p.* 171).

ALSO IN: The same, *Select Cases on Evidence*, *p.* 153.

A. D. 1813-1843.—Insolvents placed under Jurisdiction of a Court, and able to claim Protection by a Surrender of Goods.—"It was not until 1813 that insolvents were placed under the jurisdiction of a court, and entitled to seek their discharge on rendering a true account of all their debts and property. A distinction was at length recognized between poverty and crime. This great remedial law restored liberty to crowds of wretched debtors. In the next thirteen years

upwards of 50,000 were set free. Thirty years later, its beneficent principles were further extended, when debtors were not only released from confinement, but able to claim protection to their liberty, on giving up all their goods."—T. E. May, *Constitutional Hist. of England* (*Widdleton's ed.*), *v.* 2, *p.* 271.—See, also, DEBT, LAWS CONCERNING.

A. D. 1819.—The Dartmouth College Case.—"The framers of the Constitution of the United States, moved chiefly by the mischiefs created by the preceding legislation of the States, which had made serious encroachments on the rights of property, inserted a clause in that instrument which declared that 'no State shall pass any ex post-facto law, or law impairing the obligation of contracts.' The first branch of this clause had always been understood to relate to criminal legislation, the second to legislation affecting civil rights. But, before the case of Dartmouth College v. Woodward occurred, there had been no judicial decisions respecting the meaning and scope of the restraint in regard to contracts. . . . The State court of New Hampshire, in deciding this case, had assumed that the college was a public corporation, and on that basis had rested their judgment; which was, that between the State and its public corporations there is no contract which the State cannot regulate, alter, or annul at pleasure. Mr. Webster had to overthrow this fundamental position. If he could show that this college was a private eleemosynary corporation, and that the grant of the right to be a corporation of this nature is a contract between the sovereign power and those who devote their funds to the charity, and take the incorporation for its better management, he could bring the legislative interference within the prohibition of the Federal Constitution. . . . Its important positions, . . . were these: 1. That Dr. Wheelock was the founder of this college, and as such entitled by law to be visitor, and that he had assigned all the visitatorial powers to the trustees. 2. That the charter created a private and not a public corporation, to administer a charity, in the administration of which the trustees had a property, which the law recognizes as such. 3. That the grant of such a charter is a contract between the sovereign power and its successors and those to whom it is granted and their successors. 4. That the legislation which took away from the trustees the right to exercise the powers of superintendence, visitation, and government, and transferred them to another set of trustees, impaired the obligation of that contract. . . . On the conclusion of the argument, the Chief Justice intimated that a decision was not to be expected until the next term. It was made in February, 1819, fully confirming the grounds on which Mr. Webster had placed the cause. From this decision, the principle in our constitutional jurisprudence, which regards a charter of a private corporation as a contract, and places it under the protection of the Constitution of the United States, takes its date. To Mr. Webster belongs the honor of having produced its judicial establishment."—G. T. Curtis, *Life of Daniel Webster*, *v.* 1, *p.* 165-169 (*5th ed.*).

A. D. 1823.—Indian Right of Occupancy.—"The first case of importance that came before the court of last resort with regard to the Indian question had to do with their title to land. This was the case of Johnson v. McIntosh, 8 Wheaton, 543. In this case, Chief Justice Marshall delivered the opinion of the court and held that discovery gave title to the country by whose subjects or by whose authority it was made, as against all persons but the Indians as occupants; that this title gave a power to grant the soil and to convey a title to the grantees, subject only to the Indian right of occupancy; and that the Indians could grant no title to the lands occupied by them, their right being simply that of occupancy and not of ownership. The Chief Justice says: 'It has never been doubted that either the United States or the several States had a clear title to all the lands within the boundary lines described in the treaty (of peace between England and United States) subject only to the Indians' right of occupancy, and that the exclusive power to extinguish that right was vested in that government which might constitutionally exercise it. . . . The United States, then, have unequivocally acceded to that great and broad rule by which its civilized inhabitants now hold this country. They hold and assert in themselves the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave also a right to such a degree of sovereignty as the circumstances of the people would allow them to exercise. The power now possessed by the government of the United States to grant lands resided, while we were colonies, in the crown or its grantees. The validity of the title given by either has never been questioned in our courts. It has been exercised uniformly over territory in possession of the Indians. The existence of this power must negative the existence of any right which may conflict with and control it. An absolute title to lands cannot exist, at the same time, in different persons, or in different governments. An absolute must be an exclusive title, or at least a title which excludes all others not compatible with it. All our institutions recognize the absolute title of the crown, subject only to the Indian right of occupancy, and recognize the absolute title of the crown to extinguish that right. This is incompatible with an absolute and complete title in the Indians.'"—William B. Hornblower, 14 *American Bar Ass'n Rept.* 264-265.

A. D. 1826—Jurors from the Body of the County.—"In the time of Fortescue, who was lord chancellor in the reign of Henry VI. [1422-61], with the exception of the requirement of personal knowledge in the jurors derived from near neighborhood of residence, the jury system had become in all its essential functions similar to what now exists. . . . The jury were still required to come from the neighborhood where the fact they had to try was supposed to have happened; and this explains the origin of the venire (vicinetum), which appears in all indictments and declarations at the present day. It points out the place from which the jury must be summoned. . . . Now, by 6 George IV., ch. 50, the jurors need only be good and lawful men of the body of the county."—W. Forsyth, *Trial by Jury*, *ch.* 7, *sect.* 3.

A. D. 1828.—Lord Tenterden's Act.—"Be it therefore enacted . . . , That in Actions of Debt or upon the Case grounded upon any Simple

Contract or Acknowledgement or Promise by Words only shall be deemed sufficient Evidence of a new or continuing Contract, . . . unless such Acknowledgement or Promise shall be made or contained by or in some Writing to be signed by the Party chargeable thereby."—*Statutes at Large, v.* 68, 9 *George IV., c.* 14.

A. D. 1833.—Wager of Law abolished, and Effect upon Detinue.—"This form of action (detinue) was also formerly subject (as were some other of our legal remedies), to the incident of 'wager of law' ('vadiatio legis'),—a proceeding which consisted in the defendant's discharging himself from the claim on his own oath, bringing with him at the same time into court eleven of his neighbors, to swear that they believed his denial to be true. This relic of a very ancient and general institution, which we find established not only among the Saxons and Normans, but among almost all the northern nations that broke in upon the Roman empire, continued to subsist among us even till the last reign, when it was at length abolished by 3 and 4 Will. IV. c. 42, s. 13: and as the wager of law used to expose plaintiffs in detinue to great disadvantage, it had the effect of throwing that action almost entirely out of use, and introducing in its stead the action of trover and conversion."—Stephens, *Commentaries, v.* 3, *pp.* 442–443 (*8th ed.*).

A. D. 1834.—Real Actions abolished.—"The statutes of 32 H. VIII., c. 2, and 21 Jac. I., c. 16 (so far as the latter applied to actions for the recovery of land) were superseded by 3 & 4 Wm. IV, c. 27. The latter statute abolished the ancient real actions, made ejectment (with few exceptions) the sole remedy for the recovery of land, and, for the first time, limited directly the period within which an ejectment might be brought. It also changed the meaning of 'right of entry,' making it signify simply the right of an owner to the possession of land of which another person has the actual possession, whether the owner's estate is devested or not. In a word, it made a right of entry and a right to maintain ejectment synonymous terms, and provided that whenever the one ceased the other should cease also; i. e., it provided that whenever the statute began to run against the one right, it should begin to run against the other also, and that, when it had run twenty years without interruption, both rights should cease; and it also provided that the statute should begin to run against each right the moment that the right began to exist, i. e., the moment that the actual possession and the right of possession became separated. The statute, therefore, not only ignored the fact that ejectment (notwithstanding its origin) is in substance purely in rem (the damages recovered being only nominal), and assumed that it was, on the contrary, in substance purely in personam, i. e., founded upon tort, but it also assumed that every actual possession of land, without a right of possession, is a tort."—C. C. Langdell, *Summary of Equity Pleading, pp.* 144–145.

A. D. 1836.—Exemption Laws.—"Our State legislatures commenced years ago to pass laws exempting from execution necessary household goods and personal apparel, the horses and implements of the farmer, the tools and instruments of the artisan, etc. Gradually the beneficent policy of such laws has been extended. In 1828, Mr. Benton warmly advocated in the Senate of the United States the policy of a national homestead law. The Republic of Texas passed the first Homestead Act, in 1836. It was the great gift of the infant Republic of Texas to the world. In 1849, Vermont followed; and this policy has since been adopted in all but eight States of the Union. By these laws a homestead (under various restrictions as to value) for the shelter and protection of the family is now exempt from execution or judicial sale for debt, unless both the husband and the wife shall expressly join in mortgaging it or otherwise expressly subjecting it to the claims of creditors."—J. F. Dillon, *Laws and Jurisprudence of England and America, p.* 360.

A. D. 1837.—Employer's liability.—"No legal principle, with a growth of less than half a century, has become more firmly fixed in the common law of to-day, than the rule that an employer, if himself without fault, is not liable to an employee injured through the negligence of a fellow-employee engaged in the same general employment. This exception to the well known doctrine of 'respondent superior,' although sometimes considered an old one, was before the courts for the first time in 1837, in the celebrated case of Priestly v. Fowler, 3 M. & W. 1, which it is said, has changed the current of decisions more radically than any other reported case. . . . The American law, though in harmony with the English, seems to have had an origin of its own. In 1841 Murray v. The South Carolina Railroad Company, 1 Mc. & M. 385, decided that a railroad company was not liable to one servant injured through the negligence of another servant in the same employ. Although this decision came a few years after Priestly v. Fowler, the latter case was cited by neither counsel nor court. It is probable, therefore, that the American Court arrived at its conclusion entirely independent of the earlier English case,—a fact often lost sight of by those who in criticising the rule, assert that it all sprang from an ill-considered opinion by Lord Abinger in Priestly v. Fowler. The leading American case, however, is Farwell v. Boston and Worcester Railroad Company, 4 Met. 49, which, following the South Carolina case, settled the rule in the United States. It has been followed in nearly every jurisdiction, both State and Federal."—Marland C. Hobbs, *Statutory Changes in Employer's Liability* (*Harvard Law Rev., v.* 2, *pp.* 213–218).

A. D. 1838.—Arrests on Mesne Process for Debt abolished, and Debtor's Lands, for first time, taken in Satisfaction of Debt.—"The law of debtor and creditor, until a comparatively recent period, was a scandal to a civilized country. For the smallest claim, any man was liable to be arrested on mesne process, before legal proof of the debt. . . . Many of these arrests were wanton and vexatious; and writs were issued with a facility and looseness which placed the liberty of every man—suddenly and without notice—at the mercy of any one who claimed payment of a debt. A debtor, however honest and solvent, was liable to arrest. The demand might even be false and fraudulent: but the pretended creditor, on making oath of the debt, was armed with this terrible process of the law. The wretched defendant might lie in prison for several months before his cause was heard; when, even if the action was discontinued or the debt disproved, he could not obtain his discharge without further proceedings, often too

costly for a poor debtor, already deprived of his livelihood by imprisonment. No longer even a debtor,—he could not shake off his bonds. . . . The total abolition of arrests on mesne process was frequently advocated, but it was not until 1838 that it was at length accomplished. Provision was made for securing absconding debtors; but the old process for the recovery of a debt in ordinary cases, which had wrought so many acts of oppression, was abolished. While this vindictive remedy was denied, the debtor's lands were, for the first time, allowed to be taken in satisfaction of a debt; and extended facilities were afterwards afforded for the recovery of small claims, by the establishment of county courts."—T. E. May, *Constitutional Hist. of England* (*Widdleton's ed.*), *v.* 2, *pp.* 267-268.—See, also, DEBT: LAWS CONCERNING.

A. D. 1839-1848.—Emancipation of Women.—"According to the old English theory, a woman was a chattel, all of whose property belonged to her husband. He could beat her as he might a beast of burden, and, provided he was not guilty of what would be cruelty to animals, the law gave no redress. In the emancipation of women Mississippi led off, in 1839, New York following with its Married Women's Act of 1848, which has been since so enlarged and extended, and so generally adopted by the other states, that, for all purposes of business, ownership of property, and claim to her individual earnings, a married woman is to-day, in America, as independent as a man."—D. Campbell, *The Puritan in Holland, England and America*, *v.* 1, *p.* 71.

A. D. 1842.—One who takes Commercial Paper as Collateral is a Holder for Value.—"Take the subject of the transfer of such paper as collateral security for, or even in the payment of, a pre-existing indebtedness. We find some of the courts holding that one who takes such paper as collateral security for such a debt is a holder for value; others, that he is not, unless he extends the time for the payment of the secured debt or surrenders something of value, gives some new consideration; while still others hold that one so receiving such paper cannot be a holder for value; and some few hold that even receiving the note in payment and extinguishment of a pre-existing debt does not constitute one a holder for value. The question, as is known to all lawyers, was first presented to the Supreme Court of the United States in Swift vs. Tyson (16 Peters, 1). There, however, the note had been taken in payment of the debt. It was argued in that case that the highest court in New York had decided that one so taking a note was not a holder for value, and it was insisted in argument that the contract, being made in New York, was to be governed by its law; but the court, through Justice Story—Justice Catron alone dissenting—distinctly and emphatically repudiated the doctrine that the Federal court was to be governed on such questions by the decisions of the courts of the State where the contract was made, and held the holder a holder for value."—Henry C. Tompkins, 18 *American Bar Ass'n Rep.*, *p.* 255.

A. D. 1845.—Interest of Disseisee transferable.—"It was not until 1845 that by statute the interest of the disseisee of land became transferable. Similar statutes have been enacted in many of our States. In a few jurisdictions the same results have been obtained by judicial legislation. But in Alabama, Connecticut, Dakota, Florida, Kentucky, Massachusetts, New York, North Carolina, Rhode Island and Tennessee, and presumably in Maryland and New Jersey, it is still the law that the grantee of a disseisee cannot maintain an action in his own name for the recovery of the land."—J. B. Ames, *The Disseisin of Chattels* (*Harvard Law Rev.*, *v.* 8, *p.* 25).

A. D. 1846.—Ultra vires.—"When railway companies were first created with Parliamentary powers of a kind never before entrusted to similar bodies, it soon became necessary to determine whether, when once called into existence, they were to be held capable of exercising, as nearly as possible, all the powers of a natural person, unless expressly prohibited from doing so, or whether their acts must be strictly limited to the furtherance of the purpose for which they had been incorporated. The question was first raised in 1846, with reference to the right of a railway company to subsidise a harbour company, and Lord Langdale, in deciding against such a right, laid down the law in the following terms:—'Companies of this kind, possessing most extensive powers, have so recently been introduced into this country that neither the legislature nor the courts of law have yet been able to understand all the different lights in which their transactions ought properly to be viewed. . . . To look upon a railway company in the light of a common partnership, and as subject to no greater vigilance than common partnerships are, would, I think, be greatly to mistake the functions which they perform and the powers which they exercise of interference not only with the public but with the private rights of all individuals in this realm. . . . I am clearly of opinion that the powers which are given by an Act of Parliament, like that now in question, extend no further than is expressly stated in the Act, or is necessarily and properly required for carrying into effect the undertaking and works which the Act has expressly sanctioned.' [Citing Coleman v. Eastern Counties Rw. Co., 10 Beav., 18.] This view, though it has sometimes been criticised, seems now to be settled law. In a recent case in the House of Lords, the permission which the Legislature gives to the promoters of a company was paraphrased as follows:—'You may meet together and form yourselves into a company, but in doing that you must tell all who may be disposed to deal with you the objects for which you have been associated. Those who are dealing with you will trust to that memorandum of association, and they will see that you have the power of carrying on business in such a manner as it specifies. You must state the objects for which you are associated, so that the persons dealing with you will know that they are dealing with persons who can only devote their means to a given class of objects.' [Citing Riche v. Ashbury Carriage Co., L R., 7 E. & I., App. 684.] An act of a corporation in excess of its powers with reference to third persons is technically said to be ultra vires [perhaps first in South Yorkshire Rw. Co. v. Great Northern R. Co., 9 exch. 84 (1853)]; and is void even if unanimously agreed to by all the corporators. The same term is also, but less properly, applied to a resolution of a majority of the members of a corporation which being beyond the powers of the corporation will not bind a dissentient minor-

ity of its members."—Thomas Erskine Holland, *Elements of Jurisprudence, 5th ed., p. 301.*—(*Compare Art. by Seymour D. Thompson in Am. Law Rev., May—June*, 1894).

A. D. 1848-1883.—The New York Codes and their Adoption in other Communities.—"The 'New York Mail' gives the following information as to the extent to which our New York Codes have been adopted in other communities. In most instances the codes have been adopted substantially in detail, and in others in principle: 'The first New York Code, the Code of Civil Procedure, went into effect on the 1st of July, 1848. It was adopted in Missouri in 1849; in California in 1851; in Kentucky in 1851; in Ohio in 1853; in the four provinces of India between 1853 and 1856; in Iowa in 1855; in Wisconsin in 1856; in Kansas in 1859; in Nevada in 1861; in Dakota in 1862; in Oregon in 1862; in Idaho in 1864; in Montana in 1864; in Minnesota in 1866; in Nebraska in 1866; in Arizona in 1866; in Arkansas in 1868; in North Carolina in 1868; in Wyoming in 1869; in Washington Territory in 1869; in South Carolina in 1870; in Utah in 1870; in Connecticut in 1879; in Indiana in 1881. In England and Ireland by the Judicature Act of 1873; this Judicature Act has been followed in many of the British Colonies; in the Consular Courts of Japan, in Shanghai, in Hong Kong and Singapore, between 1870 and 1874. The Code of Criminal Procedure, though not enacted in New York till 1881, was adopted in California in 1850; in India at the same time with the Code of Civil Procedure; in Kentucky in 1854; in Iowa in 1858; in Kansas in 1859; in Nevada in 1861; in Dakota in 1862; in Oregon in 1864; in Idaho in 1864; in Montana in 1864; in Washington Territory in 1869; in Wyoming in 1869; in Arkansas in 1874; in Utah in 1876; in Arizona in 1877; in Wisconsin in 1878; in Nebraska in 1881; in Indiana in 1881; in Minnesota in 1883. The Penal Code, though not enacted in New York until 1882, was adopted in Dakota in 1865 and in California in 1872. The Civil Code, not yet enacted in New York, though twice passed by the Legislature, was adopted in Dakota in 1866 and in California in 1872, and has been much used in the framing of substantive laws for India. The Political Code, reported for New York but not yet considered, was adopted in California in 1872. Thus it will be seen that the State of New York has given laws to the world to an extent and degree unknown since the Roman Codes followed Roman conquests.'"—*The Albany Law Journal, v. 39, p. 261.*

A. D. 1848.—Simplification of Procedure.—"In civil matters, the greatest reform of modern times has been the simplification of procedure in the courts, and the virtual amalgamation of law and equity. Here again America took the lead, through the adoption by New York, in 1848, of a Code of Practice, which has been followed by most of the other states of the Union, and in its main features has lately been taken up by England."—D. Campbell, *The Puritan in Holland, England and America, v. 1, p. 70.*

A. D. 1848.—Reform in the Law of Evidence.—"The earliest act of this kind in this country was passed by the Legislature of Connecticut in 1848. It is very broad and sweeping in its provisions. It is in these words: 'No person shall be disqualified as a witness in any suit or proceeding at law, or in equity, by reason of his interest in the event of the same, as a party or otherwise, or by reason of his conviction of a crime; but such interest or conviction may be shown for the purpose of affecting his credit.' (Revised Statutes of Connecticut, 1849, p. 86, § 141. In the margin of the page the time of the passage of the law is given as 1848.) This act was drafted and its enactment secured by the Hon. Charles J. McCurdy, a distinguished lawyer and the Lieutenant-Governor of that State. A member of Judge McCurdy's family, having been present at the delivery of this lecture at New Haven in 1892, called my attention to the above fact, claiming, and justly, for this act the credit of leading in this country the way to such legislation. But he was mistaken in his claim that it preceded similar legislation in England, although its provisions are an improvement on the contemporary enactments of the like kind in that country."—John F. Dillon, *Laws and Jurisprudence of England and America, p. 374, notes.*

A. D. 1851.—Bentham's Reforms in the Law of Evidence.—"In some respects his [Bentham's] 'Judicial Evidence,' . . . is the most important of all his censorial writings on English Law. In this work he exposed the absurdity and perniciousness of many of the established technical rules of evidence. . . . Among the rules combatted were those relating to the competency of witnesses and the exclusion of evidence on various grounds, including that of pecuniary interest. He insisted that these rules frequently caused the miscarriage of justice, and that in the interest of justice they ought to be swept away. His reasoning fairly embraces the doctrine that parties ought to be allowed and even required to testify. . . . But Bentham had set a few men thinking. He had scattered the seeds of truth. Though they fell on stony ground they did not all perish. But verily reform is a plant of slow growth in the sterile gardens of the practising and practical lawyer. Bentham lived till 1832, and these exclusionary rules still held sway. But in 1843, by Lord Denman's Act, interest in actions at common law ceased, as a rule, to disqualify; and in 1846 and 1851, by Lord Brougham's Acts, parties in civil actions were as a rule made competent and compellable to testify. I believe I speak the universal judgment of the profession when I say changes more beneficial in the administration of justice have rarely taken place in our law, and that it is a matter of profound amazement, as we look back upon it, that these exclusionary rules ever had a place therein, and especially that they were able to retain it until within the last fifty years."—J. F. Dillon, *Laws and Jurisprudence of England and America, pp. 339-341.*

A. D. 1852-1854.—Reform in Procedure.—"A great procedure reform was effected by the Common Law Procedure Acts of 1852 and 1854 as the result of their labours. The main object of the Acts was to secure that the actual merits of every case should be brought before the judges unobscured by accidental and artificial questions arising upon the pleadings, but they also did something to secure that complete adaptability of the common law courts for finally determining every action brought within them, which the Chancery Commissioners of 1850 had indicated as one of the aims of the reformers. Power was given to the common law courts to allow parties to be interrogated by their oppo-

nents, to order discovery of documents, to direct specific delivery of goods, to grant injunctions, and to hear interpleader actions, and equitable pleas were allowed to be urged in defence to common law actions."—D. M. Kerly, *Hist. of Equity, p.* 288.

A. D. 1854.—"Another mode" (besides common law lien).—"Another mode of creating a security is possible, by which not merely the ownership of the thing but its possession also remains with the debtor. This is called by the Roman lawyers and their modern followers 'hypotheca.' Hypothecs may arise by the direct application of a rule of law, by judicial decision, or by agreement. Those implied by law, generally described as 'tacit hypothecs,' are probably the earliest. They are first heard of in Roman law in connection with that right of a landlord over the goods of his tenant, which is still well known on the Continent and in Scotland under its old name, and which in England takes the form of a right of Distress. Similar rights were subsequently granted to wives, pupils, minors, and legatees, over the property of husbands, tutors, curators, and heirs, respectively. The action by which the praetor Servius first enabled a landlord to claim the goods of his defaulting tenant in order to realize his rent, even if they had passed into the hands of third parties, was soon extended so as to give similar rights to any creditor over property which its owner had agreed should be held liable for a debt. A real right was thus created by the mere consent of the parties, without any transfer of possession, which although opposed to the theory of Roman law, became firmly established as applicable both to immoveable and moveable property. Of the modern States which have adopted the law of hypothec, Spain perhaps stands alone in adopting it to the fullest extent. The rest have, as a rule, recognized it only in relation to immoveables. Thus the Dutch law holds to the maxim 'mobilia non habent sequelam,' and the French Code, following the 'coutumes' of Paris and Normandy, lays down that 'les meubles n'ont pas de suite par hypotheque.' But by the 'Code de Commerce,' ships, though moveables, are capable of hypothecation; and in England what is called a mortgage, but is essentially a hypothec, of ships is recognized and regulated by the 'Merchant Shipping Acts,' under which the mortgage must be recorded by the registrar of the port at which the ship itself is registered [17 and 18 Vic. c. 104]. So also in the old contract of 'bottomry,' the ship is made security for money lent to enable it to proceed upon its voyage."—T. E. Holland, *Elements of Jurisprudence, 5th ed., p.* 203.

A. D. 1854-1882.—Simplification of Titles and Transfers of Land in England.—"For the past fifty years the project of simplifying the titles and transfer of land has received great attention in England. In the year 1854 a royal commission was created to consider the subject. The report of this commission, made in 1857, was able and full so far as it discussed the principles of land transfer which had been developed to that date. It recommended a limited plan of registration of title. This report, and the report of the special commission of the House of Commons of 1879, have been the foundation of most of the subsequent British legislation upon the subject. Among the more prominent acts passed may be named Lord Westbury's Act of 1862, which attempted to establish indefeasible titles; Lord Cairns' Land Transfer Act of 1875, which provided for guaranteed titles upon preliminary examinations; the Conveyancing and Law of Property Act of 1881, which established the use of short forms of conveyances; and Lord Cairns' Settled Land Act of 1882."—Dwight H. Olmstead, 18 *American Bar Ass'n Rep., p.* 267.

A. D. 1855.—Suits against a State or Nation.—"In England the old common law methods of getting redress from the Crown were by 'petition de droit' and 'monstrans le droit,' in the Court of Chancery or the Court of Exchequer, and in some cases by proceedings in Chancery against the Attorney-General. It has recently been provided by statute [23 & 24 Vic., c. 24] that a petition of right may be entitled in any one of the superior Courts in which the subject-matter of the petition would have been cognisable, if the same had been a matter in dispute between subject and subject, and that it shall be left with the Secretary of State for the Home Department, for her Majesty's consideration, who, if she shall think fit, may grant her fiat that right be done, whereupon an answer, plea, or demurrer shall be made on behalf of the Crown, and the subsequent proceedings be assimulated as far as practicable to the course of an ordinary action. It is also provided that costs shall be payable both to and by the Crown, subject to the same rules, so far as practicable, as obtain in proceedings between subject and subject."—T. E. Holland, *Elements of Jurisprudence, 5th ed., p.* 337.—The United States Court of Claims was established in 1855. For State courts of claims see Note in 16 Abbott's New Cases 436 and authorities there referred to.

A. D. 1858.—The Contractual Theory of Marriage as affecting Divorce.—"The doctrine may be resolved into two propositions—(a) that a marriage celebrated abroad cannot be dissolved but by a Court of the foreign country; (b) that a marriage in England is indissoluble by a foreign Court. The first proposition has never been recognized in any decision in England. Even before the Act of 1858 it is extremely doubtful if the English Courts would have scrupled to decree a divorce à mensâ where the marriage was had in a foreign country, and certainly after the Statutes they did not hesitate to grant a divorce, though the marriage took place abroad (Ratcliff v. Ratcliff, 1859, 1 Sw. & Tr. 217). It is true that in cases where the foreign Courts have dissolved a marriage celebrated in their own country between persons domiciled in that country, these sentences were regarded as valid here, and some credit was given to the fact of the marriage having been celebrated there (Ryan v. Ryan, 1816, 2 Phill. 332; Argent v. Argent, 1865, 4 Sw. & Tr. 52); but how far it influenced the learned Judges does not appear; the main consideration being the circumstance of domicile. The second proposition has been generally supposed by writers both in England and America (Story, Wharton) to have been introduced by Lolley's Case, 1812, Russ. & Ry. 237, and followed in Tovey v. Lindsay, 1818, 1 Dow. 117, and McCarthy v. De Caix, 1831, 2 Cl. & F. 568, and only to have been abandoned in 1858 (Dicey), or in 1868 in Shaw v. Gould. But the case of Harvey v. Farnie, 1880-1882, 5 P. D.

153; 6 P. D. 35, 8 App. C. 48, has now shown that the Contractual theory had no permanent hold whatever in this country, that it did not originate with Lolley's Case and was not adopted by Lord Eldon but that it arose from a mistaken conception of Lord Brougham as to the point decided in the famous Resolution, and was never seriously entertained by any other Judge in England, and we submit this is correct."—E. H. Monnier, *in Law Mag. & Rev.*, 12 *ser.*, *v.* 17 (*Lond.*, 1891-2), *p.* 82.

A. D. 1873.—The Judicature Acts.—"The first Judicature Act was passed in 1873 under the auspices of Lord Selborne and Lord Cairns. It provided for the consolidation of all the existing superior Courts into one Supreme Court, consisting of two primary divisions, a High Court of Justice and a Court of Appeal. . . . Law and Equity, it was provided, were to be administered concurrently by every division of the Court, in all civil matters, the same relief being granted upon equitable claims or defences, . . . as would have previously been granted in the Court of Chancery; no proceeding in the Court was to be stayed by injunction analogous to the old common injunction but the power for any branch of the Court to stay proceedings before itself was of course to be retained; and the Court was to determine the entire controversy in every matter that came before it. By the 25th section of the Act rules upon certain of the points where differences between Law and Equity had existed, deciding in favour of the latter, were laid down, and it was enacted generally that in the case of conflict, the rules of Equity should prevail."—D. M. Kerly, *Hist. of Equity*, *p.* 293.

A. D. 1882.—Experiments in Codification in England.—"The Bills of Exchange Act 1882 is, I believe, the first code or codifying enactment which has found its way into the English Statute Book. By a code, I mean a statement under the authority of the legislature, and on a systematic plan, of the whole of the general principles applicable to any given branch of the law. A code differs from a digest inasmuch as its language is the language of the legislature, and therefore authoritative; while the propositions of a digest merely express what is, in the opinion of an individual author, the law on any given subject. In other words the propositions of a code are law, while the propositions of a digest may or may not be law."—M. D. Chalmers, *An Experiment in Codification* (*Law Quarterly Rev.*, *v.* 2, *p.* 125).

A. D. 1889.—Passage of Block-Indexing Act.—"The history of Land Transfer Reform in the United States is confined, almost exclusively, to matters which have occurred in the State of New York during the past ten years, and which culminated in the passage of the Block-Indexing Act for the city of New York of 1889. In January, 1882, a report was made by a special committee of the Association of the Bar of the city of New York, which had been appointed to consider and report what changes, if any, should be made in the manner of transferring title to land in the city and State. The committee reported that by reason of the accumulated records in the offices of the county clerk and register of deeds of the city, 'searches practically could not be made in those offices,' and recommended the appointment of a State commission, which should consider and report a mode of transferring land free from the difficulties of the present system. The report was adopted by the association, and during the same year like recommendations were made by the Chamber of Commerce and by real estate and other associations of the city."—D. H. Olmstead, 13 *American Bar Ass'n Rep.*, *pp.* 269–270.

Criminal Law.

A. D. 1066-1272.—The Ordinary Criminal Courts.—"In a very few words the history of the ordinary courts is as follows: Before the Conquest the ordinary criminal court was the County or Hundred Court, but it was subject to the general supervision and concurrent jurisdiction of the King's Court. The Conqueror and his sons did not alter this state of things, but the supervision of the King's Court and the exercise of his concurrent jurisdiction were much increased both in stringency and in frequency, and as time went on narrowed the jurisdiction and diminished the importance of the local court. In process of time the King's Court developed itself into the Court of King's Bench and the Courts of the Justices of Assize, Oyer and Terminer and Gaol Delivery, or to use the common expression, the Assize Courts; and the County Court, so far as its criminal jurisdiction was concerned, lost the greater part of its importance. These changes took place by degrees during the reigns which followed the Conquest, and were complete at the accession of Edward I. In the reign of Edward III. the Justices of the Peace were instituted, and they, in course of time, were authorized to hold Courts for the trial of offenders, which are the Courts of Quarter Sessions. The County Court, however, still retained a separate existence, till the beginning of the reign of Edward IV., when it was virtually, though not absolutely, abolished. A vestige of its existence is still to be traced in Courts Leet."—Sir James F. Stephen, *Hist. of the Criminal Law*, *v.* 1, *pp.* 75–76.

A. D. 1166.—Disappearance of Compurgation in Criminal Cases.—"In criminal cases in the king's courts, compurgation is thought to have disappeared in consequence of what has been called 'the implied prohibition' of the Assize of Clarendon, in 1166. But it remained long in the local and ecclesiastical courts. Palgrave preserves as the latest instances of compurgation in criminal cases that can be traced, some cases as late as 1440–1, in the Hundred Court of Winchelsea in Sussex. They are cases of felony, and the compurgation is with thirty-six neighbors. They show a mingling of the old and the new procedure."—J. B. Thayer, *The Older Modes of Trial* (*Harvard Law Rev.*, *v.* 5, *p.* 59).

A. D. 1166-1215.—Jury in Criminal Cases.—"It seems to have been possible, even before the decree of the Fourth Lateran Council, in . . . 1215, to apply the jury to criminal cases whenever the accused asked for it. . . . The Assize of Clarendon, in 1166, with its apparatus of an accusing jury and a trial by ordeal is thought to have done away in the king's courts with compurgation as a mode of trial for crime; and now the Lateran Council, in forbidding ecclesiastics to take part in trial by ordeal, was deemed to have forbidden that mode of trial."—Jas. B. Thayer, *The Jury and its Development* (*Harvard Law Rev.*, *v.* 5, *p.* 265).

A. D. 1176 (circa).—"Eyres," and Criminal Jurisdiction.—"It is enough for me to point out that, on the circuits instituted by Henry II, and commonly distinguished as 'eyres' by way of pre-eminence, the administration of criminal justice, was treated, not as a thing by itself, but as one part, perhaps the most prominent and important part, of the general administration of the country, which was put to a considerable extent under the superintendence of the justices in eyre. Nor is this surprising when we consider that fines, amercements, and forfeitures of all sorts were items of great importance in the royal revenue. The rigorous enforcement of all the proprietary and other profitable rights of the Crown which the articles of eyre confided to the justices was naturally associated with their duties as administrators of the criminal law, in which the king was deeply interested, not only because it protected the life and property of his subjects, but also because it contributed to his revenue."—Sir J. F. Stephen, *Hist. of the Criminal Law of England*, *v.* 1, *p.* 102.

A. D. 1198-1199.—Trial by Ordeal.—"The earliest instance of the ordeal [see ORDEAL] in our printed judicial records occurs in 1198–9, on an appeal of death, by a maimed person, where two of the defendants are adjudged to purge themselves by the hot iron. But within twenty years or so this mode of trial came to a sudden end in England, through the powerful agency of the Church,—an event which was the more remarkable because Henry II., in the Assize of Clarendon (1166) and again in that of Northampton (1176), providing a public mode of accusation in the case of the larger crimes, had fixed the ordeal as the mode of trial. The old form of trial by oath was no longer recognized in such cases in the king's courts. It was the stranger, therefore, that such quick operation should have been allowed in England to the decree, in November, 1215, of the Fourth Lateran Council at Rome. That this was recognized and accepted within about three years (1218–19) by the English crown is shown by the well-known writs of Henry III., to the judges, dealing with the puzzling question of what to do for a mode of trial, 'cum prohibitum sit per Ecclesiam Romanam judicium ignis et aquae.' I find no case of trial by ordeal in our printed records later than Trinity Term of the 15 John (1213)."—J. B. Thayer, *The Older Modes of Trial* (*Harvard Law Rev.*, *v.* 5, *p.* 64–65).

A. D. 1215.—Two Juries in Criminal Cases.—"The ordeal was strictly a mode of trial. What may clearly bring this home to one of the present day is the well-known fact that it gave place, not long after the Assize of Clarendon, to the petit jury, when Henry III. bowed to the decree of the fourth Lateran Council (1215) abolishing the ordeal. It was at this point that our cumbrous, inherited system of two juries in criminal cases had its origin."—J. B. Thayer, *Presumptions and the Law of Evidence* (*Harvard Law Rev.*, *v.* 3, *p.* 159, *note*).

A. D. 1215.—Had Coroners Common Law Power as to Fires?—"Although Magna Charta took away the power of the Coroner of holding Pleas of the Crown, that is of trying the more important crimes, there was nothing to forbid him from continuing to receive accusations against all offenders. This he did, and continues to do to the present day, without challenge, in cases of sudden or unexplained deaths. Nor is it denied that he has done so and may do so in other matters, such as in treasure trove, wreck of the sea and deodands. The difficulty, of course, is to know whether the Coroner was or was not in the habit of holding inquests on fires. There is no evidence that he had not the power to do so. On the contrary, we think the extracts from the ancient writers which we have before quoted, are on the whole in favour of his having that power. Before Magna Charta he had the power to try all serious crimes; arson would unquestionably be one of them. Magna Charta only took away his power of trying them, not of making a preliminary investigation, otherwise an inquest."—Sherston Baker, *Law Mag. & Rev.* (*Lond.*, 1886–7), *4th ser.*, *v.* 12, *p.* 268.

A. D. 1272-1875.—King's Bench.—The Supreme Criminal Court.—"From the reign of Edward I, to the year 1875 it [the Court of King's Bench] continued to be the Supreme Criminal Court of the Realm, with no alterations in its powers or constitution of sufficient importance to be mentioned except that during the Commonwealth it was called the Upper Bench."—Sir J. F. Stephen, *Hist. of Criminal Law of England*, *v.* 1, *p.* 94.

A. D. 1276.—Coroner's Jury.—"The earliest instance that occurs of any sort of preliminary inquiry into crimes with a view to subsequent proceedings is the case of the coroner's inquest. Coroners, according to Mr. Stubbs, originated in the year 1194, but the first authority of importance about their duties is to be found in Bracton. He gives an account of their duties so full as to imply that in his day their office was comparatively modern. The Statute de Officio Coronatoris (4 Edward I., st. 2, A. D. 1276) is almost a transcript of the passage in Bracton. It gives the coroner's duty very fully, and is, to this day, the foundation of the law on the subject."—Sir J. F. Stephen, *Hist. of the Criminal Law of England*, *v.* 1, *p.* 217.

ALSO IN: W. Forsyth, *Trial by Jury*, *p.* 187.

A. D. 1285.—Courts of Oyer and Terminer.—"The first express mention of them with which I am acquainted is in the statute 18 Edw. I., c. 29 (A. D. 1285), which taken in connection with some subsequent authorities throws considerable light on their nature. They were either general or special. General when they were issued to commissioners whose duty it was to hear and determine all matters of a criminal nature within certain local limits, special when the commission was confined to particular cases. Such special commissions were frequently granted at the prayer of particular individuals. They differed from commissions of gaol delivery principally in the circumstance that the commission of Oyer and Terminer was 'ad inquirendum, audiendum, et terminandum,' whereas that of gaol delivery is 'ad gaolam nostram castri nostri de C. de prisonibus in ea existentibus hac vice deliberandum,' the interpretation put upon which was that justices of Oyer and Terminer could proceed only upon indictments taken before themselves, whereas justices of gaol delivery had to try every one found in the prison which they were to deliver. On the other hand, a prisoner on bail could not be tried before a justice of gaol delivery, because he would not be in the gaol, whereas if he appeared before justices of Oyer and Terminer he might be both indicted and

tried."—Sir J. F. Stephen, *Hist. of the Criminal Law of England*, *v.* 1, *p.* 106.

A. D. 1305.—Challenging Jury for Cause.—"The prisoner was allowed to challenge peremptorily, i. e. without showing cause, any number of jurors less than thirty-five, or three whole juries. When or why he acquired this right it is difficult to say. Neither Bracton nor Britton mention it, and it is hard to reconcile it with the fact that the jurors were witnesses. A man who might challenge peremptorily thirty-five witnesses could always secure impunity. It probably arose at a period when the separation between the duties of the jury and the witnesses was coming to be recognized. The earliest statute on the subject, 33 Edw. I, st. 4 (A. D. 1305), enacts 'that from henceforth, notwithstanding it be alleged by them that sue for the king that the jurors of those inquests, or some of them, be not indifferent for the king, yet such inquests shall not remain untaken for that cause, but if they that sue for the king will challenge any of those jurors, they shall assign of the challenge a cause certain.'"—Sir J. F. Stephen, *Hist. of the Criminal Law of England*, *v.* 1, *pp.* 301–302.

A. D. 1344.—Justices of the Peace.—"In 1844 (18 Edw. III, st. 2, c. 2) it was enacted that 'two or three of the best of reputation in the counties shall be assigned keepers of the peace by the King's Commission, . . . to hear and determine felonies and trespasses done against the peace in the same counties, and to inflict punishment reasonably.' This was the first act by which the Conservators of the Peace obtained judicial power."—Sir J. F. Stephen, *Hist. of the Criminal Law of England*, *v.* 1, *p.* 113.

A. D. 1506.—Insanity as a Defence.—The earliest adjudication upon the legal responsibility of an insane person occurred in the Year Book of the 21 Henry VII.—*American Law Rev.*, *v.* 15, *p.* 717.

A. D. 1547.—Two Lawful Witnesses required to Convict.—"In all cases of treason and misprision of treason,—by statutes 1 Edw. VI. c. 12; 5 & 6 Edw. VI. c. 11, and 7 & 8 Will. III. c. 3,—two lawful witnesses are required to convict a prisoner; unless he shall willingly and without violence confess the same. And, by the last-mentioned statute, it is declared, that both of such witnesses must be to the same overt act of treason; or one to one overt act, and the other to another overt act of the same species of treason, and not of distinct heads or kinds: and that no evidence shall be admitted to prove any overt act, not expressly laid in the indictment."—Sir J. F. Stephen, *Commentaries*, *v.* 4, *p.* 425 (*8th ed.*).

A. D. 1592.—Criminal Trials under Elizabeth.—"In prosecutions by the State, every barrier which the law has ever attempted to erect for the protection of innocence was ruthlessly cast down. Men were arrested without the order of a magistrate, on the mere warrant of a secretary of state or privy councillor, and thrown into prison at the pleasure of the minister. In confinement they were subjected to torture, for the rack rarely stood idle while Elizabeth was on the throne. If brought to trial, they were denied the aid of a counsel and the evidence of witnesses in their behalf. Nor were they confronted with the witnesses against them, but written depositions, taken out of court and in the absence of the prisoner, were read to the jury, or rather such portions of them as the prosecution considered advantageous to its side. On the bench sat a judge holding office at the pleasure of the crown, and in the jury-box twelve men, picked out by the sheriff, who themselves were punished if they gave a verdict of acquittal."—D. Campbell, *The Puritan in Holland, England and America*, *v.* 1, *p.* 367.

A. D. 1600 (circa).—Capital Punishment.—"Sir James Fitz James Stephen, in his History of Criminal Law, estimates that at the end of the sixteenth century there were about 800 executions per year in England (v. 1. 468). Another sentence in vogue in England before that time was to be hanged, to have the bowels burned, and to be quartered. Beccaria describes the scene where 'amid clouds of writhing smoke the groans of human victims, the crackling of their bones, and the flying of their still panting bowels were a pleasing spectacle and agreeable harmony to the frantic multitude.' (ch. 30.) As late as the reign of Elizabeth, . . . the sentence of death in England was to be hung, drawn and quartered. Campian, the Jesuit, was tortured before trial until his limbs were dislocated on the rack, and was carried helpless into Westminster Hall for trial before the Chief Justice of England, unable to raise an arm in order to plead not guilty. He was sentenced to be hung, drawn and quartered, which meant legally, that upon being hung he was to be cut down while yet living, and dragged at the tail of a horse, and then before death should release him, to be hewn in pieces, which were to be sent dispersed to the places where the offense was committed or known, to be exhibited in attestation of the punishment, the head being displayed in the most important place, as the chief object of interest. In the process of hanging, drawing and quartering, Froude says that due precautions were taken to prolong the agony. Campian's case is specially interesting, as showing the intervention of a more humane spirit to mitigate the barbarity of the law. As they were about to cut him down alive from the gibbet, the voice of some one in authority cried out: 'Hold, till the man is dead.' This innovation was the precursor of the change in the law so as to require the sentence to be that he be hanged by the neck until he is dead. It is not generally known that the words 'until he is dead' are words of mercy inserted to protect the victim from the torture and mutilation which the public had gathered to enjoy."—Austin Abbott, *Address before N. Y. Society of Med. Jur.* (*The Advocate, Minn.*, 1889, *v.* 1, *p.* 71).

A. D. 1641-1662.—No Man shall be compelled to Criminate himself.—"What . . . is the history of this rule? . . . Briefly, these things appear: 1st. That it is not a common law rule at all, but is wholly statutory in its authority. 2d. That the object of the rule, until a comparatively late period of its existence, was not to protect from answers in the king's court of justice, but to prevent a usurpation of jurisdiction on the part of the Court Christian (or ecclesiastical tribunals). 3d. That even as thus enforced the rule was but partial and limited in its application. 4th. That by gradual perversion of function the rule assumed its present form, but not earlier than the latter half of the seventeenth century. . . . But nothing can be clearer than that it was a statutory rule. . . . The first of these were 16 Car. I., c. 2 (1641) and

provided that no one should impose any penalty in ecclesiastical matters, nor should 'tender . . . to any . . . person whatsoever any corporal oath whereby he shall be obliged to confess or accuse himself of any crime or any . . . thing whereby he shall be exposed to any censure or penalty whatever.' This probably applied to ecclesiastical courts alone. The second (13 Car. II., c. 12, 1662) is more general, providing that 'no one shall administer to any person whatsoever the oath usually called ex officio, or any other oath, whereby such persons may be charged or compelled to confess any criminal matter.' . . . The Statute of 13 Car. II. is cited in Scurr's Case, but otherwise neither of them seems to have been mentioned; nor do the text-books, as a rule, take any notice of them. Henceforward, however, no question arises in the courts as to the validity of the privilege against self-crimination, and the statutory exemption is recognized as applying in common-law courts as well as in others. . . . This maxim, or rather the abuse of it in the ecclesiastical courts, helps in part to explain the shape which the general privilege now has taken. . . . We notice that most of the church's religious investigations, . . . were conducted by means of commissions or inquisitions, not by ordinary trials upon proper presentment; and thus the very rule of the canon law itself was continually broken, and persons unsuspected and unbetrayed 'per famam' were compelled, 'seipsum prodere,' to become their own accusers. This, for a time, was the burden of the complaint. . . . Furthermore, in rebelling against this abuse of the canon-law rule, men were obliged to formulate their reasons for objecting to answer the articles of inquisitions. . . . They professed to be willing to answer ordinary questions, but not to betray themselves to disgrace and ruin, especially as where the crimes charged were, as a rule, religious offences and not those which men generally regard as offences against social order. In this way the rule began to be formulated and limited, as applying to the disclosure of forfeitures and penal offences. In the course of the struggle the aid of the civil courts was invoked . . . ; and towards the end of the seventeenth century, . . . it found a lodgement in the practice of the Exchequer, of Chancery, and of the other courts. There had never been in the civil courts any complaint based on the same lines, or any demand for such a privilege. . . . But the momentum of this right, wrested from the ecclesiastical courts after a century of continual struggle, fairly carried it over and fixed it firmly in the common-law practice also."—John H. Wigmore, *Nemo Tenetur seipsum Prodere* (*Harvard Law Rev.*, *v.* 5, *pp.* 71–88).

A. D. 1660-1820.—187 Capital Offenses added to Criminal Code in England.—"From the Restoration to the death of George III.,—a period of 160 years,—no less than 187 capital offenses were added to the criminal code. The legislature was able, every year, to discover more than one heinous crime deserving of death. In the reign of George II. thirty-three Acts were passed creating capital offenses; in the first fifty years of George III., no less than sixty-three. In such a multiplication of offenses all principle was ignored; offenses wholly different in character and degree were confounded in the indiscriminating penalty of death. Whenever an offense was found to be increasing, some busy senator called for new rigor, until murder became in the eye of the law no greater crime than picking a pocket, purloining a ribbon from a shop, or pilfering a pewter-pot. Such lawmakers were as ignorant as they were cruel. . . . Dr. Johnson,—no squeamish moralist,—exposed them; Sir W. Blackstone, in whom admiration of our jurisprudence was almost a foible, denounced them. Beccaria, Montesquieu, and Bentham demonstrated that certainty of punishment was more effectual in the repression of crime, than severity; but law givers were still inexorable."—T. E. May, *Constitutional Hist. of England* (*Widdleton's ed.*), *v.* 2, *pp.* 553–554.

A. D. 1695.—Counsel allowed to Persons indicted for High Treason.—"Holland, following the early example of Spain, always permitted a prisoner the services of a counsel; and if he was too poor to defray the cost, one was furnished at the public charge. In England, until after the fall of the Stuarts, this right, except for the purposes of arguing mere questions of law, was denied to every one placed on trial for his life. In 1695, it was finally accorded to persons indicted for high treason. Even then it is doubtful, says Lord Campbell, whether a bill for this purpose would have passed if Lord Ashley, afterwards Earl of Shaftesbury and author of the 'Characteristics,' had not broken down while delivering in the House of Commons a set speech upon it, and, being called upon to go on, had not electrified the House by observing: 'If I, sir, who rise only to give my opinion upon a bill now pending, in the fate of which I have no personal interest, am so confounded that I am unable to express the least of what I propose to say, what must the condition of that man be, who, without any assistance, is called to plead for his life, his honor, and for his posterity?'"—D. Campbell, *The Puritan in Holland, England and America*, *v.* 2, *p.* 446.

A. D. 1708.—Torture.—The fact that judicial torture, though not a common law power of the courts, was used in England by command of Mary, Elizabeth, James I and Charles I, is familiar to all. It was sanctioned by Lord Coke and Lord Bacon, and Coke himself conducted examinations by it. It was first made illegal in Scotland in 1708; in Bavaria and Wurtemburg in 1806; in Baden in 1831.—Austin Abbott, *Address before N. Y. Society of Med. Jur.* (*The Advocate, Minn.*, 1889, *v.* 1, *p.* 71).

A. D. 1725.—Knowledge of Right and Wrong the test of Responsibility.—The case of Edward Arnold, in 1725, who was indicted for shooting at Lord Onslow, seems to be the earliest case in which the knowledge of right and wrong becomes the test of responsibility.—*American Law Review*, *v.* 15, *pp.* 720–722.

A. D. 1770.—Criminal Law of Libel.—"In this case [Case of the North Briton Junius' Letter to the King, tried before Lord Mansfield and a special jury on the 2nd June 1770] two doctrines were maintained which excepted libels from the general principles of the Criminal Law—firstly, that a publisher was criminally responsible for the acts of his servants, unless he was proved to be neither privy nor to have assented to the publication of a libel; secondly, that it was the province of the Court alone to judge of the criminality of the publication complained of. The first rule was rigidly observed in the Courts until the passing of Lord Campbell's Libel Act in 1843 (6

and 7 Vict., c. 96). The second prevailed only until 1792, when Fox's Libel Act (32 Geo. III, c. 60) declared it to be contrary to the Law of England. . . . A century's experience has proved that the law, as declared by the Legislature in 1792, has worked well, falsifying the forebodings of the Judges of the period, who predicted 'the confusion and destruction of the Law of England' as the result of a change which they regarded as the subversion of a fundamental and important principle of English Jurisprudence. Fox's Libel Act did not complete the emancipation of the Press. Liberty of discussion continued to be restrained by merciless persecution. The case of Sir Francis Burdett, in 1820, deserves notice. Sir Francis had written, on the subject of the 'Peterloo Massacre' in Manchester, a letter which was published in a London newspaper. He was fined £2,000 and sentenced to imprisonment for three months. The proceedings on a motion for a new trial are of importance because of the Judicial interpretation of the Libel Act of 1792. . The view was then stated by Best, J. (afterwards Lord Wynford), and was adopted unanimously by the Court, that the statute of George III. had not made the question of libel one of fact. If it had, instead of removing an anomaly, it would have created one. Libel, said Best, J., is a question of law, and the judge is the judge of the law in libel as in all other cases, the jury having the power of acting agreeably to his statement of the law or not. All that the statute does is to prevent the question from being left to the jury in the narrow way in which it was left before that time. The jury were then only to find the fact of the publication and the truth of the innuendoes, for the judges used to tell them that the intent was an inference of law to be drawn from the paper, with which the jury had nothing to do. The legislature have said that this is not so, but that the whole case is for the jury (4 B. and A. 95). The law relating to Political Libel has not been developed or altered in any way since the case of R. v. Burdett. If it should ever be revived, which does not at present appear probable, it will be found, says Sir James Stephen, to have been insensibly modified by the law as to defamatory libels on private persons, which has been the subject of a great number of highly important judicial decisions. The effect of these is, amongst other things, to give a right to every one to criticise fairly — that is, honestly, even if mistakenly — the public conduct of public men, and to comment honestly, even if mistakenly, upon the proceedings of Parliament and the Courts of Justice. (History of the Criminal Law, II., 376.) The unsuccessful prosecution of Cobbett for an article in the 'Political Register,' in 1831, nearly brought to a close the long series of contests between the Executive and the Press. From the period of the Reform Act of 1832, the utmost latitude has been permitted to public writings, and Press prosecutions for political libels, like the Censorship, have lapsed."— J. W. Ross Brown, *in Law Mag. & Rev., 4th ser.*, *v.* 17, *p.* 197.

A. D. 1791.—Criminals allowed Counsel.— "When the American States adopted their first constitutions, five of them contained a provision that every person accused of crime was to be allowed counsel for his defence. The same right was, in 1791, granted for all America in the first amendments to the Constitution of the United States. This would seem to be an elementary principle of justice, but it was not adopted in England until nearly half a century later, and then only after a bitter struggle."—D. Campbell, *The Puritan in Holland, England and America*, *v.* 1, *p.* 70.

A. D. 1818.—Last Trial by Battle.—"The last appeal of murder brought in England was the case of Ashford v. Thornton in 1818. In that case, after Thornton had been tried and acquitted of the murder of Mary Ashford at the Warwick Assizes her brother charged him in the court of king's bench with her murder, according to the forms of the ancient procedure. The court admitted the legality of the proceedings, and recognized the appellee's right to wage his body; but as the appellant was not prepared to fight, the case ended upon a plea of autrefois acquit interposed by Thornton when arraigned on the appeal. This proceeding led to the statute of 59 Geo. III., c. 46, by which all appeals in criminal cases were finally abolished."— Hannis Taylor, *Origin and Growth of the English Const.*, *pt.* 1, *p.* 311.—See, also, WAGER OF BATTLE.

A. D. 1819.—Severity of the former Criminal Law of England.—"Sir James Mackintosh in 1819, in moving in Parliament for a committee to inquire into the conditions of the criminal law, stated that there were then 'two hundred capital felonies on the statute book.' Undoubtedly this apparent severity, for the reasons stated by Sir James Stephen, is greater than the real severity, since many of the offenses made capital were of infrequent occurrence; and juries, moreover, often refused to convict, and persons capitally convicted for offenses of minor degrees of guilt were usually pardoned on condition of transportation to the American and afterwards to the Australian colonies. But this learned author admits that, 'after making all deductions on these grounds there can be no doubt that the legislation of the eighteenth century in criminal matters was severe to the highest degree, and destitute of any sort of principle or system.'"— J. F. Dillon, *Laws and Jurisprudence of England and America*, *p.* 366.

A. D. 1825.—"Ticket-of-leave" system established.—"The 'ticket-of-leave' system [was] established under the English laws of penal servitude. It originated under the authority of the governors of the penal colonies, and was the first sanctioned by Parliament, so far as the committee are aware, by an Act 5 Geo. IV., chap. 84. Subsequently, when transportation for crime was abolished by the Acts 16, 17 Vict., chap. 99 (A. D. 1853) and 20, 21 Vict., chap. 3, and system of home prisons established, the 'license' or ticket-of-leave system was adopted by Parliament, in those acts, as a method of rewarding convicts for good conduct during imprisonment. By further acts passed in 1864, 1871 and 1879, the system has been brought gradually into its present efficacy."—*Report of Committee on Judicial Administration, and Remedial Procedure* (9 *American Bar Ass'n Rep.*, 317).

A. D. 1832-1860.—Revision of Criminal Code in England.—"With the reform period commenced a new era in criminal legislation. Ministers and law officers now vied with philanthropists, in undoing the unhallowed work of many generations. In 1832, Lord Auckland, Master of the Mint, secured the abolition of capital

punishment for offences connected with coinage; Mr. Attorney-general Denman exempted forgery from the same penalty in all but two cases, to which the Lords would not assent; and Mr. Ewart obtained the like remission for sheep-stealing, and other similar offences. In 1833, the Criminal Law Commission was appointed, to revise the entire code. . . . The commissioners recommended numerous other remissions, which were promptly carried into effect by Lord John Russell in 1837. Even these remissions, however, fell short of public opinion, which found expression in an amendment of Mr. Ewart, for limiting the punishment of death to the single crime of murder. This proposal was then lost by a majority of one; but has since, by successive measures, been accepted by the legislature; —murder alone, and the exceptional crime of treason, having been reserved for the last penalty of the law. Great indeed, and rapid, was this reformation of the criminal code. It was computed that, from 1810 to 1845, upwards of 1,400 persons had suffered death for crimes, which had since ceased to be capital."—T. E. May, *Constitutional Hist. of England* (*Widdleton's ed.*), *v.* 2, *pp.* 557–558.

A. D. 1843.—Lord Campbell's Libel Act, and Publisher's Liability.—"In the 'Morning Advertiser' of the 19th of December, 1769, appeared Junius's celebrated letter to the king. Inflammatory and seditious, it could not be overlooked; and as the author was unknown, informations were immediately filed against the printers and publishers of the letter. But before they were brought to trial, Almon, the bookseller, was tried for selling the 'London Museum,' in which the libel was reprinted. His connection with the publication proved to be so slight that he escaped with a nominal punishment. Two doctrines, however, were maintained in this case, which excepted libels from the general principles of the criminal law. By the first, a publisher was held criminally answerable for the acts of his servants, unless proved to be neither privy nor assenting to the publication of a libel. So long as exculpatory evidence was admitted, this doctrine was defensible; but judges afterwards refused to admit such evidence, holding that the publication of a libel by a publisher's servant was proof of his criminality. And this monstrous rule of law prevailed until 1843, when it was condemned by Lord Campbell's Libel Act."—T. E. May, *Constitutional Hist. of England* (*Widdleton's ed.*), *v.* 2, *pp.* 113–114.—"And be it enacted, that whensoever, upon the trial of any indictment or information for the publication of a libel, under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent, or knowledge, and that the said publication did not arise from want of due care or caution on his part."—*Statute* 6 *& 7 Vic., c.* 96, *s.* 7.

A. D. 1848.—The English Court of Criminal Appeal.—"England has not yet got her court of Criminal Appeal, although the Council of Judges, in their belated scheme of legal reform, recommend the legislature to create one. Questions whether an action should be dismissed as 'frivolous or vexatious,' disputes about 'security for costs,' and the 'sufficiency of interrogatories' or 'particulars,' and all manner of trivial causes affecting property or status, are deemed by the law of England sufficiently important to entitle the parties to them, if dissatisfied with the finding of a court of first instance, to submit it to the touchstone of an appeal. But the lives and liberties of British subjects charged with the commission of criminal offences are in general disposed of irrevocably by the verdict of a jury, guided by the directions of a trial judge. To this rule, however, there are two leading exceptions. In the first place, any convicted prisoner may petition the sovereign for a pardon, or for the commutation of his sentence; and the royal prerogative of mercy is exercised through, and on the advice of the Secretary of State for the Home Department. In the second place, the English machine juridical notwithstanding its lack of a properly constituted Court of Criminal Appeal, is furnished with a kind of 'mechanical equivalent' therefor, in the 'Court for Crown Cases Reserved,' which was established by act of Parliament in 1848 (11 & 12 Vict. c. 78)."—*The English Court of Criminal Appeal* (*The Green Bag, v.* 5, *p.* 845).

A. D. 1854.—Conflict between U. S. Constitution and a Treaty.—"About 1854, M. Dillon, French consul at San Francisco, refused to appear and testify in a criminal case. The Constitution of the United States (Amendment VI.), in criminal cases grants accused persons compulsory process for obtaining witnesses, while our treaties of 1853, with France (Art. II.) says that consuls 'shall never be compelled to appear as witnesses before the courts.' Thus there was a conflict between the Constitution and the treaty, and it was held that the treaty was void. After a long correspondence the French Consuls were directed to obey a subpoena in future."—Theodore D. Woolsey, *Introd. to the Study of International Law* [*6th ed.*], *p.* 157, *note.*

A. D. 1877.—"Indeterminate Sentences."—"This practice, so far as the committee can ascertain, has been adopted in the states of New York and Ohio only. . . . The Ohio statute has been taken mainly from that which was adopted in New York, April 12, 1877."—*Report of Committee on Judicial Administrations, and Remedial Procedure* (*9 Am. Bar Ass'n Rep., p.* 313).

A. D. 1893.—Criminal Jurisdiction of Federal Courts.—"The Supreme Court of the U. S., in United States v. Rodgers, . . . 150 U. S., . . . in declaring that the term 'high seas' in the criminal law of the United States is applicable as well to the open waters of the great lakes as to the open waters of the ocean, may be said, in a just sense, not to have changed the law, but to have asserted the law to be in force upon a vast domain over which its jurisdiction was heretofore in doubt. The opinion of Justice Field will take its place in our jurisprudence in company with the great cases of the Genesee Chief, 12 How. (U. S.), 443, and its successors, and with them marks the self adapting capacity of the judicial power to meet the great exigencies of justice and good government."—*University Law Rev., v.* 1, *p.* 2.

Ecclesiastical Law.

A. D. 449-1066.—No distinction between Lay and Ecclesiastical Jurisdiction.—"In the time of our Saxon ancestors, there was no

sort of distinction between the lay and the ecclesiastical jurisdiction: the county court was as much a spiritual as a temporal tribunal; the rights of the church were ascertained and asserted at the same time, and by the same judges, as the rights of the laity. For this purpose the bishop of the diocese, and the alderman, or, in his absence, the sheriff of the county, used to sit together in the county court, and had there the cognizance of all causes, as well ecclesiastical as civil: a superior deference being paid to the bishop's opinion in spiritual matters, and to that of the lay judges in temporal."—W. Blackstone, *Commentaries, bk.* 3, *p.* 61.

A. D. 1066-1087.—Separation of Ecclesiastical from Civil Courts.—"William I. (whose title was warmly espoused by the monasteries, which he liberally endowed, and by the foreign clergy whom he brought over in shoals from France and Italy, and planted in the best preferments of the English church), was at length prevailed upon to . . . separate the ecclesiastical court from the civil: whether actuated by principles of bigotry, or by those of a more refined policy, in order to discountenance the laws of King Edward, abounding with the spirit of Saxon liberty, is not altogether certain. But the latter, if not the cause, was undoubtedly the consequence, of this separation: for the Saxon laws were soon overborne by the Norman justiciaries, when the county court fell into disregard by the bishop's withdrawing his presence, in obedience to the charter of the conqueror; which prohibited any spiritual cause from being tried in the secular courts, and commanded the suitors to appear before the bishop only, whose decisions were directed to conform to the canon law."—W. Blackstone, *Commentaries, bk.* 3, *pp.* 62-63.—"The most important ecclesiastical measure of the reign, the separation of the church jurisdiction from the secular business of the courts of law, is unfortunately, like all other charters of the time, undated. Its contents however show the influence of the ideas which under the genius of Hildebrand were forming the character of the continental churches. From henceforth the bishops and archdeacons are no longer to hold ecclesiastical pleas in the hundred-court, but to have courts of their own; to try causes by canonical, not by customary law, and allow no spiritual questions to come before laymen as judges. In case of contumacy the offender may be excommunicated and the king and sheriff will enforce the punishment. In the same way laymen are forbidden to interfere in spiritual causes. The reform is one which might very naturally recommend itself to a man like Lanfranc."—W. Stubbs, *Const. Hist. of England, v.* 1, *sect.* 101.

A. D. 1100.—Reunion of Civil and Ecclesiastical Courts.—"King Henry the First, at his accession, among other restorations of the laws of King Edward the Confessor, revived this of the union of the civil and ecclesiastical courts. . . . This, however, was ill-relished by the popish clergy, . . . and, therefore, in their synod at Westminster, 3 Hen. I., they ordained that no bishop should attend the discussion of temporal causes; which soon dissolved this newly effected union."—W. Blackstone, *Commentaries, bk.* 3, *p.* 63.

A. D. 1135.—Final Separation of Civil and Ecclesiastical Courts.—"And when, upon the death of King Henry the First, the usurper Stephen was brought in and supported by the clergy, we find one article of the oath which they imposed upon him was, that ecclesiastical persons and ecclesiastical causes should be subject only to the bishop's jurisdiction. And as it was about that time that the contest and emulation began between the laws of England and those of Rome, the temporal courts adhering to the former, and the spiritual adopting the latter as their rule of proceeding, this widened the breach between them, and made a coalition afterwards impracticable; which probably would else have been effected at the general reformation of the church."—W. Blackstone, *Commentaries, bk.* 3, *p.* 64.

A. D. 1285.—Temporal Courts assume Jurisdiction of Defamation.—"To the Spiritual Court appears also to have belonged the punishment of defamation until the rise of actions on the case, when the temporal courts assumed jurisdiction, though not, it seems, to the exclusion of punishment by the church. The punishment of usurers, cleric and lay, also belonged to the ecclesiastical judges, though their movables were confiscated to the king, unless the usurer 'vita comite digne poenituerit, et testamento condito quae legare decreverit a se prorsus alienaverit.' That is, it seems, the personal punishment was inflicted by the Ecclesiastical Court, but the confiscation of goods (when proper) was decreed by the King's Court."—Melville M. Bigelow, *Hist. of Procedure, p.* 51.

A. D. 1857-1859.—Ecclesiastical Courts deprived of Matrimonial and Testamentary Causes.—"Matrimonial causes, or injuries respecting the rights of marriage, are another . . . branch of the ecclesiastical jurisdiction. Though, if we consider marriages in the light of mere civil contracts, they do not seem to be properly of spiritual cognizance. But the Romanists having very early converted this contract into a holy sacramental ordinance, the church of course took it under her protection, upon the division of the two jurisdictions. . . . One might . . . wonder, that the same authority, which enjoined the strictest celibacy to the priesthood, should think them the proper judges in causes between man and wife. These causes, indeed, partly from the nature of the injuries complained of, and partly from the clerical method of treating them, soon became too gross for the modesty of a lay tribunal. . . . Spiritual jurisdiction of testamentary causes is a peculiar constitution of this island; for in almost all other (even in popish) countries all matters testamentary are under the jurisdiction of the civil magistrate. And that this privilege is enjoyed by the clergy in England, not as a matter of ecclesiastical right, but by the special favor and indulgence of the municipal law, and as it should seem by some public act of the great council, is freely acknowledged by Lindewode, the ablest canonist of the fifteenth century. Testamentary causes, he observes, belong to the ecclesiastical courts 'de consuetudine Angliae, et super consensu regio et suorum procerum in talibus ab antiquo concesso.'"—W. Blackstone, *Commentaries, bk.* 3, *pp.* 91-95.—Jurisdiction in testamentary causes was taken away from the ecclesiastical courts by Statutes 20 and 21 Vic., c. 77 and 21 and 22 Vic., chaps. 56 and 95, and was transferred to the court of Probate. Jurisdiction in matrimonial

causes was transferred to the Divorce Court by Statute 20 and 21 Vic., 85.

Equity.

A. D. 449-1066.—Early Masters in Chancery.—"As we approach the era of the Conquest, we find distinct traces of the Masters in Chancery, who, though in sacred orders, were well trained in jurisprudence, and assisted the chancellor in preparing writs and grants, as well as in the service of the royal chapel. They formed a sort of college of justice, of which he was the head. They all sate in the Wittenagemote, and, as 'Law Lords', are supposed to have had great weight in the deliberations of that assembly."—Lord Campbell, *Lives of the Chancellors, v. 1, p. 53.*

A. D. 596.—Chancellor, Keeper of the Great Seal.—"From the conversion of the Anglo-Saxons to Christianity by the preaching of St. Augustine, the King always had near his person a priest, to whom was entrusted the care of his chapel, and who was his confessor. This person, selected from the most learned and able of his order, and greatly superior in accomplishments to the unlettered laymen attending the Court, soon acted as private secretary to the King, and gained his confidence in affairs of state. The present demarcation between civil and ecclesiastical employments was then little regarded, and to this same person was assigned the business of superintending writs and grants, with the custody of the great seal."—Lord Campbell, *Lives of the Chancellors, v. 1, p. 27.*

A. D. 1066.—Master of the Rolls.—"The office of master, formerly called the Clerk or Keeper of the Rolls, is recognized at this early period, though at this time he appears to have been the Chancellor's deputy, not an independent officer."—Geo. Spence, *Equity Jurisdiction of the Court of Chancery, v. 1, p. 100.*

A. D. 1066-1154.—Chancellor as Secretary of State.—Under the Norman Kings, the Chancellor was a kind of secretary of state. His functions were political rather than judicial. He attended to the royal correspondence, kept the royal accounts, and drew up writs for the administration of justice. He was also the keeper of the seal.—*Montague's Elements of Const. Hist. of England, p. 27.*—See, also, CHANCELLOR.

A. D. 1067.—First Lord Chancellor.—"The first keeper of the seals who was endowed with the title of Lord Chancellor was Maurice, who received the great seal in 1067. The incumbents of the office were for a long period ecclesiastics; and they usually enjoyed episcopal or archiepiscopal rank, and lived in the London palaces attached to their sees or provinces. The first Keeper of the seals of England was Fitzgilbert, appointed by Queen Matilda soon after her coronation, and there was no other layman appointed until the reign of Edward III."—L. J. Bigelow, *Bench and Bar, p. 28.*

A. D. 1169.—Uses and Trusts.—"According to the law of England, trusts may be created 'inter vivos' as well as by testament, and their history is a curious one, beginning, like that of the Roman 'fidei commissa,' with an attempt to evade the law. The Statutes of Mortmain, passed to prevent the alienation of lands to religious houses, led to the introduction of 'uses,' by which the grantor alienated his land to a friend to hold 'to the use' of a monastery, the clerical chancellors giving legal validity to the wish thus expressed. Although this particular device was put a stop to by 15 Ric. II. c. 5, 'uses' continued to be employed for other purposes, having been found more malleable than what was called, by way of contrast, 'the legal estate.' They offered indeed so many modes of escaping the rigour of the law, that, after several other statutes had been passed with a view of curtailing their advantages, the 27 Hen. VIII. c. 10 enacted that, where any one was seised to a use, the legal estate should be deemed to be in him to whose use he was seised. The statute did not apply to trusts of personal property, nor to trusts of land where any active duty was cast upon the trustee, nor where a use was limited 'upon a use,' i. e. where the person in whose favour a use was created was himself to hold the estate to the use of some one else. There continued therefore to be a number of cases in which, in spite of the 'Statute of Uses,' the Court of Chancery was able to carry out its policy of enforcing what had otherwise been merely moral duties. The system thus arising has grown to enormous dimensions, and trusts, which, according to the definition of Lord Hardwicke, are 'such a confidence between parties that no action at law will lie, but there is merely a case for the consideration of courts of equity,' are inserted not only in wills, but also in marriage settlements, arrangements with creditors, and numberless other instruments necessary for the comfort of families and the development of commerce."—T. E. Holland, *Elements of Jurisprudence, 5th ed., p. 217.*

A. D. 1253.—A Lady Keeper of the Seals.—"Having occasion to cross the sea and visit Gascony, A. D. 1253, Henry III. made her [Queen Eleanor] keeper of the seal during his absence, and in that character she in her own person presided in the 'Aula Regia,' hearing causes, and, it is to be feared, forming her decisions less in accordance with justice than her own private interests. Never did judge set law and equity more fearfully at naught."—L. J. Bigelow, *Bench and Bar, p. 28.*

A. D. 1258.—No Writs except De Cursu.—"In the year 1258 the Provisions of Oxford were promulgated; two separate clauses of which bound the chancellor to issue no more writs except writs 'of course' without command of the King and his Council present with him. This, with the growing independence of the judiciary on the one hand, and the settlement of legal process on the other, terminated the right to issue special writs, and at last fixed the common writs in unchangeable form; most of which had by this time become developed into the final form in which for six centuries they were treated as precedents of declaration."—M. M. Bigelow, *Hist. of Procedure, p. 197.*

A. D. 1272-1307.—The Chancellor's functions.—"In the reign of Edward I. the Chancellor begins to appear in the three characters in which we now know him; as a great political officer, as the head of a department for the issue of writs and the custody of documents in which the King's interest is concerned, as the administrator of the King's grace."—Sir William R. Anson, *Law and Custom of the Constitution, pt. 2, p. 146.*

A. D. 1330.—Chancery stationary at Westminster.—"There was likewise introduced about

this time a great improvement in the administration of justice, by rendering the Court of Chancery stationary at Westminster. The ancient kings of England were constantly migrating,—one principal reason for which was, that the same part of the country, even with the aid of purveyance and pre-emption, could not long support the court and all the royal retainers, and render in kind due to the King could be best consumed on the spot. Therefore, if he kept Christmas at Westminster, he would keep Easter at Winchester, and Pentecost at Gloucester, visiting his many palaces and manors in rotation. The Aula Regis, and afterwards the courts into which it was partitioned, were ambulatory along with him — to the great vexation of the suitors. This grievance was partly corrected by Magna Charta, which enacted that the Court of Common Pleas should be held 'in a certain place,'—a corner of Westminster Hall being fixed upon for that purpose. In point of law, the Court of King's Bench and the Court of Chancery may still be held in any county of England,—'wheresoever in England the King or the Chancellor may be.' Down to the commencement of the reign of Edward III., the King's Bench and the Chancery actually had continued to follow the King's person, the Chancellor and his officers being entitled to part of the purveyance made for the royal household. By 28 Edw. I., c. 5, the Lord Chancellor and the Justices of the King's Bench were ordered to follow the King, so that he might have at all times near him sages of the law able to order all matters which should come to the Court. But the two Courts were now by the King's command fixed in the places where, unless on a few extraordinary occasions, they continued to be held down to our own times, at the upper end of Westminster Hall, the King's Bench on the left hand, and the Chancery on the right, both remaining open to the Hall, and a bar erected to keep off the multitude from pressing on the judges."—Lord Campbell, *Lives of the Chancellors*, *v.* 1, *p.* 181.

A. D. 1348.—"Matters of Grace" committed to the Chancellor.—"In the 22nd year of Edward III, matters which were of grace were definitely committed to the Chancellor for decision, and from this point there begins to develop that body of rules — supplementing the deficiencies or correcting the harshness of the Common Law — which we call Equity."—Sir W. R. Anson, *Law and Custom of the Constitution*, *pt.* 2, *p.* 147.

ALSO IN: *Kerly's Hist. of the Court of Chancery*, *p.* 31.

A. D. 1383.—Early Instance of Subpoena.—"It is said that John Waltham, Bishop of Salisbury, who was Keeper of the Rolls about the 6th of Richard II., considerably enlarged this new jurisdiction; that, to give efficacy to it, he invented, or more properly, was the first who adopted in that court, the writ of subpoena, a process which had before been used by the council, and is very plainly alluded to in the statutes of the last reign, though not under that name. This writ summoned the party to appear under a penalty, and answer such things as should be objected against him; upon this a petition was lodged, containing the articles of complaint to which he was then compelled to answer. These articles used to contain suggestions of injuries suffered, for which no remedy was to be had in the courts of common law, and therefore the complainant prayed advice and relief of the chancellor."—J. Reeves, *Hist. Eng. Law* (*Finlason's ed.*), *v.* 3, *p.* 384.

A. D. 1394.—Chancery with its own Mode of Procedure.—"From the time of passing the stat. 17 Richard II. we may consider that the Court of Chancery was established as a distinct and permanent court, having separate jurisdiction, with its own peculiar mode of procedure similar to that which had prevailed in the Council, though perhaps it was not wholly yet separated from the Council."—Geo. Spence, *Equity Jurisdiction of the Court of Chancery*, *v.* 1, *p.* 845.

A. D. 1422.—Chancery Cases appear in Year Books.—"It is beyond a doubt that this [chancery] court had begun to exercise its judicial authority in the reigns of Richard II., Henry IV. and V. . . . But we do not find in our books any report of cases there determined till 37 Henry VI., except only on the subject of uses; which, as has been before remarked, might give rise to the opinion, that the first equitable judicature was concerned in the support of uses."—J. Reeves, *Hist. Eng. Law* (*Finlason's ed.*), *v.* 3, *p.* 553.

A. D. 1443.—No distinction between Examination and Answer.—The earliest record of written answers is in 21 Henry VI. Before that time little, if any, distinction was made between the examination and the answer.—Kerly, *Hist. of Courts of Chancery*, *p.* 51.

A. D. 1461-1483.—Distinction between Proceeding by Bill and by Petition.—"A written statement of the grievance being required to be filed before the issuing of the subpoena, with security to pay damages and costs,—bills now acquired form, and the distinction arose between the proceeding by bill and by petition. The same regularity was observed in the subsequent stages of the suit. Whereas formerly the defendant was generally examined viva voce when he appeared in obedience to the subpoena, the practice now was to put in a written answer, commencing with a protestation against the truth or sufficiency of the matters contained in the bill, stating the facts relied upon by the defendant, and concluding with a prayer that he may be dismissed, with his costs. There were likewise, for the purpose of introducing new facts, special replications and rejoinders, which continued till the reign of Elizabeth, but which have been rendered unnecessary by the modern practice of amending the bill and answer. Pleas and demurrers now appear. Although the pleadings were in English, the decrees on the bill continued to be in Latin down to the reign of Henry VIII. Bills to perpetuate testimony, to set out metes and bounds, and for injunctions against proceedings at law, and to stay waste, became frequent."—Lord Campbell, *Lives of the Chancellors*, *v.* 1, *p.* 309.

A. D. 1461-1483.—Jurisdiction of Chancery over Trusts.—"The equitable jurisdiction of the Court of Chancery may be considered as making its greatest advances in this reign [Edw. IV.]. The point was now settled, that there being a feoffment to uses, the 'cestui que' use, or person beneficially entitled, could maintain no action at law, the Judges saying that he had neither 'jus in re' nor 'jus ad rem,' and that their forms could not be moulded so as to afford

him any effectual relief, either as to the land or the profits. The Chancellors, therefore, with general applause, declared that they would proceed by subpoena against the feoffee to compel him to perform a duty which in conscience was binding upon him, and gradually extended the remedy against his heir and against his alienee with notice of the trust, although they held, as their successors have done, that the purchaser of the legal estate for valuable consideration without notice might retain the land for his own benefit. They therefore now freely made decrees requiring the trustee to convey according to the directions of the 'cestui que trust,' or person beneficially interested; and the most important branch of the equitable jurisdiction of the Court over trusts was firmly and irrevocably established."—Lord Campbell, *Lives of the Chancellors*, *v.* 1, *p.* 309.

A. D. 1538.—Lord Keeper of the Great Seal.—"Between the death, resignation, or removal of one chancellor, and the appointment of another, the Great Seal, instead of remaining in the personal custody of the Sovereign, was sometimes entrusted to a temporal keeper, either with limited authority (as only to seal writs), or with all the powers, though not with the rank of Chancellor. At last the practice grew up of occasionally appointing a person to hold the Great Seal with the title of 'Keeper,' where it was meant that he should permanently hold it in his own right and discharge all the duties belonging to it. Queen Elizabeth, ever sparing in the conferring of dignities, having given the Great Seal with the title of 'Keeper' to Sir Nicholas Bacon, objections were made to the legality of some of his acts,—and to obviate these, a statute was passed declaring that 'the Lord Keeper of the Great Seal for the time being shall have the same place, pre-eminence, and jurisdiction as the Lord Chancellor of England.' Since then there never have been a Chancellor and Keeper of the Great Seal concurrently, and the only difference between the two titles is, that the one is more sounding than the other, and is regarded as a higher mark of royal favor."—Lord Campbell, *Lives of the Chancellors*, *v.* 1, *p.* 40.

ALSO IN: Sir W. R. Anson, *Law and Custom of the Constitution*, *v.* 2, *p.* 150.

A. D. 1558.—Increase of Business in the Court of Chancery.—"The business of the Court of Chancery had now so much increased that to dispose of it satisfactorily required a Judge regularly trained to the profession of the law, and willing to devote to it all his energy and industry. The Statute of Wills, the Statute of Uses, the new modes of conveyancing introduced for avoiding transmutation of possession, the questions which arose respecting the property of the dissolved monasteries, and the great increase of commerce and wealth in the nation, brought such a number of important suits into the Court of Chancery, that the holder of the Great Seal could no longer satisfy the public by occasionally stealing a few hours from his political occupations, to dispose of bills and petitions, and not only was his daily attendance demanded in Westminster Hall during term time, but it was necessary that he should sit, for a portion of each vacation, either at his own house, or in some convenient place appointed by him for clearing off his arrears."—Lord Campbell, *Lives of the Chancellors*, *v.* 2, *p.* 95.

A. D. 1567-1632.—Actions of Assumpsit in Equity.—"The late development of the implied contract to pay 'quantum meruit,' and to indemnify a surety, would be the more surprising, but for the fact that Equity gave relief to tailors and the like, and to sureties long before the common law held them. Spence, although at a loss to account for the jurisdiction, mentions a suit brought in Chancery, in 1567, by a tailor, to recover the amount due for clothes furnished. The suit was referred to the Queen's tailor, to ascertain the amount due, and upon his report a decree was made. The learned writer adds that 'there were suits for wages and many others of like nature.' A surety who had no counter-bond filed a bill against his principal in 1632, in a case which would seem to have been one of the earliest of the kind, for the reporter, after stating that there was a decree for the plaintiff, adds 'quod nota.'"—J. B. Ames, *History of Assumpsit* (*Harvard Law Rev.*, *v.* 2, *pp.* 59-60).

A. D. 1592.—All Chancellors, save one, Lawyers.—"No regular judicial system at that time prevailed in the court; but the suitor when he thought himself aggrieved, found a desultory and uncertain remedy, according to the private opinion of the chancellor, who was generally an ecclesiastic, or sometimes (though rarely) a statesman: no lawyer having sat in the court of chancery from the times of the chief justices Thorpe and Knyvet, successively chancellors to King Edward III. in 1372 and 1373, to the promotion of Sir Thomas More by King Henry VIII., in 1530. After which the great seal was indiscriminately committed to the custody of lawyers or courtiers, or churchmen, according as the convenience of the times and the disposition of the prince required, till Sargeant Puckering was made lord keeper in 1592; from which time to the present the court of chancery has always been filled by a lawyer, excepting the interval from 1621 to 1625, when the seal was entrusted to Dr. Williams, then dean of Westminster, but afterwards bishop of Lincoln; who had been chaplain to Lord Ellesmere when chancellor."—W. Blackstone, *Commentaries*, *bk.* 3, *ch.* 4.

A. D. 1595.—Injunctions against Suits at Law.—Opposition of common law courts.—"The strongest inclination was shown to maintain this opposition to the court of equity, not only by the courts, but by the legislature. The stat. 27 Elizabeth, c. 1., which, in very general words, restrains all application to other jurisdictions to impeach or impede the execution of judgments given in the king's courts, under penalty of a praemunire, has been interpreted, as well as stat. Richard II., c. 5, not only as imposing a restraint upon popish claims of judicature, but also of the equitable jurisdiction in Chancery; and in the thirty-first and thirty-second years of this reign, a counsellor-at-law was indicted in the King's Bench on the statute of praemunire, for exhibiting a bill in Chancery after judgment had gone against his client in the King's Bench. Under this and the like control, the Court of Chancery still continued to extend its authority, supported, in some degree, by the momentum it acquired in the time of Cardinal Wolsey."—J. Reeves, *Hist. Eng. Law* (*Finlason's ed.*), *v.* 5, *pp.* 386-387.

A. D. 1596.—Lord Ellesmere and his Decisions.—Kerly says the earliest chancellors' decisions that have come down to us are those of

Lord Ellesmere. He was the first chancellor to establish equity upon the basis of precedents. But compare Reeves (Finlason's), Hist. Eng. Law, v. 3, p. 553, who mentions decisions in the Year Books.—Kerly, *Hist. of the Court of Chancery, p.* 98.

A. D. 1601.—Cy Pres Doctrine.—"There is no trace of the doctrine being put into practice in England before the Reformation, although in the earliest reported cases where it has been applied it is treated as a well recognized rule, and as one owing its origin to the traditional favour with which charities had always been regarded. Much of the obscurity which covers the introduction of the doctrine into our Law may perhaps be explained by the fact that, in the earliest times, purely charitable gifts, as they would now be understood, were almost unknown. The piety of donors was most generally displayed in gifts to religious houses, and the application of the subject matter of such gifts was exclusively in the Superiors of the different Orders, and entirely exempt from secular control. From the religious houses the administration of charitable gifts passed to the Chancellor, as keeper of the King's conscience, the latter having as 'parens patriae' the general superintendence of all infants, idiots, lunatics and charities. And it was not until some time later that this jurisdiction became gradually merged, and then only in cases where trusts were interposed, in the general jurisdiction of the Chancery Courts. It is not necessary to go into the long vexed question as to when that actually took place. It is enough to say that it is now pretty conclusively established that the jurisdiction of the Chancery Courts over charitable trusts existed anterior to, and independently of, the Statute of Charitable Uses, 43 Eliz., c. 4. As charitable gifts generally involved the existence of a trust reposed in some one, it was natural that the Chancery Court, which assumed jurisdiction over trusts, should have gradually extended that jurisdiction over charities generally; but the origin of the power, that it was one delegated by the Crown to the Chancellor, must not be lost sight of, as in this way, probably, can be best explained the curious distinct jurisdictions vested in the Crown and the Chancery Courts respectively to apply gifts Cy pres, the limits of which, though long uncertain, were finally determined by Lord Eldon in the celebrated case of Moggridge v. Thackwell, 7 ves. 69. If we remember that the original jurisdiction in all charitable matters was in the Crown, and that even after the Chancery Courts acquired a jurisdiction over trusts, there was still a class of cases untouched by such jurisdiction, we shall better understand how the prerogative of the Crown still remained in a certain class of cases, as we shall see hereafter. However this may be, there is no doubt that when the Chancery Courts obtained the jurisdiction over the charities, which they have never lost, the liberal principles of the Civil or Canon Law as to the carrying out of such gifts were the sources and inspirations of their decisions. And hence the Cy pres doctrine became gradually well recognised, though the mode of its application has varied from time to time. Perhaps the most striking instances of this liberal construction are to be found in the series of cases which, by a very strained interpretation of the Statute of Elizabeth with regard to charitable uses, decided that gifts to such uses in favour of corporations, which could not take by devise under the old Wills Act, 32 Hen. VIII., c. 1, were good as operating in the nature of an appointment of the trust in equity, and that the intendment of the statute being in favour of charitable gifts, all deficiencies of assurance were to be supplied by the Courts. Although, historically, there may be no connection between the power of the King over the administration of charities, and the dispensing power reserved to him by the earlier Mortmain Acts, the one being, as we have seen, a right of Prerogative, the other a Feudal right in his capacity as ultimate Lord of the fee, it is perhaps not wholly out of place to allude shortly to the latter, particularly as the two appear not to have been kept distinct in later times. By the earlier Mortmain Acts, the dispensing power of the King, as Lord Paramount, to waive forfeitures under these Acts was recognised, and gifts of land to religious or charitable corporations were made not 'ipso facto' void, but only voidable at the instance of the immediate Lord, or, on his default, of the King and after the statute 'quia emptores,' which practically abolished mesne seignories, the Royal license became in most cases sufficient to secure the validity of the gift. The power of suspending statutes being declared illegal at the Revolution, it was deemed prudent, seeing that the grant of licenses in Mortmain imported an exercise of such suspending power, to give these licenses a Parliamentary sanction; and accordingly, by 7 and 8 William III., c. 37, it was declared that the King might grant licenses to aliens in Mortmain, and also to purchase, acquire, and hold lands in Mortmain in perpetuity without pain of forfeiture. The right of the mesne lord was thus passed over, and the dispensing power of the Crown, from being originally a Feudal right, became converted practically into one of Prerogative. The celebrated Statute of 1 Edward VI., c. 14, against superstitious uses, which is perhaps the earliest statutory recognition of the Cy pres doctrine, points also strongly to the original jurisdiction in these matters being in the King." The author proceeds to trace at some length the subsequent developments of the doctrine both judicial and statutory. The doctrine is not generally recognised in the United States.—H. L. Manby *in Law Mag. & Rev., 4th ser., v.* 15 (*Lond.*, 1889–90), *p.* 203.

A. D. 1603-1625.—Equity and the Construction of Wills.—"After a violent struggle between Lord Coke and Lord Ellesmere, the jurisdiction of the Court of Chancery to stay by injunction execution on judgments at law was finally established. In this reign [James I.] the Court made another attempt,—which was speedily abandoned,—to determine upon the validity of wills,—and it has been long settled that the validity of wills of real property shall be referred to courts of law, and the validity of wills of personal property to the Ecclesiastical Courts, —equity only putting a construction upon them when their validity has been established."—Lord Campbell, *Lives of the Chancellors, v.* 2, *p.* 386.

A. D. 1612.—Right of Redemption.—The right to redeem after the day dates from the reign of James I. From the time of Edward IV. (1461–83) a mortgagor could redeem after the day if accident, or a collateral agreement, or

fraud by mortgagee, prevented payment.—Kerly, *Hist. of the Court of Chancery, p.* 143.

A. D. 1616.—Contest between Equity and Common-Law Courts.—"In the time of Lord Ellesmere (A. D. 1616) arose that notable dispute between the courts of law and equity, set on foot by Sir Edward Coke, then chief justice of the court of king's bench; whether a court of equity could give relief after or against a judgment at the common law? This contest was so warmly carried on, that indictments were preferred against the suitors, the solicitors, the counsel, and even a master in chancery, for having incurred a 'praemunire,' by questioning in a court of equity a judgment in the court of king's bench, obtained by a gross fraud and imposition. This matter being brought before the king, was by him referred to his learned counsel for their advice and opinion; who reported so strongly in favor of the courts of equity, that his majesty gave judgment in their behalf."—W. Blackstone, *Commentaries, bk.* 3, *p.* 54.

A. D. 1616.—Relief against judgments at law.—"This was in 1616, the year of the memorable contest between Lord Coke and Lord Ellesmere as to the power of equity to restrain the execution of common-law judgment obtained by fraud. . . . The right of equity to enforce specific performance, where damages at law would be an inadequate remedy, has never since been questioned."—J. B. Ames, *Specific Performance of Contracts* (*The Green Bag, v.* 1, *p.* 27).

A. D. 1671.—The Doctrine of Tacking established.—"It is the established doctrine in the English law, that if there be three mortgages in succession, and all duly registered, or a mortgage, and then a judgment, and then a second mortgage upon the estate, the junior mortgagee may purchase in the first mortgage, and tack it to his mortgage, and by that contrivance 'squeeze out' the middle mortgage, and gain preference over it. The same rule would apply if the first, as well as the second incumbrance, was a judgment; but the incumbrancer who tacks must always be a mortgagee, for he stands in the light of a bona fide purchaser, parting with his money upon the security of the mortgage. . . . In the English law, the rule is under some reasonable qualification. The last mortgagee cannot tack, if, when he took his mortgage, he had notice in fact . . . of the intervening incumbrance. . . . The English doctrine of tacking was first solemnly established in Marsh v. Lee [2 Vent. 337], under the assistance of Sir Matthew Hale, who compared the operation to a plank in shipwreck gained by the last mortgagee; and the subject was afterwards very fully and accurately expounded by the Master of the Rolls, in Brace v. Duchess of Marlborough [2 P. Wms. 491]."—J. Kent, *Commentaries, pt.* 6, *lect.* 58.

A. D. 1702-1714.—Equitable conversion.—"He [Lord Harcourt] first established the important doctrine, that if money is directed either by deed or will to be laid out in land, the money shall be taken to be land, even as to collateral heirs."—Lord Campbell, *Lives of the Chancellors, v.* 4, *p.* 374.

A. D. 1736-1756.—Lord Hardwicke developed System of Precedents.—It was under Lord Hardwicke that the jurisdiction of Equity was fully developed. During the twenty years of his chancellorship the great branches of equitable jurisdiction were laid out, and his decisions were regularly cited as authority until after Lord Eldon's time.—Kerly, *Hist. of the Court of Chancery, pp.* 175–177.

A. D. 1742.—Control of Corporations.—"That the directors of a corporation shall manage its affairs honestly and carefully is primarily a right of the corporation itself rather than of the individual stockholders. . . . The only authority before the present century is the case of the Charitable Corporation v. Sutton, decided by Lord Hardwicke [2 Atk. 400]. But this case is the basis . . . of all subsequent decisions on the point, and it is still quoted as containing an accurate exposition of the law. The corporation was charitable only in name, being a joint-stock corporation for lending money on pledges. By the fraud of some of the directors . . . , and by the negligence of the rest, loans were made without proper security. The bill was against the directors and other officers, 'to have a satisfaction for a breach of trust, fraud, and mismanagement.' Lord Hardwicke granted the relief prayed, and a part of his decision is well worth quoting. He says: 'Committee-men are most properly agents to those who employ them in this trust, and who empower them to direct and superintend the affairs of the corporation. In this respect they may be guilty of acts of commission or omission, of malfeasance or nonfeasance. . . . Nor will I ever determine that a court of equity cannot lay hold of every breach of trust, let the person be guilty of it either in a private or public capacity.'"—S. Williston, *Hist. of the Law of Business* (*Harvard Law Review, v.* 2, *pp.* 158–159).

A. D. 1782.—Demurrer to Bill of Discovery.—"Originally, it appears not to have been contemplated that a demurrer or plea would lie to a bill for discovery, unless it were a demurrer or plea to the nature of the discovery sought or to the jurisdiction of the court, e. g., a plea of purchase for value; and, though it was a result of this doctrine that plaintiffs might compel discovery to which they were not entitled, it seems to have been supposed that they were not likely to do so to any injurious effect, since they must do it at their own expense. But this view was afterwards abandoned, and in 1782 it was decided that, if a bill of discovery in aid of an action at law stated no good cause of action against the defendant, it might be demurred to on that ground, i. e., that it showed on its face no right to relief at law, and, therefore, no right to discovery in equity. Three years later in Hindman v. Taylor, the question was raised whether a defendant could protect himself for answering a bill for discovery by setting up an affirmative defence by plea; and, though Lord Thurlow decided the question in the negative, his decision has since been overruled; and it is now fully settled that any defence may be set up to a bill for discovery by demurrer or plea, the same as to a bill for relief; and, if successful, it will protect the defendant from answering."—C. C. Langdell, *Summary of Equity Pleading, pp.* 204–205.

A. D. 1786.—Injunction after Decree to pay Proceeds of Estate into Court.—"As soon as a decree is made . . . , under which the executor will be required to pay the proceeds of the whole estate into court, an injunction ought to be granted against the enforcement of any

claim against the estate by an action at law; and accordingly such has been the established rule for more than a hundred years. . . . The first injunction that was granted expressly upon the ground above explained was that granted by Lord Thurlow, in 1782, in the case of Brooks v. Reynolds. . . . In the subsequent case of Kenyon v. Worthington, . . . an application to Lord Thurlow for an injunction was resisted by counsel of the greatest eminence. The resistance, however, was unsuccessful, and the injunction was granted. This was in 1786; and from that time the question was regarded as settled."—C. C. Langdell, *Equity Jurisdiction* (*Harvard Law Review, v. 5, pp.* 122–123).

A. D. 1792.—Negative Pleas.—"In Gun v. Prior, Forrest, 88, note, 1 Cox, 197, 2 Dickens, 657, Cas. in Eq. Pl. 47, a negative plea was overruled by Lord Thurlow after a full argument. This was in 1785. Two years later, the question came before the same judge again, and, after another full argument, was decided the same way. Newman v. Wallis, 2 Bro. C. C. 143, Cas. in Eq. Pl. 52. But in 1792, in the case of Hall v. Noyes, 3 Bro. C. C. 483, 489, Cas. in Eq. Pl. 223, 227, Lord Thurlow took occasion to say that he had changed his opinion upon the subject of negative pleas, and that his former decisions were wrong; and since then the right to plead a negative plea has not been questioned."—C. C. Langdell, *Summary of Equity Pleading, p.* 114, *note.*

A. D. 1801-1827.—Lord Eldon settled Rules of Equity.—"'The doctrine of this Court,' he [Lord Eldon] said himself, 'ought to be as well settled and as uniform, almost, as those of the common law, laying down fixed principles, but taking care that they are to be applied according to the circumstances of each case. I cannot agree that the doctrines of this Court are to be changed by every succeeding judge. Nothing would inflict on me greater pain than the recollection that I had done any thing to justify the reproach that the Equity of this Court varies like the Chancellor's foot.' Certainly the reproach he dreaded cannot justly be inflicted upon his memory. . . . From his time onward the development of equity was effected ostensibly, and, in the great majority of cases, actually, by strict deduction from the principles to be discovered in decided cases, and the work of subsequent Chancery judges has been, for the most part, confined, as Lord Eldon's was, to tracing out these principles into detail, and to rationalising them by repeated review and definition."—D. M. Kerly, *Hist. Court Chanc., p.* 182.

A. D. 1812.—Judge Story.—"We are next to regard Story during his thirty-five years of judicial service. He performed an amount of judicial labor almost without parallel, either in quality or quantity, in the history of jurisprudence. His judgments in the Circuit Court comprehended thirteen volumes. His opinions in the Supreme Court are found in thirty-five volumes. Most of these decisions are on matters of grave difficulty, and many of them of first impression. Story absolutely created a vast amount of law for our country. Indeed, he was essentially a builder. When he came to the bench, the law of admiralty was quite vague and unformed; his genius formed it as exclusively as Stowell's did in England. He also did much toward building up the equity system which has become part of our jurisprudence. In questions of international and constitutional law, the breadth and variety of his legal learning enabled him to shine with peculiar brilliancy. It is sufficient to say that there is scarcely any branch of the law which he has not greatly illustrated and enlarged,—prize, constitutional, admiralty, patent, copyright, insurance, real estate, commercial law so called, and equity,—all were gracefully familiar to him. The most celebrated of his judgments are De Lovio v. Boit, in which he investigates the jurisdiction of the Admiralty, Martin v. Hunter's Lessee, which examines the appellate jurisdiction of the United States Supreme Court; Dartmouth College v. Woodward, in which the question was, whether the charter of a college was a contract within the meaning of the constitutional provision prohibiting the enactment, by any State, of laws impairing the obligations of contracts; his dissenting opinion in Charles River Bridge Company v. The Warren Bridge, involving substantially the same question as the last case; and the opinion in the Girard will case. These are the most celebrated, but are scarcely superior to scores of his opinions in cases never heard of beyond the legal profession. His biographer is perhaps warranted in saying of his father's judicial opinions: 'For closeness of texture and compact logic, they are equal to the best judgments of Marshall; for luminousness and method, they stand beside those of Mansfield; in elegance of style, they yield the palm only to the prize cases of Lord Stowell, but in fullness of illustration and wealth and variety of learning, they stand alone."—Irving Browne, *Short Studies of Great Lawyers, pp.* 293–295.

A. D. 1814-1823.—Chancellor Kent.—"In February, 1814, he was appointed chancellor. The powers and jurisdiction of the court of chancery were not clearly defined. There were scarcely any precedents of its decisions, to which reference could be made in case of doubt. Without any other guide, he felt at liberty to exercise such powers of the English chancery as he deemed applicable under the Constitution and laws of the State, subject to the correction of the Court of Errors, on appeal. . . . On the 31st of July, 1823, having attained the age of sixty years, the period limited by the Constitution for the tenure of his office, he retired from the court, after hearing and deciding every case that had been brought before him. On this occasion the members of the bar residing in the City of New York, presented him an address. After speaking of the inestimable benefits conferred on the community by his judicial labors for five and twenty years they say: 'During this long course of services, so useful and honorable, and which will form the most brilliant period in our judicial history, you have, by a series of decisions in law and equity, distinguished alike for practical wisdom, profound learning, deep research and accurate discrimination, contributed to establish the fabric of our jurisprudence on those sound principles that have been sanctioned by the experience of mankind, and expounded by the enlightened and venerable sages of the law. Though others may hereafter enlarge and adorn the edifice whose deep and solid foundations were laid by the wise and patriotic framers of our government, in that common law which they claimed for the people

as their noblest inheritance, your labors on this magnificent structure will forever remain eminently conspicuous, command the applause of the present generation, and exciting the admiration and gratitude of future ages.'"—Charles B. Waite, *James Kent* (*Chicago Law Times, v.* 3, *pp.* 339–341).

A. D. 1821.—Negative Pleas to be supported by an Answer.—"The principle of negative pleas was first established by the introduction of anomalous pleas; but it was not perceived at first that anomalous pleas involved the admission of pure negative pleas. It would often happen, however, that a defendant would have no affirmative defence to a bill, and yet the bill could not be supported because of the falsity of some material allegation contained in it; and, if the defendant could deny this false allegation by a negative plea, he would thereby avoid giving discovery as to all other parts of the bill. At length, therefore, the experiment of setting up such a plea was tried; and, though unsuccessful at first, it prevailed in the end, and negative pleas became fully established. If they had been well understood, they might have proved a moderate success, although they were wholly foreign to the system into which they were incorporated; but, as it was, their introduction was attended with infinite mischief and trouble, and they did much to bring the system into disrepute. For example, it was not clearly understood for a long time that a pure negative plea required the support of an answer; and there was no direct decision to that effect until the case of Sanders v. King, 6 Madd. 61, Cas. in Eq. Pl. 74, decided in 1821."—C. C. Langdell, *Summary of Equity Pleading, pp.* 113–114.

A. D. 1834.—First Statute of Limitations in Equity.—"None of the English statutes of limitation, prior to 3 & 4 Wm. IV., c. 27, had any application to suits in equity. Indeed, they contained no general terms embracing all actions at law, but named specifically all actions to which they applied; and they made no mention whatever of suits in equity. If a plaintiff sued in equity, when he might have brought an action at law, and the time for bringing the action was limited by statute, the statute might in a certain sense be pleaded to the suit in equity; for the defendant might say that, if the plaintiff had sued at law, his action would have been barred; that the declared policy of the law therefore, was against the plaintiff's recovering; and hence the cause was not one of which a court of equity ought to take cognizance. In strictness, however, the plea in such a case would be to the jurisdiction of the court."—C. C. Langdell, *Summary of Equity Pleading, pp.* 149–150.

A. D. 1836.—Personal Character of Shares of Stock first established in England.—"The most accurate definition of the nature of the property acquired by the purchase of a share of stock in a corporation is that it is a fraction of all the rights and duties of the stockholders composing the corporation. Such does not seem to have been the clearly recognized view till after the beginning of the present century. The old idea was rather that the corporation held all its property strictly as a trustee, and that the shareholders were, strictly speaking, 'cestuis que trust,' being in equity co-owners of the corporate property. . . . It was not until the decision of Bligh v. Brent [Y. & C. 268], in 1836, that the modern view was established in England."—S. Williston, *Harvard Law Rev., v.* 2, *pp.* 149–151.

A. D. 1875.—Patents, Copyrights and Trade-Marks.—"In modern times the inventor of a new process obtains from the State, by way of recompense for the benefit he has conferred upon society, and in order to encourage others to follow his example, not only an exclusive privilege of using the new process for a fixed term of years, but also the right of letting or selling his privilege to another. Such an indulgence is called a patent-right, and a very similar favour, known as copy-right, is granted to the authors of books, and to [artists]. . . . It has been a somewhat vexed question whether a 'trade-mark' is to be added to the list of intangible objects of ownership. It was at any rate so treated in a series of judgments by Lord Westbury, which, it seems, are still good law. He says, for instance, 'Imposition on the public is indeed necessary for the plaintiff's title, but in this way only, that it is the test of the invasion by the defendant of the plaintiff's right of property.' [Citing 33 L. J. Ch. 204; cf. 35 Ch. D., Oakley v. Dalton.] It was also so described in the 'Trade Marks Registration Act,' 1875 [§§ 3, 4, 5], as it was in the French law of 1857 relating to 'Marques de fabrique et de commerce.' . . . . Patent-right in England is older than the Statute of Monopolies, 21 Jac. I. c. 3, and copy-right is obscurely traceable previously to the Act of 8 Anne, c. 19, but trade-marks were first protected in the present century."—T. E. Holland, *Elements of Jurisprudence, 5th ed., p.* 183.

Topics of law treated under other heads are indicated by the following references:

Agrarian Laws. See AGRARIAN. . . . **Assize of Jerusalem.** See ASSIZE. . . . **Brehon Laws.** See BREHON. . . . **Canon Law.** See CANON LAW. . . . **Canuleian Laws.** See ROME: B. C. 445. . . . **Civil Law (Roman Law).** See ROMAN LAW; and CORPUS JURIS CIVILIS. . . . **Code Napoleon.** See FRANCE: A. D. 1801–1804. . . . **Common Law.** See COMMON LAW. . . . **Constitutional Laws.** See CONSTITUTION. . . . **Debt and Debtors.** See DEBT. . . . **Dioklesian Laws.** See DIOKLES. . . . **Dooms of Ihne.** See DOOMS. . . . **Draconian Laws.** See ATHENS: B. C. 624. . . . **Factory Laws.** See FACTORY. . . . **Hortensian Laws.** See ROME: B. C. 286. . . . **Icilian Law.** See ROME; B. C. 456. . . . **Institutes and Pandects of Justinian.** See CORPUS JURIS CIVILIS. . . . **Julian Laws.** See ROME: B. C. 90–88. . . . **Licinian Laws.** See ROME: B. C. 376. . . . **Lycurgan Laws.** See SPARTA. . . . **Laws of Manu.** See MANU. . . . **Navigation Laws.** See NAVIGATION LAWS. . . . **Ogulnian Law.** See ROME; B. C 300. . . . **Laws of Oleron.** See OLERON. . . . **Plautio-Papirian Law.** See ROME: B. C. 90–88. . . . **Poor Laws.** See POOR LAWS. . . . **Publilian Laws.** See ROME: B. C. 472–471; and 340. . . . **Roman Law.** See ROMAN LAW. . . . **Salic Laws.** See SALIC. . . . **Slave Codes.** See SLAVERY. . . . **Solonian Laws.** See ATHENS: B. C. 594. . . . **Tariff Legislation.** See TARIFF. . . . **Terentilian Law.** See ROME: B. C. 451–449. . . . **The Twelve Tables.** See ROME: B. C. 451–449. . . . **Valerian Law.** See ROME: B. C. 509 . . . **Valero-Horatian Law.** See ROME: B. C. 449.

LAWFELD, Battle of (1747). See NETHERLANDS: A. D. 1746–1747.

LAWRENCE, Captain James: In the War of 1812. See UNITED STATES OF AM.: A. D. 1812–1813.

LAWRENCE, Lord, the Indian Administration of. See INDIA: A. D. 1845–1849; 1857 (JUNE—SEPTEMBER); and 1862–1876.

LAWRENCE, Kansas: A. D. 1863.—Sacking of the town by Quantrell's guerrillas. See UNITED STATES OF AM.: A. D. 1863 (AUGUST: MISSOURI—KANSAS).

LAYBACH, Congress of. See VERONA, CONGRESS OF.

LAZARISTS, The.—"The Priests of the Missions, or the Lazarists ['sometimes called the Vincentian Congregation'], . . . have not unfrequently done very essential service to Christianity." Their Society was founded in 1624 by St. Vincent de Paul, "at the so-called Priory of St. Lazarus in Paris, whence the name Lazarists. . . . Besides their mission-labours, they took complete charge, in many instances, of ecclesiastical seminaries, which, in obedience to the instruction of the Council of Trent, had been established in the various dioceses, and even at this day many of these institutions are under their direction. In the year 1642 these devoted priests were to be seen in Italy, and not long after were sent to Algiers, to Tunis, to Madagascar, and to Poland."—J. Alzog, *Manual of Universal Church Hist.*, *v.* 3, *pp.* 463–465.

ALSO IN: H. L. S. Lear, *Priestly Life in France*, *ch.* 5

LAZICA.—LAZIC WAR.—"Lazica, the ancient Colchis and the modern Mingrelia and Imeritia, bordered upon the Black Sea." From A. D. 522 to 541 the little kingdom was a dependency of Rome, its king, having accepted Christianity, acknowledging himself a vassal of the Roman or Byzantine emperor. But the Romans provoked a revolt by their encroachments. "They seized and fortified a strong post, called Petra, upon the coast, appointed a commandant who claimed an authority as great as that of the Lazic king, and established a commercial monopoly which pressed with great severity upon the poorer classes of the Lazi." The Persians were accordingly invited in to drive the Romans out, and did so, reducing Lazica, for the time being, to the state of a Persian province. But, in their turn, the Persians became obnoxious, and the Lazi, making their peace with Rome, were taken by the Emperor Justinian under his protection. "The Lazic war, which commenced in consequence of this act of Justinian's, continued almost without intermission for nine years—from A. D. 549 to 557. Its details are related at great length by Procopius and Agathias, who view the struggle as one which vitally concerned the interests of their country. According to them, Chosroës [the Persian king] was bent upon holding Lazica in order to construct at the mouth of the Phasis a great naval station and arsenal, from which his fleets might issue to command the commerce or ravage the shores of the Black Sea." The Persians in the end withdrew from Lazica, but the Romans, by treaty, paid them an annual tribute for their possession of the country.—G. Rawlinson, *Seventh Great Monarchy*, *ch.* 20.

ALSO IN: J. Bury, *Later Roman Empire*, *bk.* 4, *ch.* 9 (*v.* 1).—See, also, PERSIA: A. D. 226–627.

LAZZI, The. See LÆTI.

LEAGUE, The Achaian. See GREECE: B.C. 280–146.

LEAGUE, The Anti-Corn-Law. See TARIFF LEGISLATION (ENGLAND): A. D. 1836–1839; and 1845–1846.

LEAGUE, The Borromean or Golden. See SWITZERLAND: A. D. 1579–1630

LEAGUE, The Catholic, in France. See FRANCE: A. D. 1576–1585, and after.

LEAGUE, The first Catholic, in Germany. See PAPACY: A. D. 1530–1531.

LEAGUE, The second Catholic, in Germany. See GERMANY: A. D. 1608–1618.

LEAGUE, The Cobblers'. See GERMANY: A. D. 1524–1525.

LEAGUE, The Delian. See GREECE: B. C. 478–477.

LEAGUE, The Hanseatic. See HANSA TOWNS.

LEAGUE, The Holy, of the Catholic party in the Religious Wars of France. See FRANCE: A. D. 1576–1585, *to* 1593–1598.

LEAGUE, The Holy, of German Catholic princes. See GERMANY: A. D. 1533–1546.

LEAGUE, The Holy, of Pope Clement VII. against Charles V. See ITALY: A. D. 1523–1527.

LEAGUE, The Holy, of Pope Innocent XI., the Emperor, Venice, Poland and Russia against the Turks. See TURKS: A. D. 1684–1696.

LEAGUE, The Holy, of Pope Julius II. against Louis XII. of France. See ITALY: A. D. 1510–1513.

LEAGUE, The Holy, of Spain, Venice and the Pope against the Turks. See TURKS: A. D. 1566–1571.

LEAGUE, The Irish Land. See IRELAND: A. D. 1878–1879; and 1881–1882.

LEAGUE, The Swabian. See LANDFRIEDE, &c.

LEAGUE, The Union. See UNION LEAGUE.

LEAGUE AND COVENANT, The solemn. See ENGLAND: A. D. 1643 (JULY—SEPTEMBER).

LEAGUE OF AUGSBURG. See GERMANY: A. D. 1686.

LEAGUE OF CAMBRAI. See VENICE: A. D. 1508–1509.

LEAGUE OF LOMBARDY. See ITALY: A. D. 1160–1167.

LEAGUE OF POOR CONRAD, The. See GERMANY: A. D. 1524–1525.

LEAGUE OF RATISBON. See PAPACY: A. D. 1522–1525.

LEAGUE OF SMALKALDE, The. See GERMANY: A. D. 1530–1532.

LEAGUE OF THE GUEUX. See NETHERLANDS: A. D. 1562–1566.

LEAGUE OF THE PRINCES. See FRANCE: A. D. 1485–1487.

LEAGUE OF THE PUBLIC WEAL. See FRANCE: A. D. 1461–1468; also, 1453–1461.

LEAGUE OF THE RHINE. See RHINE LEAGUE.

LEAGUE OF TORGAU. See PAPACY: A. D. 1525–1529.

LEAGUES, The Grey. See SWITZERLAND: A. D. 1396–1499.

LE BOURGET, Sortie of (1870). See FRANCE: A. D. 1870–1871.

LECHFELD, OR BATTLE ON THE LECH (A. D. 955). See HUNGARIANS: A. D.

955–955.....(1632.) See GERMANY: A. D. 1631–1632.

LECOMPTON CONSTITUTION, The. See KANSAS: A. D. 1854–1859.

LEE, Arthur, in France. See UNITED STATES OF AM: A. D. 1776–1778.

LEE, General Charles. See UNITED STATES OF AM.: A. D. 1775 (MAY—AUGUST); 1776 (JUNE), (AUGUST); and 1778 (JUNE).

LEE, General Henry ("Light Horse Harry"). See UNITED STATES OF AM.: 1780–1781.

LEE, Richard Henry, and the American Revolution. See UNITED STATES OF AM.: A. D. 1776 (JANUARY—JUNE), (JULY).....**Opposition to the Federal Constitution.** See UNITED STATES OF AM.: A. D. 1787–1789.

LEE, General Robert E.—Campaign in West Virginia. See UNITED STATES OF AM.: A. D. 1861 (AUGUST—DECEMBER: WEST VIRGINIA).....**Command on the Peninsula.** See UNITED STATES of AM.: A. D. 1862 (JUNE: VIRGINIA), and (JULY—AUGUST: VIRGINIA)..... **Campaign against Pope.** See UNITED STATES OF AM.: A. D. 1862 (JULY—AUGUST: VIRGINIA); (AUGUST: VIRGINIA); and (AUGUST—SEPTEMBER: VIRGINIA).....**First invasion of Maryland.** See UNITED STATES OF AM.: A. D. 1862 (SEPTEMBER: MARYLAND).....**Defeat of Hooker.** See UNITED STATES OF AM.: A. D. 1863 (APRIL—MAY: VIRGINIA).....**The second movement of invasion.—Gettysburg and after.** See UNITED STATES OF AM.: A. D. 1863 (JUNE: VIRGINIA), and (JUNE—JULY: PENNSYLVANIA); also (JULY—NOVEMBER: VIRGINIA).....**Last Campaigns.** See UNITED STATES OF AM.: A. D. 1864 (MAY: VIRGINIA), to 1865 (APRIL: VIRGINIA).

LEEDS, Battle at (1643).—Leeds, occupied by the Royalists, under Sir William Savile, was taken by Sir Thomas Fairfax, after hard fighting, on the 23d of January, 1643.—C. R. Markham, *Life of the Great Lord Fairfax, ch.* 9.

LEESBURG, OR BALL'S BLUFF, Battle of. See UNITED STATES OF AM.: A. D. 1861 (OCTOBER: VIRGINIA).

LEEWARD ISLANDS, The. See WEST INDIES.

LEFÈVRE, Jacques, and the Reformation in France. See PAPACY: A. D. 1521–1535.

LEFT, The.—Left Center, The. See RIGHT, &c.

LEGAL TENDER NOTES. See MONEY AND BANKING: A. D. 1861–1878.

LEGATE.—The associate, second in authority, to a Roman commander or provincial governor.—W. Ramsay, *Roman Antiq., ch.* 12.

LEGES JULIÆ, LEGES SEMPRONIÆ, &c. See JULIAN LAWS; SEMPRONIAN LAWS, &c.

LEGION, The Roman.—"The original order of a Roman army was, as it seems, similar to the phalanx: but the long unbroken line had been divided into smaller detachments since, and perhaps by Camillus. The long wars in the Samnite mountains naturally caused the Romans to retain and to perfect this organisation, which made their army more movable and pliable, without preventing the separate bodies quickly combining and forming in one line. The legion now [at the time of the war with Pyrrhus, B. C. 280] consisted of thirty companies (called 'manipuli') of the average strength of a hundred men, which were arranged in three lines of ten manipuli each, like the black squares on a chessboard. The manipuli of the first line consisted of the youngest troops, called 'hastati'; those of the second line, called 'principes,' were men in the full vigour of life; those of the third, the 'triarii,' formed a reserve of older soldiers, and were numerically only half as strong as the other two lines. The tactic order of the manipuli enabled the general to move the 'principes' forward into the intervals of the 'hastati,' or to withdraw the 'hastati' back into the intervals of the 'principes,' the 'triarii' being kept as a reserve. . . . The light troops were armed with javelins, and retired behind the solid mass of the manipuli as soon as they had discharged their weapons in front of the line, at the beginning of the combat."—W. Ihne, *Hist. of Rome, bk.* 3, *ch.* 16 (*v.* 1).—"The legions, as they are described by Polybius, in the time of the Punic wars, differed very materially from those which achieved the victories of Cæsar, or defended the monarchy of Hadrian and the Antonines. The constitution of the Imperial legion may be described in a few words. The heavy-armed infantry, which composed its principal strength, was divided into ten cohorts, and fifty-five companies, under the orders of a correspondent number of tribunes and centurions. The first cohort, which always claimed the post of honour and the custody of the eagle, was formed of 1,105 soldiers, the most approved for valour and fidelity. The remaining nine cohorts consisted each of 555; and the whole body of legionary infantry amounted to 6,100 men. . . . The legion was usually drawn up eight deep, and the regular distance of three feet was left between the files as well as ranks. . . . The cavalry, without which the force of the legion would have remained imperfect, was divided into ten troops or squadrons; the first, as the companion of the first cohort, consisted of 132 men; whilst each of the other nine amounted only to 66."—E. Gibbon, *Decline and Fall of the Roman Empire, ch.* 1.

ALSO IN: W. Ramsay, *Manual of Roman Antiq., ch.* 12.

LEGION OF HONOR, Institution of the. See FRANCE: A. D. 1801–1803.

LEGITIMISTS AND ORLEANISTS.—The partisans of Bourbon monarchy in France became divided into two factions by the revolution of 1830, which deposed Charles X. and raised Louis Philippe to the throne. Charles X., brother of Louis XVI. and Louis XVIII., was in the direct line of royal descent, from Louis XIV. Louis Philippe, Duke of Orleans, who displaced him, belonged to a younger branch of the Bourbon family, descending from the brother of Louis XIV., Philippe, Duke of Orleans, father of the Regent Orleans. Louis Philippe, in his turn, was expelled from the throne in 1848, and the crown, after that event, became an object of claim in both families. The claim supported by the Legitimists was extinguished in 1883 by the death of the childless Comte de Chambord, grandson of Charles X. The Orleanist claim is still maintained (1894) by the Comte de Paris, grandson of Louis Philippe.

LEGNANO, Battle of (1176). See ITALY: A. D. 1174–1183.

LEHIGH UNIVERSITY. See EDUCATION, MODERN: AMERICA: A. D. 1769–1884.

LEICESTER, The Earl of, in the Netherlands. See NETHERLANDS: A. D. 1585–1586; and 1587–1588.

LEIPSIC: A. D. 1631.—Battle of Breitenfeld, before the city. See GERMANY: A. D. 1631.

A. D. 1642.—Second Battle of Breitenfeld. —Surrender of the city to the Swedes. See GERMANY: A. D. 1640–1645.

A. D. 1813.—Occupied by the Prussians and Russians. — Regained by the French. — The great "Battle of the Nations." See GERMANY: A. D. 1812–1813; 1813 (APRIL—MAY), (SEPTEMBER—OCTOBER), and (OCTOBER).

LEIPSIC, University of. See EDUCATION, MEDIÆVAL: GERMANY.

LEISLER'S REVOLUTION. See NEW YORK: A. D. 1689–1691.

LEITH, The Concordat of. See SCOTLAND: A. D. 1572.

LEKHS, The. See LYGIANS.

LELAND STANFORD JUNIOR UNIVERSITY. See EDUCATION, MODERN: AMERICA: A. D. 1884–1891.

LELANTIAN FIELDS.—LELANTIAN FEUD. See CHALCIS AND ERETRIA; and EUBŒA.

LELEGES, The.—"The Greeks beyond the sea [Ionian Greeks of Asia Minor] were however not merely designated in groups, according to the countries out of which they came, but certain collective names existed for them—such as that of Javan in the East. . . . Among all these names the most widely spread was that of the Leleges, which the ancients themselves designated as that of a mixed people. In Lycia, in Miletus, and in the Troad these Leleges had their home; in other words, on the whole extent of coast in which we have recognized the primitive seats of the people of Ionic Greeks."—E. Curtius, *Hist. of Greece, bk.* 1, *ch.* 2.—See, also, DORIANS AND IONIANS.

LELIAERDS.—In the mediæval annals of the Flemish people, the partisans of the French are called "Leliaerds," from "lelie," the Flemish for lily.—J. Hutton, *James and Philip van Arteveld, p.* 82, *foot-note.*

LE MANS: Defeat of the Vendéans. See FRANCE: A. D. 1793 (JULY—DECEMBER).

LE MANS, Battle of (1871). See FRANCE: A. D. 1870–1871.

LEMNOS.—One of the larger islands in the northern part of the Ægean Sea, lying opposite the Trojan coast. It was anciently associated with Samothrace and Imbros in the mysterious worship of the Cabeiri.

LEMOVICES, The.—The Lemovices were a tribe of Gauls who occupied, in Cæsar's time, the territory afterwards known as the Limousin—department of Upper Vienne and parts adjoining.—Napoleon III., *Hist. of Cæsar, bk.* 3, *ch.* 2, *foot-note.*—The city of Limoges derived its existence and its name from the Lemovices.

LEMOVII, The.—A tribe in ancient Germany whose territory, on the Baltic coast, probably in the neighborhood of Danzig, bordered on that of the Gothones.—Church and Brodribb, *Geog. Notes to the Germany of Tacitus.*

LENAPE, The. See AMERICAN ABORIGINES: DELAWARES.

LENS, Siege and battle (1647-1648). See NETHERLANDS (SPANISH PROVINCES): A. D. 1647–1648.

LENTIENSES, The. See ALEMANNI: A. D. 213.

LEO I. ("the Great"), Pope, 440–461. See PAPACY, A. D. 42–461, and HUNS, A. D. 452. . . . **Leo II., Pope, 682–683. . . . . Leo III., Pope, 795–816. . . . . Leo III. (called the Isaurian), Emperor in the East (Byzantine, or Greek), 717–741. . . . . Leo IV., Pope, 847–855. . . . . Leo IV., Emperor in the East (Byzantine, or Greek), 775–780. . . . . Leo V., Pope, 903, October to December. . . . . Leo V., Emperor in the East (Byzantine, or Greek), 813–820. . . . . Leo VI., Pope, 928–929. . . . . Leo VI., Emperor in the East (Byzantine, or Greek), 886–911. . . . . Leo VII., Pope, 936–939. . . . . Leo VIII., Antipope, 963–965. . . . . Leo IX., Pope, 1049–1054. . . . . Leo X., Pope, 1513–1521. . . . . Leo XI., Pope, 1605, April 2–27. . . . Leo XII., Pope, 1823–1829. . . . . Leo XIII., Pope, 1878.**

LEOBEN, Preliminary treaty of (1797). See FRANCE: A. D. 1796–1797 (OCTOBER—APRIL).

LEODIS (WEREGILD). See GRAF.

LEON, Ponce de, and his quest. See AMERICA: A. D. 1512.

LEON, Origin of the name of the city and kingdom.—"This name Legio or Leon, so long borne by a province and by its chief city in Spain, is derived from the old Roman 'Regnum Legionis' (Kingdom of the Legion)."—H. Coppée, *Conquest of Spain by the Arab-Moors, bk.* 5, *ch.* 1 (*v.* 1).

Origin of the kingdom. See SPAIN: A. D. 713–910.

Union of the kingdom with Castile. See SPAIN: A. D. 1026–1230; and 1312–1388.

LEONIDAS AT THERMOPYLÆ. See GREECE: B. C. 480; and ATHENS: B. C. 480–479.

LEONINE CITY, The. See VATICAN.

LEONTINI. — The Leontine War. See SYRACUSE: B. C. 415–413.

LEONTIUS, Roman Emperor (Eastern), A. D. 695–698.

LEOPOLD I., Germanic Emperor, A. D. 1658–1705; King of Hungary, 1655–1705; King of Bohemia, 1657–1705. . . . . Leopold I., King of Belgium, 1831–1865. . . . . Leopold II., Germanic Emperor, and King of Hungary and Bohemia, 1790–1792. . . . . Leopold II., King of Belgium, 1865.

LEPANTO, Naval Battle of (1571). See TURKS: A. D. 1566–1571.

LEPERS AND JEWS, Persecution of. See JEWS: A. D. 1321.

LIPIDUS, Revolutionary attempt of. See ROME: B. C. 78–68.

LEPTA. See TALENT.

LEPTIS MAGNA.—"The city of Leptis Magna, originally a Phœnician colony, was the capital of this part of the province [the tract of north-African coast between the Lesser and the Greater Syrtes], and held much the same prominent position as that of Tripoli at the present day. The only other towns in the region of the Syrtes, as it was sometimes called, were Œa, on the site of the modern Tripoli, and Sabrata, the ruins of which are still visible at a place called Tripoli Vecchio. The three together gave the name of the Tripolis of Africa to this region, as distinguished from the Pentapolis of Cyrenaïca. Hence the modern appellation."—E. H. Bunbury, *Hist. of Ancient Geog., ch.* 20, *sect.* 1, *foot-note* (*v.* 2).—See, also, CARTHAGE, THE DOMINION OF.

LERIDA: B. C. 49.—Cæsar's success against the Pompeians. See ROME: B. C. 49.

A. D. 1644-1646, Sieges and battle. See SPAIN: A. D. 1644–1646.

A. D. 1707.—Stormed and sacked by the French and Spaniards. See SPAIN: A. D. 1707.

LESBOS.—The largest of the islands of the Ægean, lying south of the Troad, great part of which it once controlled, was particularly distinguished in the early literary history of ancient Greece, having produced what is called "the Æolian school" of lyric poetry. Alcæus, Sappho, Terpander and Arion were poets who sprang from Lesbos. The island was one of the important colonies of what was known as the Æolic migration, but became subject to Athens after the Persian War. In the fourth year of the Peloponnesian War its chief city, Mitylene (which afterwards gave its name to the entire island), seized the opportunity to revolt. The siege and reduction of Mytilene by the Athenians was one of the exciting incidents of that struggle.—Thucydides, *History, bk.* 3.

ALSO IN: G. Grote, *Hist. of Greece, pt.* 2, *ch.* 14 *and* 50.—See, also, ASIA MINOR: THE GREEK COLONIES; and GREECE: B. C. 429–427.

B. C. 412.—Revolt from Athens. See GREECE: B. C. 413–412.

LESCHE, The.—The clubs of Sparta and Athens formed an important feature of the life of Greece. In every Grecian community there was a place of resort called the Lesche. In Sparta it was peculiarly the resort of old men, who assembled round a blazing fire in winter, and were listened to with profound respect by their juniors. These retreats were numerous in Athens.—C. O. Müller, *Hist. and Antiquities of the Doric race, v.* 2, *p.* 396.—"The proper home of the Spartan art of speech, the original source of so many Spartan jokes current over all Greece, was the Lesche, the place of meeting for men at leisure, near the public drilling-grounds, where they met in small bands, and exchanged merry talk."—E. Curtius, *Hist. of Greece, v.* 1, *p.* 220 (*Am. ed.*).

LESCO V., Duke of Poland, A. D. 1194–1227.....Lesco VI., Duke of Poland, 1279–1289.

LESE-MAJESTY.—A term in English law signifying treason, borrowed from the Romans. The contriving, or counselling or consenting to the king's death, or sedition against the king, are included in the crime of "lese-majesty."—W. Stubbs, *Const. Hist. of Eng., ch.* 21, *sect.* 786.

LE TELLIER, and the suppression of Port Royal. See PORT ROYAL AND THE JANSENISTS: A. D. 1702–1715.

LETTER OF MAJESTY, The. See BOHEMIA: A. D. 1611–1618.

LETTERS OF MARQUE. See PRIVATEERS.

LETTRE DE CACHET.—"In French history, a letter or order under seal; a private letter of state: a name given especially to a written order proceeding from and signed by the king, and countersigned by a secretary of state, and used at first as an occcasional means of delaying the course of justice, but later, in the 17th and 18th centuries, as a warrant for the imprisonment without trial of a person obnoxious for any reason to the government, often for life or for a long period, and on frivolous pretexts. Lettres de cachet were abolished at the Revolution."—*Century Dict.*—"The minister used to give generously blank lettres-de-cachet to the intendants, the bishops, and people in the administration. Saint-Florentin, alone, gave away as many as 50,000. Never had man's dearest treasure, liberty, been more lavishly squandered. These letters were the object of a profitable traffic; they were sold to fathers who wanted to get rid of their sons, and given to pretty women who were inconvenienced by their husbands. This last cause of imprisonment was one of the most prominent. And all through good-nature. The king [Louis XV.] was too good to refuse a lettre-de-cachet to a great lord. The intendant was too good-natured not to grant one at a lady's request. The government clerks, the mistresses of the clerks, and the friends of these mistresses, through good-nature, civility, or mere politeness, obtained, gave, or lent, those terrible orders by which a man was buried alive. Buried;—for such was the carelessness and levity of those amiable clerks,—almost all nobles, fashionable men, all occupied with their pleasures,—that they never had the time, when once the poor fellow was shut up, to think of his position."—J. Michelet, *Historical View of the French Revolution, introd., pt.* 2, *sect.* 9.

LETTS. See LITHUANIANS.

LEUCADIA, OR LEUCAS.—Originally a peninsula of Acarnania, on the western coast of Greece, but converted into an island by the Corinthians, who cut a canal across its narrow neck. Its chief town, of the same name, was at one time the meeting place of the Acarnanian League. The high promontory at the south-western extremity of the island was celebrated for the temple of Apollo which crowned it, and as being the scene of the story of Sappho's suicidal leap from the Leucadian rock.

LEUCÆ, Battle of.—The kingdom of Pergamum having been bequeathed to the Romans by its last king, Attalus, a certain Aristonicus attempted to resist their possession of it, and Crassus, one of the consuls of B. C. 131 was sent against him. But Crassus had no success and was finally defeated and slain, near Leucæ. Aristonicus surrendered soon afterwards to M. Perperna and the war in Pergamum was ended.—G. Long, *Decline of the Roman Republic, v.* 1, *ch.* 14.

LEUCATE, Siege and Battle (1637). See SPAIN: A. D. 1637–1640.

LEUCI, The.—A tribe in Belgic Gaul which occupied the southern part of the modern department of the Meuse, the greater part of the Meurthe, and the department of the Vosges.—Napoleon III., *Hist. of Cæsar, bk.* 8, *ch.* 2, *footnote* (*v.* 2).

LEUCTRA, Battle of (B. C. 371). See GREECE: B. C. 379–371.

LEUD, OR LIDUS, The. See SLAVERY, MEDIÆVAL: GERMANY.

LEUDES.—"The Frankish warriors, but particularly the leaders, were called 'leudes,' from the Teutonic word 'leude,' 'liude,' 'leute,' people, as some think (Thierry, Lettres sur l'Hist. de Franc, p. 130). In the Scandinavian dialects, 'lide' means a warrior . . . ; and in the Kymric also 'lwydd' means an army or war-band. . . . It was not a title of dignity, as every free fighter among the Franks was a leud, but in process of time the term seems to have been

restricted to the most prominent and powerful warriors alone."—P. Godwin, *Hist. of France: Ancient Gaul, bk.* 3, *ch.* 12, *foot-note.*

LEUGA, The.—From the reign of Severus, the roads in the Gallic and German provinces of Rome were measured and marked by a mile correlated no doubt to the Roman, but yet different and with a Gallic name, the 'leuga' (2,222 kilomètres), equal to one and a half Roman miles. —T. Mommsen, *History of the Romans, bk.* 8, *ch.* 3.

LEUKAS. See KORKYRA.

LEUKOPETRA, Battle of (B. C. 146). See GREECE: B. C. 280–146.

LEUTHEN, Battle of. See GERMANY: A. D. 1757 (JULY—DECEMBER).

LEVANT, The. A name first given by the Italians to the eastern coasts of the Mediterranean, —more specifically to the coasts and islands of Asia Minor and Syria. It signifies "rising," hence "the East."

LEVELLERS, The.—"Especially popular among the soldiers [of the Parliamentary Army, England, A. D. 1647-48], and keeping up their excitement more particularly against the House of Lords, were the pamphlets that came from John Lilburne, and an associate of his named Richard Overton. . . . These were the pamphlets . . . which . . . were popular with the common soldiers of the Parliamentary Army, and nursed that especial form of the democratic passion among them which longed to sweep away the House of Lords and see England governed by a single Representative House. Baxter, who reports this growth of democratic opinion in the Army from his own observation, distinctly recognises in it the beginnings of that rough ultra-Republican party which afterwards became formidable under the name of The Levellers."—D. Masson, *Life of John Milton, v.* 3, *bk.* 4, *ch.* 1.—"They [the Levellers] had a vision of a pure and patriotic Parliament, accurately representing the people, yet carrying out a political programme incomprehensible to nine-tenths of the nation. This Parliament was to represent all legitimate varieties of thought, and was yet to act together as one man. The necessity for a Council of State they therefore entirely denied; and they denounced it as a new tyranny. The excise they condemned as an obstruction to trade. They would have no man compelled to fight, unless he felt free in his own conscience to do so. They appealed to the law of nature, and found their interpretation of it carrying them further and further away from English traditions and habits, whether of Church or State." A mutiny of the Levellers in the army, which broke out in April and May, 1649, was put down with stern vigor by Cromwell and Fairfax several of the leaders being executed.—J. A. Picton, *Oliver Cromwell, ch.* 17.

LEWES, Battle of. See ENGLAND: A. D. 1216–1274.

LEWIS AND CLARK'S EXPEDITION. See UNITED STATES OF AM.: A. D. 1804–1805.

LEXINGTON, Mass.: A. D. 1775.—The beginning of the War of the American Revolution. See UNITED STATES OF AM.: A. D. 1775 (APRIL).

LEXINGTON, Mo., Siege of. See UNITED STATES OF AM.: A. D. 1861 (JULY—SEPTEMBER: MISSOURI).

Battle at. See UNITED STATES OF AM.: A. D. 1864 (MARCH—OCTOBER: ARKANSAS—MISSOURI).

LEXOVII, The.—The Lexovii were one of the tribes of northwestern Gaul, in the time of Cæsar. Their position is indicated and their name, in a modified form, preserved by the town of Lisieux between Caen and Evreux.—G. Long, *Decline of the Roman Republic, v.* 4, *ch.* 6.

LEYDEN: A. D. 1574.—Siege by the Spaniards.—Relief by the flooding of the land. —The founding of the University. See NETHERLANDS: A. D. 1573–1574; and EDUCATION, RENAISSANCE: NETHERLANDS.

A. D. 1609-1620.—The Sojourn of the Pilgrim Fathers. See INDEPENDENTS: A. D. 1604–1617.

LHASSA, the seat of the Grand Lama. See LAMAS.

LIA-FAIL, The.—"The Tuatha-de-Danaan [the people who preceded the Milesians in colonizing Ireland, according to the fabulous Irish histories] brought with them from Scandinavia, among other extraordinary things, three marvellous treasures, the Lia-Fail, or Stone of Destiny, the Sorcerer's Spear, and the Magic Caldron, all celebrated in the old Irish romances. The Lia-Fail possessed the remarkable property of making a strange noise and becoming wonderfully disturbed, whenever a monarch of Ireland of pure blood was crowned, and a prophecy was attached to it, that whatever country possessed it should be ruled over by a king of Irish descent, and enjoy uninterrupted success and prosperity. It was preserved at Cashel, where the kings of Munster were crowned upon it. According to some writers it was afterwards kept at the Hill of Tara, where it remained until it was carried to Scotland by an Irish prince, who succeeded to the crown of that country. There it was preserved at Scone, until Edward I. carried it away into England, and placed it under the seat of the coronation chair of our kings, where it still remains . . . It seems to be the opinion of some modern antiquarians that a pillar stone still remaining at the Hill of Tara is the true Lia-Fail, which in that case was not carried to Scotland."—T. Wright, *Hist. of Ireland, bk.* 1, *ch.* 2, *and foot-note.*—See, also, SCOTLAND: 8TH–9TH CENTURIES.

LIBBY PRISON. See PRISONS AND PRISON-PENS, CONFEDERATE.

LIBERAL ARTS, The Seven. See EDUCATION, MEDIÆVAL: SCHOLASTICISM.

LIBERAL REPUBLICAN PARTY. See UNITED STATES OF AM.: A. D. 1872.

LIBERAL UNIONISTS. See ENGLAND: A. D. 1885–1886.

LIBERI HOMINES. See SLAVERY, MEDIÆVAL: ENGLAND.

LIBERIA, The founding of the Republic of. See SLAVERY, NEGRO: A. D. 1816–1847.

LIBERTINES OF GENEVA, The.—The party which opposed Calvin's austere and arbitrary rule in Geneva were called Libertines.—F. P. Guizot, *John Calvin, ch.* 9–16.

LIBERTINI. See INGENUI.

LIBERTY BELL, The. See INDEPENDENCE HALL.

LIBERTY BOYS.—The name by which the Sons of Liberty of the American Revolution

were familiarly known. See UNITED STATES OF AM.: A. D. 1765; NEW YORK: A. D. 1773–1774; and LIBERTY TREE.

LIBERTY CAP.—"This emblem, like many similar ones received by the revolutions from the hand of chance, was a mystery even to those who wore it. It had been adopted [at Paris] for the first time on the day of the triumph of the soldiers of Châteauvieux [April 15, 1792, when 41 Swiss soldiers of the regiment of Châteauvieux, condemned to the galleys for participation in a dangerous mutiny of the garrison at Nancy in 1790, but liberated in compliance with the demands of the mob, were fêted as heroes by the Jacobins of Paris]. Some said it was the coiffure of the galley-slaves, once infamous, but glorious since it had covered the brows of these martyrs of the insurrection; and they added that the people wished to purify this head-dress from every stain by wearing it themselves. Others only saw in it the Phrygian bonnet, a symbol of freedom for slaves. The 'bonnet rouge' had from its first appearance been the subject of dispute and dissension amongst the Jacobins; the 'exaltés' wore it, whilst the 'modérés' yet abstained from adopting it." Robespierre and his immediate followers opposed the "frivolity" of the "bonnet rouge," and momentarily suppressed it in the Assembly. "But even the voice of Robespierre, and the resolutions of the Jacobins, could not arrest the outbreak of enthusiasm that had placed the sign of 'avenging equality' ('l'égalité vengeresse') on every head; and the evening of the day on which it was repudiated at the Jacobins' saw it inaugurated at all the theatres. The bust of Voltaire, the destroyer of prejudice, was adorned with the Phrygian cap of liberty, . . . whilst the cap and pike became the uniform and weapon of the citizen soldier."—A. de Lamartine, *Hist. of the Girondists, bk.* 18 (*v.* 1).

ALSO IN: H. M. Stephens, *Hist. of the French Rev., v.* 2, *ch.* 2.

LIBERTY GAP, Battle of. See UNITED STATES OF AM.: A. D. 1863 (JUNE—JULY: TENNESSEE).

LIBERTY PARTY AND LIBERTY LEAGUE. See SLAVERY, NEGRO: A. D. 1840–1847.

LIBERTY, Religious. See TOLERATION.

LIBERTY TREE AND LIBERTY HALL.—"Lafayette said, when in Boston, 'The world should never forget the spot where once stood Liberty Tree, so famous in your annals.' . . . The open space at the four corners of Washington, Essex, and Boylston streets was once known as Hanover Square, from the royal house of Hanover, and sometimes as the Elm Neighborhood, from the magnificent elms with which it was environed. It was one of the finest of these that obtained the name of Liberty Tree, from its being used on the first occasion of resistance to the obnoxious Stamp Act. . . . At daybreak on the 14th August, 1765, nearly ten years before active hostilities broke out, an effigy of Mr. Oliver, the Stamp officer, and a boot, with the Devil peeping out of it,—an allusion to Lord Bute,—was discovered hanging from Liberty Tree. The images remained hanging all day, and were visited by great numbers of people, both from the town and the neighboring country. Business was almost suspended. Lieutenant-Governor Hutchinson ordered the sheriff to take the figures down, but he was obliged to admit that he dared not do so. As the day closed in the effigies were taken down, placed upon a bier, and, followed by several thousand people of every class and condition," were borne through the city and then burned, after which much riotous conduct on the part of the crowd occurred. "In 1766, when the repeal of the Stamp Act took place, a large copper plate was fastened to the tree, inscribed in golden characters:—'This tree was planted in the year 1646, and pruned by order of the Sons of Liberty, Feb. 14th, 1766.' . . . The ground immediately about Liberty Tree was popularly known as Liberty Hall. In August, 1767, a flagstaff had been erected, which went through and extended above its highest branches. A flag hoisted upon this staff was the signal for the assembling of the Sons of Liberty. . . . In August, 1775, the name of Liberty having become offensive to the tories and their British allies, the tree was cut down by a party led by one Job Williams."—S. A. Drake, *Old Landmarks of Boston, ch.* 14.

LIBERUM VETO, The. See POLAND: A. D. 1578–1652.

LIBRA, The Roman.—"The ancient Roman unit of weight was the libra, or pondus, from which the modern names of the livre and pound are derived. Its weight was equal to 5,015 Troy gr. or 325 grm., and it was identical with the Greek-Asiatic mina."—H. W. Chisholm, *Science of Weighing and Measuring, ch.* 2.—See, also, As.

LIBRARIES.

Ancient.

Babylonia and Assyria.—"The Babylonians were . . . essentially a reading and writing people. . . . Books were numerous and students were many. The books were for the most part written upon clay [tablets] with a wooden reed or metal stylus, for clay was cheap and plentiful, and easily impressed with the wedge-shaped lines of which the characters were composed. But besides clay, papyrus and possibly also parchment were employed as writing materials; at all events the papyrus is referred to in the texts."—A. H. Sayce, *Social Life among the Assyrians and Babylonians, p.* 80.—"We must speak of the manner in which the tablet was formed. Fine clay was selected, kneaded, and moulded into the shape of the required tablet. One side was flat, and the other rounded. The writing was then inscribed on both sides, holes were pricked in the clay, and then it was baked. The holes allowed the steam which was generated during the process of baking to escape. It is thought that the clay used in some of the tablets was not only well kneaded, but ground in some kind of mill, for the texture of the clay is as fine as some of our best modern pottery. The wedges appear to have been impressed by a square headed instrument."—E. A. W. Budge, *Babylonian Life and History, p.* 105.—Assurbanipal, the Sardanapalus of the Greeks, was the greatest and most celebrated of Assyrian monarchs. He was the principal patron of

Assyrian literature, and the greater part of the grand library at Nineveh was written during his reign." — G. Smith, *Assyrian Discoveries, ch.* 18. — "Assurbanipal is fond of old books, particularly of the old sacred works. He collects the scattered specimens from the chief cities of his empire, and even employs scribes in Chaldea, Ourouk, Barsippa, and Babylon to copy for him the tablets deposited in the temples. His principal library is at Nineveh, in the palace which he built for himself upon the banks of the Tigris, and which he has just finished decorating. It contains more than thirty thousand tablets, methodically classified and arranged in several rooms, with detailed catalogues for convenient reference. Many of the works are continued from tablet to tablet and form a series, each bearing the first words of the text as its title. The account of the creation, which begins with the phrase: 'Formerly, that which is above was not yet called the heaven,' was entitled: 'Formerly, that which is above, No. 1;' 'Formerly, that which is above, No. 2;' and so on to the end. Assurbanipal is not less proud of his love of letters than of his political activity, and he is anxious that posterity should know how much he has done for literature. His name is inscribed upon every work in his library, ancient and modern. 'The palace of Assurbanipal, king of legions, king of multitudes, king of Assyria, to whom the god Nebo and the goddess Tasmetu have granted attentive ears and open eyes to discover the writings of the scribes of my kingdom, whom the kings my predecessors, have employed In my respect for Nebo, the god of intelligence, I have collected these tablets; I have had them copied, I have marked them with my name, and I have deposited them in my palace.' The library at Dur-Sarginu, although not so rich as the one in Nineveh, is still fairly well supplied." — G. Maspéro, *Life in Ancient Egypt and Assyria, ch.* 16. — "Collections of inscribed tablets had been made by Tiglath-Pileser II., king of Assyria, B. C. 745, who had copied some historical inscriptions of his predecessors. Sargon, the founder of the dynasty to which Assur-bani pal belonged, B. C. 722, had increased this library by adding a collection of astrological and similar texts, and Sennacherib, B. C. 705, had composed copies of the Assyrian canon, short histories, and miscellaneous inscriptions, to add to the collection. Sennacherib also moved the library from Calah, its original seat, to Nineveh, the capital. Esarhaddon, B. C. 681, added numerous historical and mythological texts. All the inscriptions of the former kings were, however, nothing compared to those written during the reign of Assur-bani-pal. Thousands of inscribed tablets from all places, and on every variety of subject, were collected, and copied, and stored in the library of the palace at Nineveh during his reign, and by his statements they appear to have been intended for the inspection of the people, and to spread learning among the Assyrians. Among these tablets one class consisted of historical texts, some the histories of the former kings of Assyria, and others copies of royal inscriptions from various other places. Similar to these were the copies of treaties, despatches, and orders from the king to his generals and ministers, a large number of which formed part of the library. There was a large collection of letters of all sorts, from despatches to the king on the one hand, down to private notes on the other. Geography found a place among the sciences, and was represented by lists of countries, towns, rivers, and mountains, notices of the position, products, and character of districts, &c., &c. There were tables giving accounts of the law and legal decisions, and tablets with contracts, loans, deeds of sale and barter, &c. There were lists of tribute and taxes, accounts of property in the various cities, forming some approach to a census and general account of the empire. One large and important section of the library was devoted to legends of various sorts, many of which were borrowed from other countries Among these were the legends of the hero Izdubar, perhaps the Nimrod of the Bible. One of these legends gives the Chaldean account of the flood, others of this description give various fables and stories of evil spirits. The mythological part of the library embraced lists of the gods, their titles, attributes, temples, &c., hymns in praise of various deities, prayers to be used by different classes of men to different gods, and under various circumstances, as during eclipses or calamities, on setting out for a campaign, &c., &c. Astronomy was represented by various tablets and works on the appearance and motions of the heavens, and the various celestial phenomena. Astrology was closely connected with Astronomy, and formed a numerous class of subjects and inscriptions. An interesting division was formed by the works on natural history; these consisted of lists of animals, birds, reptiles, trees, grasses, stones, &c., &c., arranged in classes, according to their character and affinities as then understood, lists of minerals and their uses, lists of foods, &c., &c. Mathematics and arithmetic were found, including square and cube root, the working out of problems, &c., &c. Much of the learning on these tablets was borrowed from the Chaldeans and the people of Babylon, and had orginally been written in a different language and style of writing, hence it was necessary to have translations and explanations of many of these; and in order to make their meaning clear, grammars, dictionaries, and lexicons were prepared, embracing the principal features of the two languages involved, and enabling the Assyrians to study the older inscriptions. Such are some of the principal features of the grand Assyrian library, which Assur-bani-pal established at Nineveh, and which probably numbered over 10,000 clay documents." — George Smith, *Ancient History from the Monuments. Assyria, pp.* 188–191. — "It is now [1882] more than thirty years since Sir Henry Layard, passing through one of the doorways of the partially explored palace in the mound of Kouyunjik, guarded by sculptured fish gods, stood for the first time in the double chambers containing a large portion of the remains of the immense library collected by Assurbannipal, King of Nineveh. . . . Since that time, with but slight intermissions, this treasure-house of a forgotten past has been turned over again and again, notably in the expeditions of the late Mr. George Smith, and still the supply of its cuneiform literature is not exhausted. Until last year [1881] this discovery remained unique; but the perseverance of the British Museum authorities and the patient labour of Mr. Rassam were then rewarded by the exhumation of what is apparently the library chamber of the temple

or palace at Sippara, with all its 10,000 tablets, resting undisturbed, arranged in their position on the shelves, just as placed in order by the librarian twenty-five centuries ago. . . . From what Berosus tells us with regard to Sippara, or Pantibiblon (the town of books), the very city, one of whose libraries has just been brought to light,' . . . it may be inferred that this was certainly one of the first towns that collected a library. . . . It is possible that the mound at Mugheir enshrines the oldest library of all, for here are the remains of the city of Ur (probably the Biblical Ur of the Chaldees). From this spot came the earliest known royal brick inscription, as follows: — 'Urukh, King of Ur, who Bit Nanur built.' Although there are several texts from Mugheir, such as that of Dungi, son of Urukh, yet, unless by means of copies made for later libraries in Assyria, we cannot be said to know much of its library. Strange to say, however, the British Museum possesses the signet cylinder of one of the librarians of Ur, who is the earliest known person holding such an office. . . . Its inscription is given thus by Smith: — 'Emuq-sin, the powerful hero, the King of Ur, King of the four regions; Amil Anu, the tablet-keeper, son of Gatu his servant.' . . . Erech, the modern Warka, is a city at which we know there must have been one or more libraries, for it was from thence Assurbannipal copied the famous Isdubar series of legends in twelve tablets, one of which contained the account of the Deluge. Hence also came the wonderful work on magic in more than one hundred tablets; for, as we have it, it is nothing more than a facsimile by Assurbannipal's scribes of a treatise which had formed part of the collection of the school of the priests at Erech. . . . Larsa, now named Senkereh, was the seat of a tablet collection that seems to have been largely a mathematical one; for in the remains we possess of it are tablets containing tables of squares and cube roots and others, giving the characters for fractions. There are from here also, however, fragments with lists of the gods, a portion of a geographical dictionary, lists of temples, &c. . . . To a library at Cutha we owe the remnants of a tablet work containing an account of the creation and the wars of the gods, and, among others, a very ancient terra-cotta tablet bearing a copy of an inscription engraved in the temple of the god Dup Lan at Cutha, by Dungi, King of Ur. The number of tablets and cylinders found by M. de Sarzec at Zirgulla show that there too the habit of committing so much to writing was as rife as in other cities of whose literary character we know more." — *The Libraries of Babylonia and Assyria* (*Knowledge, Nov.* 24, 1882, *and March* 2, 1883). — "One of the most important results of Sir A. H. Layard's explorations at Nineveh was the discovery of the ruined library of the ancient city, now buried under the mounds of Kouyunjik. The broken clay tablets belonging to this library not only furnished the student with an immense mass of literary matter, but also with direct aids towards a knowledge of the Assyrian syllabary and language. Among the literature represented in the library of Kouyunjik were lists of characters, with their various phonetic and ideographic meanings, tables of synonymes, and catalogues of the names of plants and animals. This, however, was not all. The inventors of the cuneiform system of writing had been a people who preceded the Semites in the occupation of Babylonia, and who spoke an agglutinative language utterly different from that of their Semitic successors. These Accadians, as they are usually termed, left behind them a considerable amount of literature, which was highly prized by the Semitic Babylonians and Assyrians. A large portion of the Nineveh tablets, accordingly, consists of interlinear or parallel translations from Accadian into Assyrian, as well as of reading books, dictionaries, and grammars, in which the Accadian original is placed by the side of its Assyrian equivalent."—A. H. Sayce, *Fresh Light from the Ancient Monuments, ch.* 1.

Greece.—"Pisistratus the tyrant is said to have been the first who supplied books of the liberal sciences at Athens for public use. Afterwards the Athenians themselves, with great care and pains, increased their number; but all this multitude of books, Xerxes, when he obtained possession of Athens, and burned the whole of the city except the citadel, seized and carried away to Persia. But king Seleucus, who was called Nicanor, many years afterwards, was careful that all of them should be again carried back to Athens." "That Pisistratus was the first who collected books, seems generally allowed by ancient writers. . . . In Greece were several famous libraries. Clearchus, who was a follower of Plato, founded a magnificent one in Heraclea. There was one in the island of Cnidos. The books of Athens were by Sylla removed to Rome. The public libraries of the Romans were filled with books, not of miscellaneous literature, but were rather political and sacred collections, consisting of what regarded their laws and the ceremonies of their religion." — Aulus Gellius, *The Attic Nights, bk.* 6, *ch.* 17 (*v.* 2), *with foot-note by W. Beloe.* — "If the libraries of the Greeks at all resembled in form and dimensions those found at Pompeii, they were by no means spacious; neither, in fact, was a great deal of room necessary, as the manuscripts of the ancients stowed away much closer than our modern books, and were sometimes kept in circular boxes, of elegant form, with covers of turned wood. The volumes consisted of rolls of parchment, sometimes purple at the back, or papyrus, about twelve or fourteen inches in breadth, and as many feet long as the subject required. The pages formed a number of transverse compartments, commencing at the left, and proceeding in order to the other extremity, and the reader, holding in either hand one end of the manuscript, unrolled and rolled it up as he read. Occasionally these books were placed on shelves, in piles, with the ends outwards, adorned with golden bosses, the titles of the various treatises being written on pendant labels."— J. A. St. John, *The Hellenes, v.* 2, *p.* 84.—"The learned reader need not be reminded how wide is the difference between the ancient 'volumen,' or roll, and the 'volume' of the modern book-trade, and how much smaller the amount of literary matter which the former may represent. Any single 'book' or 'part' of a treatise would anciently have been called 'volumen,' and would reckon as such in the enumeration of a collection of books. The Iliad of Homer, which in a modern library may form but a single volume, would have counted as twenty-four 'volumina' at Alexandria. We read of authors leaving behind them works reckoned

not by volumes or tens of volumes, but by hundreds. . . . It will at once be understood that . . the very largest assemblage of 'volumina' assigned as the total of the greatest of the ancient collections would fall far short, in its real literary contents, of the second-rate, or even third-rate collections of the present day."—*Libraries, Ancient and Modern (Edinburgh Rev., Jan.*, 1874).

Alexandria.—"The first of the Ptolemies, Lagus, not only endeavoured to render Alexandria one of the most beautiful and most commercial of cities, he likewise wished her to become the cradle of science and philosophy. By the advice of an Athenian emigrant, Demetrius of Phaleros, this prince established a society of learned and scientific men, the prototype of our academies and modern institutions. He caused that celebrated museum to be raised, that became an ornament to the Bruchion; and here was deposited the noble library, 'a collection,' says Titus Livius, 'at once a proof of the magnificence of those kings, and of their love of science.' Philadelphos, the successor of Lagus, finding that the library of the Bruchion already numbered 400,000 volumes, and either thinking that the edifice could not well make room for any more, or being desirous, from motives of jealousy, to render his name equally famous by the construction of a similar monument, founded a second library in the temple of Serapis, called the Serapeum, situated at some distance from the Bruchion, in another part of the town. These two libraries were denominated, for a length of time, the Mother and the Daughter. During the war with Egypt, Cæsar, having set fire to the king's fleet, which happened to be anchored in the great port, it communicated with the Bruchion; the parent library was consumed, and, if any remains were rescued from the flames, they were, in all probability, conveyed to the Serapeum. Consequently, ever after, there can be no question but of the latter. Energetes and the other Ptolemies enlarged it successively; and Cleopatra added 200,000 manuscripts at once from the library of King Pergamos, given her by Mark Antony. . . . Aulus Gellius and Ammianus Marcellus seem to insinuate that the whole of the Alexandrian library had been destroyed by fire in the time of Cæsar. . . . But both are mistaken on this point. Ammianus, in the rest of his narrative, evidently confounds Serapeum and Bruchion. . . Suetonius (in his life of Domitian) mentions that this emperor sent some amanuenses to Alexandria, for the purpose of copying a quantity of books that were wanting in his library; consequently a library existed in Alexandria a long while after Cæsar Besides, we know that the Serapeum was only destroyed A. D. 391. by the order of Theodosius. Doubtless the library suffered considerably on this last-mentioned occasion; but that it still partly existed is beyond a doubt, according to the testimony of Oroses, who, twenty-four years later, made a voyage to Alexandria, and assures us that he 'saw, in several temples, presses full of books,' the remains of ancient libraries. . . . The trustworthy Oroses, in 415, is the last witness we have of the existence of a library at Alexandria. The numerous Christian writers of the fifth and sixth centuries, who have handed down to us so many trifling facts, have not said a word upon this important subject. We, therefore, have no certain documents upon the fate of our library from 415 to 636, or, according to others, 640, when the Arabs took possession of Alexandria,—a period of ignorance and barbarism, of war and revolutions, and vain disputes between a hundred different sects. Now, towards A. D 636, or 640, the troops of the caliph, Omar, headed by his lieutenant, Amrou, took possession of Alexandria. For more than six centuries, nobody in Europe took the trouble of ascertaining what had become of the library of Alexandria. At length, in the year 1660, a learned Oxford scholar, Edward Pococke, who had been twice to the East, and had brought back a number of Arabian manuscripts, first introduced the Oriental history of the physician Abulfarage to the learned world, in a Latin translation. In it we read the following passage:—'In those days flourished John of Alexandria, whom we have surnamed the Grammarian, and who adopted the tenets of the Christian Jacobites. . . . He lived to the time when Amrou Ebno'l-As took Alexandria. He went to visit the conqueror, and Amrou, who was aware of the height of learning and science that John had attained, treated him with every distinction, and listened eagerly to his lectures on philosophy, which were quite new to the Arabians. Amrou was himself a man of intellect and discernment, and very clear-headed. He retained the learned man about his person John one day said to him, "You have visited all the stores of Alexandria, and you have put your seal on all the different things you found there I say nothing about those treasures which have any value for you; but, in good sooth, you might leave us those of which you make no use." "What then is it that you want?" interrupted Amrou. "The books of philosophy that are to be found in the royal treasury," answered John. "I can dispose of nothing," Amrou then said, "without the permission of the lord of all true believers, Omar Ebno'l Chattab" He therefore wrote to Omar, informing him of John's request. He received an answer from Omar in these words. "As to the books you mention, either they agree with God's holy book, and then God's book is all-sufficient without them; or they disagree with God's book, in which case they ought not to be preserved." And, in consequence, Amrou Ebno'l-As caused them to be distributed amongst the different baths of the city, to serve as fuel. In this manner they were consumed in half-a-year.' When this account of Abulfarage's was made known in Europe, it was at once admitted as a fact, without the least question. . . . Since Pococke, another Arab historian, likewise a physician, was discovered, who gave pretty nearly the same account. This was Abdollatif, who wrote towards 1200, and consequently prior to Abulfarage. . . . Abdollatif does not relate any of the circumstances accessory to the destruction of the library. But what faith can we put in a writer who tells us that he has actually seen what could no longer have been in existence in his time? 'I have seen,' says he, 'the portico and the college that Alexander the Great caused to be built, and which contained the splendid library,' &c. Now, these buildings were situated within the Bruchion; and since the reign of Aurelian, who had destroyed it—that is to say, at least nine hundred years before Abdollatif—the Bruchion was a deserted spot, covered with ruins and rubbish.

Abulfarage, on the other hand, places the library in the Royal Treasury; and the anachronism is just as bad. The royal edifices were all contained within the walls of the Bruchion; and not one of them could then be left. . . . As a fact is not necessarily incontestable because advanced as such by one or even two historians, several persons of learning and research have doubted the truth of this assertion. Renaudot (Hist. des Patriarches d'Alexandrie) had already questioned its authenticity, by observing: 'This account is rather suspicious, as is frequently the case with the Arabians.' And, lastly, Querci, the two Assemani, Villoison, and Gibbon, completely declared themselves against it. Gibbon at once expresses his astonishment that two historians, both of Egypt, should not have said a word about so remarkable an event. The first of these is Eutychius, patriarch of Alexandria, who lived in that city 500 years after it was taken by the Saracens, and who gives a long and detailed account, in his Annals, both of the siege and the succeeding events; the second is Elmacin, a most veracious writer, the author of a History of the Saracens, and who especially relates the life of Omar, and the taking of Alexandria, with its minutest circumstances. Is it conceivable or to be believed that these two historians should have been ignorant of so important a circumstance? That two learned men who would have been deeply interested in such a loss should have made no mention of it, though living and writing in Alexandria — Eutychius, too, at no distant period from the event? and that we should learn it for the first time from a stranger who wrote, six centuries after, on the frontiers of Media? Besides, as Gibbon observes, why should the Caliph Omar, who was no enemy to science, have acted, in this one instance, in direct opposition to his character. . . . To these reasons may be added the remark of a German writer, M. Reinhard, who observes that Eutychius (Annals of Eutychius, vol. ii. p. 316) transcribes the very words of the letter in which Amrou gives the Caliph Omar an account of the taking of Alexandria after a long and obstinate siege. 'I have carried the town by storm,' says he, 'and without any preceding offer of capitulation. I cannot describe all the treasures it contains; suffice it to say, that it numbers 4,000 palaces, 4,000 baths, 40,000 taxable Jews, 400 theatres, 12,000 gardeners who sell vegetables. Your Mussulmans demand the privilege of pillaging the city, and sharing the booty.' Omar, in his reply, disapproves of the request, and expressly forbids all pillage or dilapidation It is plain that, in his official report, Amrou seeks to exaggerate the value of his conquest, and to magnify its importance, like the diplomatists of our times. He does not overlook a single hovel, nor a Jew, nor a gardener. How then could he have forgotten the library, he who, according to Abulfarage, was a friend to the fine arts and philosophy? . . . Elmacin in turn gives us Amrou's letter nearly in the same terms, and not one word of the library. . . . We . . . run no great risk in drawing the conclusion, from all these premises, that the library of the Ptolemies no longer existed in 640 at the taking of Alexandria by the Saracens. . . . If it be true, as we have every reason to think, that in 640 . . . the celebrated library no longer existed, we may inquire in what manner it had been dispersed and destroyed since 415 when Oroses affirms that he saw it? In the first place we must observe that Oroses only mentions some presses which he saw in the temples. It was not, therefore, the library of the Ptolemies as it once existed in the Serapeum. Let us call to mind, moreover, that ever since the first Roman emperors, Egypt had been the theatre of incessant civil warfare, and we shall be surprised that any traces of the library could still exist in later times."—*Historical Researches on the pretended burning of the Library of Alexandria by the Saracens* (*Fraser's Magazine, April*, 1844).—"After summing up the evidence we have been able to collect in regard to these libraries, we conclude that almost all the 700,000 volumes of the earlier Alexandrian libraries had been destroyed before the capture of the city by the Arabs; that another of considerable size, but chiefly of Christian literature, had been collected in the 250 years just preceding the Arab occupation; and that Abulpharaj, in a statement that is not literally true, gives, in the main, a correct account of the final destruction of the Alexandrian Library."—C. W. Super, *Alexandria and its Libraries* (*National Quart. Rev., Dec.*, 1875).

ALSO IN: E. Edwards, *Memoirs of Libraries, bk.* 1, *ch.* 5 (*v.* 1).—The Same, *Libraries and the Founders of Libraries, ch.* 1.—See, also, EDUCATION, ANCIENT: ALEXANDRIA; and ALEXANDRIA: B. C. 282–246.

Pergamum. See PERGAMUM.

Rome.— Pliny states that C. Asinius Pollio was the first who established a Public Library in Rome. But "Lucullus was undoubtedly before him in this claim upon the gratitude of the lovers of books. Plutarch tells us expressly that not only was the Library of Lucullus remarkable for its extent and for the beauty of the volumes which composed it, but that the use he made of them was even more to his honour than the pains he had taken in their acquisition. The Library, he says, 'was open to all. The Greeks who were at Rome resorted thither, as it were to the retreat of the Muses.' It is important to notice that, according to Pliny, the benefaction of Asinius Pollio to the literate among the Romans was 'ex manubiis.' This expression, conjoined with the fact that the statue of M. Varro was placed in the Library of Pollio, has led a recent distinguished historian of Rome under the Empire, Mr. Merivale, to suggest, that very probably Pollio only made additions to that Library which, as we know from Suetonius, Julius Cæsar had directed to be formed for public use under the care of Varro. These exploits of Pollio, which are most likely to have yielded him the 'spoils of war,' were of a date many years subsequent to the commission given by Cæsar to Varro. It has been usually, and somewhat rashly perhaps, inferred that this project, like many other schemes that were surging in that busy brain, remained a project only. In the absence of proof either way, may it not be reasonably conjectured that Varro's bust was placed in the Library called Pollio's because Varro had in truth carried out Cæsar's plan, with the ultimate concurrence and aid of Pollio? This Library — by whomsoever formed — was probably in the 'atrium libertatis' on the Aventine Mount. From Suetonius we further learn that Augustus added porticoes to the Temple of Apollo on the Palatine Mount, with (as appears from monumental inscriptions to those who had charge of them) two distinct Libraries of Greek and Latin authors; that

Tiberius added to the Public Libraries the works of the Greek poets Euphorion, Rhianus, and Parthenius,—authors whom he especially admired and tried to imitate,—and also their statues; that Caligula (in addition to a scheme for suppressing Homer) had thoughts of banishing both the works and the busts of Virgil and of Livy—characterizing the one as a writer of no genius and of little learning, and the other (not quite so unfortunately) as a careless and verbose historian—from all the Libraries; and that Domitian early in his reign restored at vast expense the Libraries in the Capitol which had been burnt, and to this end both collected MSS. from various countries, and sent scribes to Alexandria expressly to copy or to correct works which were there preserved. In addition to the Libraries mentioned by Suetonius, we read in Plutarch of the Library dedicated by Octavia to the memory of Marcellus; in Aulus Gellius of a Library in the Palace of Tiberius and of another in the Temple of Peace; and in Dion Cassius of the more famous Ulpian Library founded by Trajan. This Library, we are told by Vopiscus, was in his day added, by way of adornment, to the Baths of Diocletian. Of private Libraries amongst the Romans one of the earliest recorded is that which Emilius Paulus found amongst the spoils of Perseus, and which he is said to have shared between his sons. The collection of Tyrannion, some eighty years later (perhaps), amounted, according to a passage in Suidas, to 30,000 volumes. That of Lucullus—which, some will think, ought to be placed in this category—has been mentioned already. With that—the most famous of all—which was the delight and the pride of Cicero, every reader of his letters has an almost personal familiarity, extending even to the names and services of those who were employed in binding and in placing the books. . . . Of the Libraries of the long-buried cities of Pompeii and Herculaneum there is not a scintilla of information extant, other than that which has been gathered from their ruins. At one time great hopes were entertained of important additions to classical learning from remains, the discovery of which has so largely increased our knowledge both of the arts and of the manners of the Romans. But all effort in this direction has hitherto been either fruitless or else only tantalizing, from the fragmentary character of the results attained."—E. Edwards, *Memoirs of Libraries, pp.* 26–29.—"Most houses had a library, which, according to Vitruvius, ought to face the east in order to admit the light of the morning, and to prevent the books from becoming mouldy. At Herculaneum a library with bookcases containing 1,700 scrolls has been discovered. The grammarian Epaphroditus possessed a library of 30,000, and Sammanicus Serenus, the tutor of the younger Gordian, one of 62,000 books. Seneca ridicules the fashionable folly of illiterate men who adorned their walls with thousands of books, the titles of which were the delight of the yawning owner. According to Publius Victor, Rome possessed twenty-nine public libraries, the first of which was opened by Asinius Pollo in the forecourt of the Temple of Peace; two others were founded during the reign of Augustus, viz., the Octavian and the Palatine libraries. Tiberius, Vespasian, Domitian, and Trajan added to their number; the Ulpian library, founded by the last-mentioned emperor, being the most important of all."—E. Guhl and W. Koner, *The Life of the Greeks and Romans, p.* 531.

Herculaneum.—"Herculaneum remained a subterranean city from the year 79 to the year 1706. In the latter year some labourers who were employed in digging a well came upon a statue, a circumstance which led—not very speedily but in course of time . . —to systematic excavations. Almost half a century passed, however, before the first roll of papyrus was discovered, near to Portici at a depth from the surface of about 120 English feet. In the course of a year or two, some 250 rolls—most of them Greek—had been found. . . . In 1754, further and more careful researches were made by Camillo Paderni, who succeeded in getting together no less than 337 Greek volumes and 18 Latin volumes The latter were of larger dimensions than the Greek, and in worse condition. Very naturally, great interest was excited by these discoveries amongst scholars in all parts of Europe. In the years 1754 and 1755 the subject was repeatedly brought before the Royal Society by Mr. Locke and other of its fellows, sometimes in the form of communications from Paderni himself; at other times from the notes and observations of travellers. In one of these papers the disinterred rolls are described as appearing at first 'like roots of wood, all black, and seeming to be only of one piece. One of them falling on the ground, it broke in the middle, and many letters were observed, by which it was first known that the rolls were of papyrus. . . . They were in wooden cases, so much burnt, . . . that they cannot be recovered.' . . . At the beginning of the present century the attention of the British government was, to some extent, attracted to this subject. . . . Leave was at length obtained from the Neapolitan government for a literary mission to Herculaneum, which was entrusted to Mr. Hayter, one of the chaplains to the Prince Regent. But the results were few and unsatisfactory. . . . The Commission subsequently entrusted to Dr. Sickler of Hildburghausen was still more unfortunate. . . . In 1818, a committee of the House of Commons was appointed to inquire into the matter. It reported that, after an expenditure of about £1,100, no useful results had been attained. This inquiry and the experiments of Sickler led Sir Humphrey Davy to investigate the subject, and to undertake two successive journeys into Italy for its thorough elucidation. His account of his researches is highly interesting. . . . 'My experiments,' says Sir Humphrey Davy . . . , 'soon convinced me that the nature of these MSS. had been generally misunderstood; that they had not, as is usually supposed, been carbonized by the operation of fire, . . . but were in a state analogous to peat or Bovey coal, the leaves being generally cemented into one mass by a peculiar substance which had formed during the fermentation and chemical change of the vegetable matter comprising them, in a long course of ages. The nature of this substance being known, the destruction of it became a subject of obvious chemical investigation; and I was fortunate enough to find means of accomplishing this, without injuring the characters or destroying the texture of the MSS.' These means Sir Humphrey Davy has described very minutely in his subsequent communications to the Royal Society. Briefly,

they may be said to have consisted in a mixture of a solution of glue with alcohol, enough to gelatinize it, applied by a camel's hair brush, for the separation of the layers. The process was sometimes assisted by the agency of ether, and the layers were dried by the action of a stream of air warmed gradually up to the temperature of boiling water. 'After the chemical operation, the leaves of most of the fragments separated perfectly from each other, and the Greek characters were in a high degree distinct. . . . The MSS. were probably on shelves of wood, which were broken down when the roofs of the houses yielded to the weight of the superincumbent mass. Hence, many of them were crushed and folded in a moist state, and the leaves of some pressed together in a perpendicular direction . . . in confused heaps; in these heaps the exterior MSS. . . . must have been acted on by the water; and as the ancient ink was composed of finely divided charcoal suspended in a solution of glue or gum, wherever the water percolated continuously, the characters were more or less erased.' . . . Sir Humphrey Davy proceeds to state that, according to the information given him, the number of MSS. and fragments of MSS. originally deposited in the Naples Museum was 1,696; that of these 88 had then been unrolled and found to be legible; that 319 others had been operated upon, and more or less unrolled, but were illegible; that 24 had been sent abroad as presents; and that of the remaining 1,265 — which he had carefully examined — the majority were either small fragments, or MSS. so crushed and mutilated as to offer little hope of separation; whilst only from 80 to 120 offered a probability of success (and he elsewhere adds:—'this estimate, as my researches proceeded, appeared much too high'). . . . 'Of the 88 unrolled MSS. . . . the great body consists of works of Greek philosophers or sophists; nine are of Epicurus; thirty-two bear the name of Philodemus, three of Demetrius, one of each of these authors:— Colotes, Polystratus, Carneades, Chrysippus; and the subjects of these works, . . . and of those the authors of which are unknown, are either Natural or Moral Philosophy, Medicine, Criticism, and general observations on Arts, Life, and Manners.'"—E. Edwards, *Memoirs of Libraries, v.* 1, *bk.* 1, *ch.* 5.

Constantinople. — "When Constantine the Great, in the year 336, made Byzantium the seat of his empire, he in a great measure newly built the city, decorated it with numerous splendid edifices, and called it after his own name. Desirous of making reparation to the Christians, for the injuries they had sustained during the reign of his tyrannical predecessor, this prince commanded the most diligent search to be made after those books which had been doomed to destruction. He caused transcripts to be made of such books as had escaped the Diocletian persecution; to these he added others, and with the whole formed a valuable Library at Constantinople. On the death of Constantine, the number of books contained in the Imperial Library was only six thousand nine hundred; but it was successively enlarged by the emperors, Julian and Theodosius the younger, the latter of whom augmented it to one hundred thousand volumes. Of these, more than half were burnt in the seventh century, by command of the emperor Leo III., in order to destroy all the monuments that might be quoted in proof against his opposition to the worship of images. In this library was deposited the only authentic copy of the Council of Nice: it has also been asserted that the works of Homer, written in golden letters, were consumed at the same time, together with a magnificent copy of the Four Gospels, bound in plates of gold to the weight of fifteen pounds, and enriched with precious stones. The convulsions that weakened the lower empire, were by no means favourable to the interests of literature. During the reign of Constantine Porphyrogennetus (in the eleventh century) literature flourished for a short time: and he is said to have employed many learned Greeks in collecting books for a library, the arrangement of which he superintended himself. The final subversion of the Eastern Empire, and the capture of Constantinople by Mohammed II., A. D. 1453, dispersed the literati of Greece over Western Europe: but the Imperial Library was preserved by the express command of the conqueror, and continued to be kept in some apartments of the Seraglio; until Mourad (or Amurath) IV., in a fit of devotion, sacrificed (as it is reported) all the books in this Library to his hatred against the Christians."—T. H. Horne, *Introduction to the Study of Bibliography, pp.* 23–25.

Tripoli.—Destruction of Library by Crusaders. See CRUSADES: A. D. 1104–1111.

Mediæval.

Monastic Libraries.—"In every monastery there was established first a library, then great studios, where, to increase the number of books, skilful caligraphers transcribed manuscripts; and finally, schools, open to all those who had need of, or desire for, instruction. At Montierender, at Lorsch, at Corvey, at Fulda, at St. Gall, at Reichenau, at Nonantula, at Monte Cassino, at Wearmouth, at St. Albans, at Croyland, there were famous libraries. At St. Michael, at Luneburg, there were two — one for the abbot and one for the monks. In other abbeys, as at Hirschau, the abbot himself took his place in the Scriptorium, where many other monks were occupied in copying manuscripts. At St. Riquier, books bought for high prices, or transcribed with the utmost care, were regarded as the most valuable jewels of the monastery. 'Here,' says the chronicler of the abbey, counting up with innocent pride the volumes which it contained — 'here are the riches of the cloister, the treasures of the celestial life, which fatten the soul by their sweetness. This is how we fulfil the excellent precept, Love the study of the Scriptures, and you will not love vice.' If we were called upon to enumerate the principal centres of learning in this century, we should be obliged to name nearly all the great abbeys whose founders we have mentioned, for most of them were great homes of knowledge. . . . The principal and most constant occupation of the learned Benedictine nuns was the transcription of manuscripts. It can never be known how many services to learning and history were rendered by their delicate hands throughout the middle ages. They brought to the work a dexterity, an elegance, and an assiduity which the monks themselves could not attain, and we owe to them some of the most beautiful specimens of the marvellous caligraphy of the period. . . . Nuns, therefore, were the rivals of monks in the task of enlarging and

fertilising the field of Catholic learning. Every one is aware that the copying of manuscripts was one of the habitual occupations of monks. By it they fed the claustral libraries already spoken of, and which are the principal source of modern knowledge. Thus we must again refer to the first beginning of the Monastic Orders to find the earliest traces of a custom which from that time was, as it were, identified with the practices of religious life. In the depths of the Thebaïde, in the primitive monasteries of Tabenna, every house . . . had its library. There is express mention made of this in the rule of St. Benedict. . . . In the seventh century, St. Benedict Biscop, founder and abbot of Wearmouth in England, undertook five sea-voyages to search for and purchase books for his abbey, to which each time he brought back a large cargo. In the ninth century, Loup of Ferrières transformed his monastery of St. Josse-sur-Mer into a kind of depot for the trade in books which was carried on with England. About the same time, during the wars which ravaged Lombardy, most of the literary treasures which are now the pride of the Ambrosian library were being collected in the abbey of Bobbio. The monastery of Pomposa, near Ravenna, had, according to contemporaries, a finer library than those of Rome or of any other town in the world. In the eleventh century, the library of the abbey of Croyland numbered 3,000 volumes. The library of Novalese had 6,700, which the monks saved at the risk of their lives when their abbey was destroyed by the Saracens in 905. Hirschau contained an immense number of manuscripts. But, for the number and value of its books, Fulda eclipsed all the monasteries of Germany, and perhaps of the whole Christian world. On the other hand, some writers assure us that Monte Cassino, under the Abbot Didier, the friend of Gregory VII., possessed the richest collection which it was possible to find. The libraries thus created by the labours of monks became, as it were, the intellectual arsenals of princes and potentates. . . . There were also collections of books in all the cathedrals, in all the collegiate churches, and in many of the castles. Much has been said of the excessive price of certain books during the middle ages: Robertson and his imitators, in support of this theory, are fond of quoting the famous collection of homilies that Grecia Countess of Anjou bought, in 1056, for two hundred sheep, a measure of wheat, one of millet, one of rye, several marten-skins, and four pounds of silver. An instance like this always produces its effect; but these writers forgot to say that the books bought for such high prices were admirable specimens of caligraphy, of painting, and of carving. It would be just as reasonable to quote the exorbitant sums paid at sales by bibliomaniacs of our days, in order to prove that since the invention of printing, books have been excessive in price. Moreover, the ardent fondness of the Countess Grecia for beautiful books had been shared by other amateurs of a much earlier date. Bede relates that Alfred, King of Northumbria in the seventh century, gave eight hides of land to St. Benedict Biscop in exchange for a Cosmography which that book-loving abbot had bought at Rome. The monks loved their books with a passion which has never been surpassed in modern times. . . . It is an error to . . . suppose that books of theology or piety alone filled the libraries of the monks. Some enemies of the religious orders have, indeed, argued that this was the case; but the proof of the contrary is evident in all documents relating to the subject. The catalogues of the principal monastic libraries during those centuries which historians regard as most barbarous, are still in existence; and these catalogues amply justify the sentence of the great Leibnitz, when he said, 'Books and learning were preserved by the monasteries' It is acknowledged that if, on one hand, the Benedictines settled in Iceland collected the Eddas and the principal traditions of the Scandinavian mythology, on the other all the monuments of Greece and Rome which escaped the devastations of barbarians were saved by the monks of Italy, France, and Germany, and by them alone. And if in some monasteries the scarcity of parchment and the ignorance of the superiors permitted the destruction, by copyists, of a certain small number of precious works, how can we forget that without these same copyists we should possess nothing—absolutely nothing—of classic antiquity? . . . Alcuin enumerates among the books in the library at York the works of Aristotle, Cicero, Pliny, Virgil, Statius, Lucan, and of Trogus Pompeïus. In his correspondence with Charlemagne he quotes Ovid, Horace, Terence, and Cicero, acknowledging that in his youth he had been more moved by the tears of Dido than by the Psalms of David "—Count de Montalembert, *The Monks of the West, bk.* 18, *ch.* 4 (*v.* 6).—"It is in the great houses of the Benedictine Order that we find the largest libraries, such as in England at Bury St. Edmund's, Glastonbury, Peterborough, Reading, St. Alban's, and, above all, that of Christ Church in Canterbury, probably the earliest library formed in England. Among the other English monasteries of the libraries of which we still possess catalogues or other details, are St. Peter's at York, described in the eighth century by Alcuin, St. Cuthbert's at Durham, and St. Augustine's at Canterbury. At the dissolution of the monasteries their libraries were dispersed, and the basis of the great modern libraries is the volumes thus scattered over England. In general, the volumes were disposed much as now, that is to say, upright, and in large cases affixed to a wall, often with doors The larger volumes at least were in many cases chained, so that they could only be used within about six feet of their proper place; and since the chain was always riveted on the fore-edge of one of the sides of a book, the back of the volume had to be thrust first into the shelf, leaving the front edge of the leaves exposed to view. Many old volumes bear a mark in ink on this front edge; and when this is the case, we may be sure that it was once chained in a library; and usually a little further investigation will disclose the mark of a rivet on one of the sides. Regulations were carefully made to prevent the mixture of different kinds of books, and their overcrowding or inconvenient position; while an organized system of lending was in vogue, by which at least once a year, and less formally at shorter intervals, the monks could change or renew the volumes already on loan. . . . Let us take an example of the arrangement of a monastic library of no special distinction in A. D. 1400,—that at Titchfield Abbey,—describing it in the words of the register of the

monastery itself, only translating the Latin into English. 'The arrangement of the library of the monastery of Tychefeld is this:—There are in the library of Tychefeld four cases (columnae) in which to place books, of which two, the first and second, are on the eastern face; on the southern face is the third, and on the northern face the fourth. And each of them has eight shelves (gradus), marked with a letter and number affixed on the front of each shelf, that is to say, on the lower board of each of the aforesaid shelves; certain letters, however, are excepted, namely A, H, K, L, M, O, P, Q, which have no numbers affixed, because all the volumes to which one of those letters belongs are contained in the shelf to which that letter is assigned. [That is, the shelves with the letters A, H, K, etc., have a complete class of books in each, and in no case does that class overflow into a second shelf, so there was no need of marking these shelves with numbers as well as letters, in the way in which the rest were marked. Thus we should find 'B 1,' 'B 2,' 'B 3,' . . . 'B 7,' because B filled seven shelves; but 'A' only, because A filled one shelf alone.] So all and singular the volumes of the said library are fully marked on the first leaf and elsewhere on the shelf belonging to the book, with certain numbered letters. And in order that what is in the library may be more quickly found, the marking of the shelves of the said library, the inscriptions in the books, and the references in the register, in all points agree with each other. Anno Domini MCCCC.'. . . Titchfield Abbey was a Prœmonstratensian house, founded in the thirteenth century, and never specially rich or prominent; yet we find it with a good library of sixty-eight books in theology, thirty nine in Canon and Civil Law, twenty-nine in Medicine, thirty-seven in Arts, and in all three hundred and twenty-six volumes, many containing several treatises, so that the total number of works was considerably over a thousand."—F. Madan, *Books in Manuscript, pp.* 76–79.

Renaissance.

Italy.—On the revival of learning in Italy, "scarcity of books was at first a chief impediment to the study of antiquity. Popes and princes and even great religious institutions possessed far fewer books than many farmers of the present age. The library belonging to the Cathedral Church of S. Martino at Lucca in the ninth century contained only nineteen volumes of abridgements from ecclesiastical commentaries. The Cathedral of Novara in 1212 could boast copies of Boethius, Priscian, the Code of Justinian, the Decretals, and the Etymology of Isidorus, besides a Bible and some devotional treatises. This slender stock passed for great riches. Each of the precious volumes in such a collection was an epitome of mediæval art. Its pages were composed of fine vellum adorned with pictures. The initial letters displayed elaborate flourishes and exquisitely illuminated groups of figures. The scribe took pains to render his calligraphy perfect, and to ornament the margins with crimson, gold, and blue. Then he handed the parchment sheets to the binder, who encased them in rich settings of velvet or carved ivory and wood, embossed with gold and precious stones. The edges were gilt and stamped with patterns. The clasps were of wrought silver chased with niello. The price of such masterpieces was enormous. . . . Of these MSS. the greater part were manufactured in the cloisters, and it was here too that the martyrdom of ancient authors took place. Lucretius and Livy gave place to chronicles, antiphonaries, and homilies. Parchment was extremely dear, and the scrolls which nobody could read might be scraped and washed. Accordingly, the copyist erased the learning of the ancients, and filled the fair blank space he gained with litanies. At the same time it is but just to the monks to add that palimpsests have occasionally been found in which ecclesiastical works have yielded place to copies of the Latin poets used in elementary education. Another obstacle to the diffusion of learning was the incompetence of the copyists. It is true that at the great universities 'stationarii,' who supplied the text-books in use to students, were certified and subjected to the control of special censors called 'peciarii.' Yet their number was not large, and when they quitted the routine to which they were accustomed their incapacity betrayed itself by numerous errors. Petrarch's invective against the professional copyists shows the depth to which the art had sunk. 'Who,' he exclaims, 'will discover a cure for the ignorance and vile sloth of these copyists, who spoil everything and turn it to nonsense? If Cicero, Livy, and other illustrious ancients were to return to life, do you think they would understand their own works? There is no check upon these copyists, selected without examination or test of their capacity.' . . . At the same time the copyists formed a necessary and flourishing class of craftsmen. They were well paid. . . . Under these circumstances it was usual for even the most eminent scholars, like Petrarch, Boccaccio, and Poggio, to make their own copies of MSS. Niccolo de' Niccoli transcribed nearly the whole of the codices that formed the nucleus of the Library of the Mark. . . . It is clear that the first step toward the revival of learning implied three things: first, the collection of MSS. wherever they could be saved from the indolence of the monks; secondly, the formation of libraries for their preservation; and, thirdly, the invention of an art whereby they might be multiplied cheaply, conveniently, and accurately. The labour involved in the collection of classical manuscripts had to be performed by a few enthusiastic scholars, who received no help from the universities and their academical scribes, and who met with no sympathy in the monasteries they were bent on ransacking. . . . The monks performed at best the work of earthworms, who unwittingly preserve fragments of Greek architecture from corrosion by heaping mounds of mould and rubbish round them. Meanwhile the humanists went forth with the instinct of explorers to release the captives and awake the dead. From the convent libraries of Italy, from the museums of Constantinople, from the abbeys of Germany and Switzerland and France, the slumbering spirits of the ancients had to be evoked. . . . This work of discovery began with Petrarch. . . . It was carried on by Boccaccio. The account given by Benvenuto da Imola of Boccaccio's visit to Monte Cassino brings vividly before us both the ardour of these first explorers and the apathy of the Benedictines (who have sometimes been called the saviours of learning) with regard to the treasures of their own libraries. . . . 'Desirous of

seeing the collection of books, which he understood to be a very choice one, he modestly asked a monk—for he was always most courteous in manners.—to open the library, as a favour, for him. The monk answered stiffly, pointing to a steep staircase, "Go up; it is open." Boccaccio went up gladly; but he found that the place which held so great a treasure was without or door or key. He entered, and saw grass sprouting on the windows, and all the books and benches thick with dust. In his astonishment he began to open and turn the leaves of first one tome and then another, and found many and divers volumes of ancient and foreign works. Some of them had lost several sheets; others were snipped and pared all round the text, and mutilated in various ways. At length, lamenting that the toil and study of so many illustrious men should have passed into the hands of most abandoned wretches, he departed with tears and sighs. Coming to the cloister, he asked a monk whom he met, why those valuable books had been so disgracefully mangled. He answered that the monks, seeking to gain a few soldi, were in the habit of cutting off sheets and making psalters, which they sold to boys. The margins too they manufactured into charms, and sold to women.'. . . What Italy contained of ancient codices soon saw the light. The visit of Poggio Bracciolini to Constance (1414) opened up for Italian scholars the stores that lay neglected in transalpine monasteries. . . . The treasures he unearthed at Reichenau, Weingarten, and above all S. Gallen, restored to Italy many lost masterpieces of Latin literature, and supplied students with full texts of authors who had hitherto been known in mutilated copies. The account he gave of his visit to S. Gallen in a Latin letter to a friend is justly celebrated. . . . 'In the middle [he says] of a well-stocked library, too large to catalogue at present, we discovered Quintilian, safe as yet and sound, though covered with dust and filthy with neglect and age. The books, you must know, were not housed according to their worth, but were lying in a most foul and obscure dungeon at the very bottom of a tower, a place into which condemned criminals would hardly have been thrust; and I am firmly persuaded that if anyone would but explore those ergastula of the barbarians wherein they incarcerate such men, we should meet with like good fortune in the case of many whose funeral orations have long ago been pronounced. Besides Quintilian, we exhumed the three first books and a half of the fourth book of the Argonautica of Flaccus, and the Commentaries of Asconius Pedianus upon eight orations of Cicero.'. . . Never was there a time in the world's history when money was spent more freely upon the collection and preservation of MSS., and when a more complete machinery was put in motion for the sake of securing literary treasures."—J. A. Symonds, *Renaissance in Italy: The Revival of Learning, ch.* 8.

Modern.

Europe: Rise and growth of the greater Libraries.—In a work entitled "Essai Statistique sur les Bibliothèques de Vienne," published in 1835, M. Adrien Balbi entered into an examination of the literary and numerical value of the principal libraries of ancient and modern times. M. Balbi, in this work, shows that "the Imperial Library of Vienna, regularly increasing from the epoch of its formation, by means equally honorable to the sovereign and to the nation, held, until the French revolution, the first place among the libraries of Europe. Since that period, several other institutions have risen to a much higher numerical rank. . . . No one of the libraries of the first class, now in existence, dates beyond the fifteenth century. The Vatican, the origin of which has been frequently carried back to the days of St. Hilarius in 465, cannot, with any propriety, be said to have deserved the name of library before the reign of Martin the Fifth, by whose order it was removed from Avignon to Rome in 1417. And even then, a strict attention to the force of the term would require us to withhold from it this title, until the period of its final organization by Nicholas the Fifth, in 1447. It is difficult to speak with certainty concerning the libraries, whether public or private, which are supposed to have existed previous to the fifteenth century, both on account of the doubtful authority and indefiniteness of the passages in which they are mentioned, and the custom which so readily obtained, in those dark ages, of dignifying every petty collection with the name of library. But many libraries of the fifteenth century being still in existence, and others having been preserved long enough to make them the subject of historical inquiry before their dissolution, it becomes easier to fix, with satisfactory accuracy, the date of their foundation. We find accordingly, that, including the Vatican, and the libraries of Vienna, Ratisbon, and the Laurentian of Florence, which are a few years anterior to it, no less than ten were formed between the years 1430 and 1500. The increase of European libraries has generally been slowly progressive, although there have been periods of sudden augmentation in nearly all. Most of them began with a small number of manuscripts, sometimes with a few printed volumes, and often without any. To these, gradual accessions were made, from the different sources, which have always been more or less at the command of the sovereigns and nobles of Europe. In 1455, the Vatican contained 5,000 manuscripts. . . . Far different was the progress of the Royal Library of Paris. The origin of this institution is placed in the year 1595, the date of its removal from Fontainebleau to Paris by order of Henry the Fourth. In 1660, it contained but 1,435 printed volumes. In the course of the following year, this number was raised to 16,746, both printed volumes and manuscripts. During the ensuing eight years the library was nearly doubled; and before the close of the next century, it was supposed to have been augmented by upwards of 100,000 volumes more."—G. W. Greene, *Historical Studies, pp.* 278–281.—"The oldest of the great libraries of printed books is probably that of Vienna, which dates from 1440, and is said to have been opened to the public as early as 1575. The Town Library of Ratisbon dates from 1430; St. Mark's Library at Venice, from 1468; the Town Library of Frankfort, from 1484; that of Hamburg, from 1529; of Strasburg, from 1531; of Augsburg, from 1537; those of Berne and Geneva, from 1550; that of Basel, from 1564. The Royal Library of Copenhagen was founded about 1550. In 1671 it possessed 10,000 volumes; in 1748, about 65,000; in 1778, 100,000; in 1820, 300,000; and it now contains 410,000

volumes. The National Library of Paris was founded in 1595, but was not made public until 1737. In 1640 it contained about 17,000 volumes; in 1684, 50,000; in 1775, 150,000; in 1790, 300,000."—E. Edwards, *A Statistical View of the Principal Public Libraries in Europe and the U. S. of N. Am.* (*Journal of the Statistical Soc., Aug.*, 1848).

Germany.—According to "Minerva" (the "Year-book of the Learned World"), for 1893–94, the Royal Library at Berlin contains 850,000 printed books and 24,622 manuscripts; the Münich University Library, 370,000 books and 50,000 pamphlets, including 2,101 incunabula; the Leipsic University Library, 500,000 printed books, and 4,000 manuscripts; Heidelberg University Library, 400,000 bound volumes (including 1,000 incunabula), and 175,000 pamphlets and "dissertationen," with a large collection of manuscripts; Dresden Royal Public Library, 300,000 printed books (including 2,000 incunabula), 6,000 manuscripts, and 20,000 maps; Freiburg University Library, 250,000 volumes and over 500 manuscripts; Königsberg University Library, 220,000 volumes and 1,100 manuscripts; Tübingen University Library, 300,000 volumes and 3,500 manuscripts; Jena University Library, 200,000 volumes and 100,000 "dissertationen"; Halle University Library, 182,000 books and 800 manuscripts, besides 12,800 books, 35,000 pamphlets and 1,040 manuscripts in the Ponickausche Bibliothek, which is united with the University Library; Hamburg City Library, about 500,000 printed books and 5,000 manuscripts; Frankfort City Library (April, 1893), 326,139 volumes; Cologne City Library, 105,000 volumes, including 2,000 incunabula; Augsburg City and Provincial Library, about 200,000 volumes (including 1,760 incunabula) and 2,000 manuscripts; Göttingen University Library, 456,000 volumes of books and 5,300 manuscripts; Gotha Public Library, 200,000 printed books, including 1,029 incunabula, and 7,037 manuscripts, of which 3,500 are oriental; Greifswald University Library, 143 volumes of printed books and about 800 manuscripts; Bamberg Royal Public Library, 300,000 volumes, 3,132 manuscripts; Berlin University Library, 142,129 volumes; Bonn University Library, 219,000 volumes, including 1,235 incunabula, and 1,273 manuscripts; Bremen City Library, 120,000 volumes; Breslau University Library, 300,000 volumes, including about 2,500 incunabula, and about 3,000 manuscripts; Breslau City Library, 150,000 volumes and 3,000 manuscripts; Erlanger. University Library, 180,000 volumes; Hanover Royal Public Library, 180,000 books and 3,500 manuscripts; Hanover City Library, 47,000 volumes; Carlsruhe Grand-ducal Library, 159,842 books and 3,754 manuscripts; Kiel University Library, 217,039 volumes, 2,375 manuscripts; Colmar City Library, 80,000 volumes; Marburg University Library, 150,000 volumes; Strasburg University Library, 700,000 volumes; Strasburg City Library, 90,000 volumes; Weimar Grand-ducal Library, 223,000 volumes and 2,000 manuscripts; Würzburg University Library, 300,000 volumes.—*Minerva*, 1893–94.—"The Munich library, . . . in matter of administration, resembles the British Museum. Here one finds carefully catalogued that great wealth of material that appears only in doctorate theses, and for this reason is most valuable to the historic student. No tedious formalities are insisted upon, and orders for books are not subjected to long delays. The Vienna library moves slowly, as though its machinery were retarded by the weight of its royal imperial name. The catalogue is not accessible, the attendants are not anxious to please, and the worker feels no special affection for the institution. But at the royal library of Berlin there exists an opposite state of affairs—with the catalogue at hand one can readily give the information needful in filling up the call card. This being a lending library, one occasionally meets with disappointment, but, as the privilege of borrowing is easily had, this feature can have a compensatory side. The most marked peculiarity found here is the periodic delivery of books. All books ordered before nine o'clock are delivered at eleven; those before eleven, at one; those before one, at three; and those after three are delivered the same day if possible. This causes some delay, but as soon as the rule is known it has no drawback for the continuous user, and for the benefit of one who wants only a single order there is placed at the outer door of the building a box into which one can deposit the call card, and returning at the proper time find the book waiting in the reading room above. This saves the climbing of many steps, and enables one to perform other duties between ordering and receiving. As far as I know, here alone does one purchase the call cards, but as the price is only twenty cents per hundred the cost is not an important item."—J. H. Gore, *Library Facilities for Study in Europe* (*Educational Rev., June*, 1893).—In Berlin, "the report of the city government for 1889–90 reckons 25 public free libraries; 334,837 books were read by 14,900 persons, i. e., 17,219 volumes less than last year. The expenses were 26,490 marks, the allowance from the city treasury 23,400 marks [less than $6,000]."—*The Library Journal, May*, 1892.

France: The Bibliothèque Nationale.—"The history of the vast collection of books which is now, after many wanderings, definitely located in the Rue de Richelieu, divides itself naturally into three periods, which, for the sake of convenience, may well be called by three of the names under which the Library has, at different times, been known. The first period is that in which the Library was nothing more than the private collection of each successive sovereign of France, which sometimes accompanied him in his journeys, and but too often, as in the case of King John, or that of Charles VII., shared in his misfortunes; it was then fitly called the 'Bibliothèque du Roi.' This period may be considered as ending in the time of Henry IV., who transferred the royal collection from Fontainebleau to Paris, and gave it a temporary home in the Collège de Clermont. Although its abode has often been changed since, it has never again been attached to a royal palace, or been removed from the capital. The second period dates from this act of Henry the Fourth's, and extends down to the Revolution of 1789, during which time the Library, although open with but slight restrictions to all men of letters who were well recommended, and to the general public for two days a week, from the year 1692, was not regarded as national property, but as an appendage of the Crown, which was indeed graciously opened to the learned, but was only national

property in the same sense that the Queen's private library at Windsor is national property. Although still called the Bibliothèque du Roi during this period, it may well be here spoken of, for the sake of distinction, as the Bibliothèque Royale down to the Revolution. In 1791, the King's library was proclaimed national property, and it was decreed that it should henceforth be called 'Bibliothèque Nationale,' which name it bore till the coronation of Napoleon as Emperor of the French, in 1805, when it was styled 'Bibliothèque Impériale.' Of course it was Bibliothèque Royale again in 1815, 'Nationale' in 1848, and once again, in 1852, was declared to be the 'Bibliothèque Impériale.'"—*Imperial Library of Paris* (*Westminster Rev., April*, 1879).—After the fall of the Second Empire, the great library again became "Nationale" in name. According to a report made in the spring of 1894, the Bibliothèque Nationale of France contained, at the end of the previous year, 1,934,154 "'numbers,' forming at least 2,600,000 volumes." This report was made by a committee of twenty persons, appointed to consider the advisability and method of printing the catalogue of the library. The conclusions of the committee are favorable to the printing of the catalogue.—*The Nation, May* 17, 1894.—Books come to the National Library "in three ways: from (1) gifts, about 3,000 a year; . . . (2) purchase, 4,500 (the library has $20,000 a year to spend on books and binding); (3) copyright, 22,000 articles and 6,000 pieces of music. The printer, not the publisher, is bound to make the deposit, so that if the text and the illustrations are printed at different places there is a chance, unless every one is careful, that the library will have an imperfect copy. But the greatest trouble comes from periodicals, of which the Bibliothèque Nationale receives 3,000. What would some of our librarians think of this who are inclined to boast or to lament that they receive 300? Every number of every newspaper in France must be received, sent for if it fails to come, registered, put on its pile, and at the end of the year tied up in a bundle and put away (for only the most important are bound). . . . The titles of new books are printed in a bulletin in two series, French and Foreign (causing a printer's bill of 5,000 francs a year). This began in 1875 for the foreign, and in 1882 for the French. These bulletins are cut up and the titles mounted on slips, which are fastened in a Leyden binder, three making a small folio page. The result is a series of 900 volumes, less easy to consult than a good card catalog, very much less easy than the British Museum pasted catalog, the Rudolph books, or the Rudolph machine. . . . The books received at the Bibliothèque Nationale before 1875 and 1882 are entered on some 2,000,000 slips, which are divided between two catalogs, that of the old library ('fonds ancien'), and of the intermediate library ('fonds intermédiarie'). In each of these catalogs they are arranged in series according to the subject divisions given above and under each subject alphabetically. There is no author catalog and the public are not allowed to consult these catalogs. If then a reader asks for a work received before 1875 the attendant guesses in which 'fonds' it is and what subject it treats of; if he does not find it where he looks first he tries some other division. No wonder it takes on an average half an hour for the reader to get his book. I must bear witness to the great skill which necessity has developed in the officials charged with this work. Some of their successes in bringing me out-of-the-way books were marvellous. On the other hand, when they reported certain works not in the library I did not feel at all sure that they were right, and I dare say they doubted themselves. All this will be changed when the library gets a printed alphabetical catalog of authors and has made from it a pasted alphabetical catalog of subjects. The author catalog, by the way, is expected to fill 40,000 double-columned quarto pages . . . The library now has 50 kilometres (31 miles) of shelves and is full. A new store-house is needed and a public reading room ('salle de lecture'), which can be lighted by electricity, and be opened, like the British Museum, in the evening."—C. A. Cutter, *Notes on the Bibliothèque Nationale* (*Library Journal, June*, 1894).—**Paris Municipal Libraries.**—"The Bibliothèques Municipales de Paris have undergone a rapid development within the last few years. In 1878 there were only nine altogether, of which five were little used, and four practically unused. A special Bureau was then appointed by the Municipal Council to take charge of them, with the result that altogether 22 libraries have been opened, while the number of volumes lent rose from 29,339 in 1878 to 57,840 in 1879, to 147,567 in 1880, to 242,738 in 1881, and to 363,323 in 1882. . . . A sum of 8,050 francs is placed at the disposal of each library by the Municipal Council, which is thus appropriated; Books and Binding, Fr. 1,750; Librarian, 1,000; Attendant, 300. The amount of the sums thus voted by the Municipal Council in the year 1883 was 110,150 fr. For the year of 1884 the sum of 171,700 fr. has been voted, the increase being intended to provide for the establishment of fifteen new libraries in Communal Schools, as well as for the growing requirements of some of the libraries already established. The individual libraries are not, of course, as yet very considerable in point of numbers. The stock possessed by the twenty-two Bibliothèques Municipales in 1882 was 87,831 volumes, of which 20,411 had been added during that year. Information received since the publication of M. Dardenne's Report places the number in 1883 at 98,843 volumes. . . The libraries are open to the public gratuitously every evening from 8 to 10 o'clock, and are closed on five days only during the whole year. Books may be read in the library or are lent out for home use. . . . Music is lent as well as books, the experiment having been first tried at the Mairie of the second arrondissement, in 1879, and having proved so successful that nine arrondissements have followed suit, and the total number of musical issues from the ten libraries in 1882 was 9,085. . . . Beside these libraries under the direction of the Mairies, there are a certain number of popular free libraries established and supported by voluntary efforts. Without dwelling upon the history of these libraries, all of which have been formed since 1860, it may be stated that there are now fourteen such libraries in as many arrondissements."—E. C. Thomas, *The Popular Libraries of Paris* (*Library Chronicle, v.* 1, 1884, *pp.* 13–14).—"The 'Journal Officiel' contains in the number for Aug. 29, of this year (1891), the substance of the following account: . . . The city of Paris has now 64 public libraries, all of which send out books

and accommodate readers in their halls; they are open at the times when the factories and shops are closed. . . . The libraries are kept in the mayoralty buildings or ward district schoolhouses; a central office provides for the administration and support, while in each precinct a committee of superintendence attends to the choice and ordering of new accessions. All expenses are paid by the city, which, in its last budget, in 1890, appropriated therefor the trifle of 225,000 francs. On every library in full use are bestowed yearly about 2,400 francs, while 14,000 francs are employed in founding new ones. The number of books circulated in 1890 was 1,386,642, against 29,339 in 1878, in the nine libraries then existing. In 1878 there was an average of only 3,259 readers for each library, and in the last year the average was 23,500, which shows a seven-fold use of the libraries."—*Public Libraries in Paris; tr. from the Borsenblatt, Oct.* 7, 1891 (*Library Jour., May*, 1892).—**Other Libraries.**—A library of importance in Paris second only to the great National is the Mazarin, which contains 300,000 volumes (1,000 incunabula), and 5,800 manuscripts. The Library of the University has 141,678 volumes; the Library of the Museum of Natural History has 140,850 books and 2,050 manuscripts; the Sainte-Genevieve Library contains 120,000 volumes and 2,392 manuscripts; the Library of the City of Paris, 90,000 volumes and 2,000 manuscripts. The principal libraries of the provincial cities are reported as follows: Caen Municipal Library, 100,000 volumes, 620 manuscripts; Dijon Municipal Library, 100,000 volumes, 1,558 manuscripts; Marseilles City Library, 102,000 volumes, 1,656 manuscripts; Montpelier City Library, 120,000 volumes; Nantes City Library, 102,172 volumes, 2,231 manuscripts; Rheims Library, 100,000 books and 1,700 manuscripts; Lyons City Library and Library of the Palace of Arts, 160,000 volumes and 1,900 manuscripts; Toulouse City Library, 100,000 volumes and 950 manuscripts; Rouen City Library, 132,000 printed books and 3,800 manuscripts; Avignon, 117,000 volumes and 3,300 manuscripts; Bordeaux, 160,000 volumes, 1,500 manuscripts; Tours, 100,000 volumes and 1,743 manuscripts; Amiens, 80,000 volumes, 1,500 manuscripts; Besançon, 140,000 volumes and 1,850 manuscripts.—*Minerva*, 1893–94.

Italy.—"There are in Italy between thirty and forty libraries which the present National Government, in recognition of former Governmental support, is committed to maintain, at least in some degree. It is a division of resources which even a rich country would find an impediment in developing a proper National Library, and Italy, with its over-burdened Treasury, is far from being in a position to offer the world a single library of the first class. . . . Italy, to build up a library which shall rank with the great national libraries of the future, will need to concentrate her resources; for though she has libraries now which are rich in manuscripts, she has not one which is able to meet the great demands of modern scholarship for printed books. . . . If with this want of fecundity there went a corresponding slothfulness in libraries, there would be little to be hoped of Italy in amassing great collections of books. In some respects I have found a more active bibliothecal spirit in Italy than elsewhere in Europe, and I suspect that if Italian unification has accomplished nothing else, it has unshackled the minds of librarians, and placed them more in sympathy with the modern gospel which makes a library more the servant than the master of its users. I suspect this is not, as a rule, the case in Germany. . . . I have certainly found in Italian librarians a great alertness of mind and a marked eagerness to observe the advances in library methods which have taken place elsewhere during the last five and twenty years. But at the same time, with all this activity, the miserable bureaucratic methods of which even the chance stranger sees so much in Italy, are allowed to embarrass the efforts of her best librarians. . . . In the present condition of Italian finances nothing adequate to the needs of the larger libraries can be allowed, and the wonder is that so much is done as is apparent; and it is doubtless owing to the great force of character which I find in some of the leading librarians that any progress is made at all. During the years when the new Italian kingdom had its capital in Florence a certain amount of concentration started the new Biblioteca Nazionale Centrale on its career; and when later the Government was transferred to Rome, the new capital was given another library, got together in a similar way, which is called the Biblioteca Nazionale Vittorio Emanuele. Neither collection is housed in any way suited to its functions, and the one at Florence is much the most important; indeed it is marvellously rich in early printed books and in manuscripts."—J. Winsor, *The condition of Italian Libraries* (*The Nation, July* 9, 1891).—**The Vatican Library.**—"Even so inveterate a hater of literature as the Calif, who conquered Alexandria and gave its precious volumes to the flames, would have appreciated such a library as the Vatican. Not a book is to be seen—not a shelf is visible, and there is nothing to inform the visitor that he is in the most famous library in the world. . . . The eye is bewildered by innumerable busts, statues, and columns. The walls are gay with brilliant arabesques, and the visitor passes through lofty corridors and along splendid galleries, finding in every direction something to please and interest him. . . . The printed books number about 125,000 volumes and there are about 25,000 manuscripts. The books and manuscripts are enclosed in low wooden cases around the walls of the various apartments, the cases are painted in white and gold colors, and thus harmonize with the gay appearance of the walls and ceilings. . . . The honor of founding the Vatican Library belongs to Pope Nicholas V., who, in 1447, transferred to the Palace of the Vatican the manuscripts which had been collected in the Lateran. At his death the library contained 9,000 manuscripts, but many of them were dispersed under his successor, Calixtus III. Sixtus IV. was very active in restoring and increasing the library. In 1588, the present library building was erected by Sixtus V., to receive the immense collection obtained by Leo X. In the year 1600 the value of the library was greatly augmented by the acquisition of the collection of Fulvius Ursinus and the valuable manuscripts from the Benedictine Monastery of Bobbio, composed chiefly of palimpsests. . . . The next acquisition was the Library of the Elector Palatine, captured in 1621, at Heidelberg, by De Tilley, who presented it to Gregory XV. It numbered

2,888 manuscripts, 1,956 in Latin, and 432 in Greek. In 1658 the Library founded by Duke Federigo de Urbino—1,711 Greek and Latin manuscripts—was added to the valuable collection. One of the most valuable accessions was the collection of Queen Christina of Sweden, containing all the literary works which her father, Gustavus Adolphus, had captured at Prague, Bremen, etc., amounting to 2,291 manuscripts, Greek and Latin. In 1746 the magnificent library of the Ottobuoni family, containing 3,862 Greek and Latin manuscripts, enriched the Vatican collection. After the downfall of Napoleon and the restoration of the peace of Europe in 1815, the King of Prussia, at the suggestion of Humboldt, applied to Pope Pius VII for the restoration of some of the manuscripts which De Tilley had plundered from the Heidelberg Library. The Pope, mindful of the prominent part taken by Prussia in the restoration of the Papal See, immediately complied with the royal request, and many manuscripts of great value to the German historians were sent back to Germany."—E. L. Didier, *The Vatican Library* (*Literary World, June* 28, 1884) —The following recent statistics of other Italian libraries are from "Minerva," 1893–94: Florence National Central Library, 422,183 printed books, 398,845 pamphlets and 17,886 manuscripts; Rome, National Central Library of Victor Emmanuel, 241,978 books, 130,728 pamphlets, 4,676 manuscripts; Naples University Library, 181,072 printed books, 43,453 pamphlets, and 109 manuscripts; Bologna University Library, 251,700 books, 43,633 pamphlets and 5,000 manuscripts; Pavia University Library, 136,000 books, 80,000 pamphlets and 1,100 manuscripts; Turin National Library, 196,279 printed books and 4,119 manuscripts; Venice, National Library of St. Mark, 401,652 printed and bound books, 80,450 pamphlets, and 12,016 manuscripts; Pisa University Library, 108,188 books, 22,966 pamphlets and 274 manuscripts; Genoa University Library, 106,693 books, 46,231 pamphlets, and 1,586 manuscripts; Modena, the Este Library, 123,300 volumes, and 5,000 manuscripts; Padua University Library, 135,837 volumes, 2,326 manuscripts, and 63,849 pamphlets, etc.; Palermo National Library, 177,892 volumes and pamphlets, and 1,527 manuscripts; Palermo Communal Library, 209,000 books, 16,000 pamphlets, etc., 3,000 manuscripts; Parma Palatine Library, 250,000 books, 20,313 pamphlets, etc., 4,769 manuscripts; Siena Communal Library 67,966 volumes, 26,968 pamphlets, 4,890 manuscripts.

Austria-Hungary.— The principal libraries in the Empire are reported to contain as follows: Vienna University Library, 416,608 volumes, 373 incunabula, 498 manuscripts; Vienna Imperial and Royal Court Library, 500,069 volumes, 6,461 incunabula, and 20,000 manuscripts; Budapest University Library, 200,000 volumes, 1,000 manuscripts; Hungarian National Museum, 400,000 volumes and 63,000 manuscripts, mostly Hungarian; Czernowitz University Library, 64,586 volumes and over 30,000 pamphlets, etc.; Graz University 131,397 volumes of books and 1,708 manuscripts; Innspruck University Library, 135,000 printed books, including 1,653 incunabula, and 1,046 manuscripts; Cracow University Library, 283,858 volumes and 5,150 manuscripts; Lemberg University Library, 120,900 volumes; Prague University Library, 211,131 volumes, 3,849 manuscripts.— *Minerva*, 1893–94.

Switzerland.—The principal libraries of Switzerland are the following: Basle Public Library, 170,000 volumes of printed books and about 5,000 manuscripts; Berne City Library, 80,000 volumes and a valuable manuscript collection; Berne University Library, 35,000 volumes; St. Gall "Stiftsbibliothek," about 40,000 volumes, including 1,584 incunabula, and 1,730 manuscripts; Lucerne Cantonal Library, 80,000 volumes, Zurich City Library, 130,000 volumes. — *Minerva*, 1893–94.

Holland —The following statistics of libraries in Holland are given in the German handbook, "Minerva," 1893–94: Leyden University Library, 190,000 volumes of printed books and 5,400 manuscripts, of which latter 2,400 are oriental; Utrecht University Library, 200,000 volumes, besides pamphlets; Groningen University Library, 70,000 volumes

Belgium.—Brussels Royal Library, 375,000 volumes, and 27,000 manuscripts; Ghent, Library of the City and University of Gand, 300,000 volumes.

Denmark, Norway and Sweden.—The principal libraries of the Scandinavian kingdoms contain as follows: Christiania University Library, 312,000 volumes; Gothenburg City Library, about 60,000 volumes; Copenhagen University Library 300,000 books and 5,000 manuscripts; Lund University Library, 150,000 volumes; Stockholm Royal Library, 800,000 printed books and 11,000 manuscripts; Upsala University Library, 275,000 volumes and 11,000 manuscripts.—*Minerva*, 1893–94.

Spain.—The principal libraries in Spain are the following: Barcelona Provincial and University Library, 54,000 volumes; Madrid University Library, 200,761 volumes and 3,000 manuscripts; Madrid National Library, 450,000 volumes and 10,000 manuscripts; Salamanca University Library, 72,000 volumes and 870 manuscripts; Seville University Library, 62,000 volumes; Valencia University Library, 45,000 volumes; Valladolid University Library, 32,000 volumes.— *Minerva*, 1893–94.

Russia.—"The most notable [Russian] libraries are those founded by the government. Of these, two deserve special attention: the library of the Academy of Sciences and the Imperial Public Library in St. Petersburg. Books taken by the Russian armies from the Baltic provinces at the beginning of the eighteenth century formed the foundation of the first. The Imperial Library was the result of the Russian capture of Warsaw. Count Joseph Zalussky, bishop of Kiev, spent forty-three years collecting a rich library of 300,000 volumes and 10,000 manuscripts, devoting all his wealth to the purchase of books. His brother Andrew further enriched the library with volumes taken from the museum of the Polish king, John III. In 1747 Joseph Zalussky opened the library to the public, and in 1761 bequeathed it to a college of Jesuits in Warsaw. Six years later (1767) Zalussky was arrested and his library removed to St. Petersburg. The transfer took place in bad weather and over poor roads, so that many books were injured and many lost in transit When the library reached St. Petersburg it numbered 262,640 volumes and 24 500 estampes. Many had been stolen during the journey, and years later there were to be found in Poland books bearing the signature of Zalussky. To the Imperial Library

Alexander I. added, in 1805, the Dubrovsky collection. . . . Dubrovsky gathered his collection during a twenty-five years' residence in Paris, Rome, Madrid, and other large cities of Europe. He acquired many during the French revolution. . . . The Imperial Library possesses many palimpsests, Greek manuscripts of the second century, . . . besides Slavonian, Latin, French, and Oriental manuscripts. . . . The library is constantly growing, about 25,000 volumes being added every year. In income, size, and number of readers it vastly surpasses all private libraries in Russia, the largest of which does not exceed 25,000 volumes. In later years the village schools began to open libraries for limited circles of readers. Small libraries were successfully maintained in cities and the demand for good reading steadily increased among the people."—A. V. Babine, *Libraries in Russia*, (*Library Journal, March*, 1893).—The principal libraries of Russia reported in the German year-book, "Minerva," 1893-94, are the following: Charkow University Library, 123,000 volumes; Dorpat University Library, 170,000 volumes, and 104,700 dissertationen; Helsingfors University Library 170,000 volumes; Kasan University Library, 100,000 volumes; Kiev University Library, 118,000 volumes; Moscow University Library, 217,000 volumes; Odessa University Library, 102,000 volumes; St. Petersburg University Library, 215,700 volumes; St. Petersburg Imperial Public Library, 1,050,000 volumes, 28,000 manuscripts.

England: The King's Library and the British Museum.—"No monarch of England is known to have been an extensive collector of books (in the modern acceptation of the term) except George III., or, if the name of Charles I. should be added, it must be in a secondary rank, and with some uncertainty, because we have not the same evidence of his collection of books as we have of his pictures, in the catalogue which exists of them. A royal library had, indeed, been established in the reign of Henry VII.; it was increased, as noticed by Walpole, by many presents from abroad, made to our monarchs after the restoration of learning and the invention of printing; and naturally received accessions in every subsequent reign, if it were only from the various presents by which authors desired to show their respect or to solicit patronage, as well as from the custom of making new year's gifts, which were often books. There were also added to it the entire libraries of Lord Lumley (including those of Henry, Earl of Arundel, and Archbishop Cranmer), of the celebrated Casaubon, of Sir John Morris, and the Oriental MSS. of Sir Thomas Roe. Whilst this collection remained at St. James's Palace, the number of books amassed in each reign could have been easily distinguished, as they were classed and arranged under the names of the respective sovereigns. In 1759 King George II. transferred the whole, by letters patent, to the then newly-formed establishment of the British Museum; the arrangement under reigns was some time after departed from, and the several royal collections interspersed with the other books obtained from Sir Hans Sloane, Major Edwards, and various other sources. . . . George III., on his accession to the crown, thus found the apartments which had formerly contained the library of the Kings of England vacated by their ancient tenants. . . . Sir F. A. Barnard states that 'to create an establishment so necessary and important, and to attach it to the royal residence, was one of the earliest objects which engaged his majesty's attention at the commencement of his reign;' and he adds that the library of Joseph Smith, Esq., the British Consul at Venice, which was purchased in 1762, 'became the foundation of the present Royal Library.' Consul Smith's collection was already well known, from a catalogue which had been printed at Venice in 1755, to be eminently rich in the earliest editions of the classics, and in Italian literature. Its purchase was effected for about £10,000, and it was brought direct to some apartments at the Queen's Palace commonly called Buckingham House. Here the subsequent collections were amassed; and here, after they had outgrown the rooms at first appropriated to them, the King erected two large additional libraries, one of which was a handsome octagon. Latterly the books occupied no less than seven apartments. . . . Early in the year 1823, it was made known to the public that King George IV. had presented the Royal Library to the British nation. . . . Shortly after, the Chancellor of the Exchequer stated in the House of Commons that it was his majesty's wish that the library should be placed in the British Museum, but in a separate apartment from the Museum Library."—*Gentleman's Magazine*, 1834, *pp.* 16–22.—"In the chief countries of the Continent of Europe . . . great national Museums have, commonly, had their origin in the liberality and wise foresight either of some sovereign or other, or of some powerful minister whose mind was large enough to combine with the cares of State a care for Learning. In Britain, our chief public collection of literature and of science originated simply in the public spirit of private persons. The British Museum was founded precisely at that period of our history when the distinctively national, or governmental, care for the interests of literature and of science was at its lowest, or almost its lowest, point. As regards the monarchs, it would be hard to fix on any, since the dawn of the Revival of Learning, who evinced less concern for the progress and diffusion of learning than did the first and second princes of the House of Hanover. As regards Parliament, the tardy and languid acceptance of the boon proffered, posthumously, by Sir Hans Sloane, constitutes just the one exceptional act of encouragement that serves to give saliency to the utter indifference which formed the ordinary rule. Long before Sloane's time . . . there had been zealous and repeated efforts to arouse the attention of the Government as well to the political importance as to the educational value of public museums. Many thinkers had already perceived that such collections were a positive increase of public wealth and of national greatness, as well as a powerful instrument of popular education. It had been shewn, over and over again, that for lack of public care precious monuments and treasures of learning had been lost; sometimes by their removal to far-off countries; sometimes by their utter destruction. Until the appeal made to Parliament by the Executors of Sir Hans Sloane, in the middle of the eighteenth century, all those efforts had uniformly failed. But Sir Hans Sloane cannot claim to be regarded, individually or very specially, as the Founder of

the British Museum. His last Will, indeed, gave an opportunity for the foundation. Strictly speaking, he was not even the Founder of his own Collection, as it stood in his lifetime. The Founder of the Sloane Museum was William Courten, the last of a line of wealthy Flemish refugees, whose history, in their adopted country, is a series of romantic adventures Parliament had previously accepted the gift of the Cottonian Library, at the hands of Sir John Cotton, third in descent from its Founder, and its acceptance of that gift had been followed by almost unbroken neglect, although the gift was a noble one. Sir John, when conversing, on one occasion, with Thomas Carte, told the historian that he had been offered £60,000 of English money, together with a carte blanche for some honorary mark of royal favour, on the part of Lewis XIV., for the Library which he afterwards settled upon the British nation. It has been estimated that Sloane expended (from first to last) upon his various collections about £50,000; so that even from the mercantile point of view, the Cotton family may be said to have been larger voluntary contributors towards our eventual National Museum than was Sir Hans Sloane himself. That point of view, however, would be a very false, because very narrow, one. Whether estimated by mere money value, or by a truer standard, the third, in order of time, of the Foundation-Collections, — that of the 'Harleian Manuscripts,' — was a much less important acquisition for the Nation than was the Museum of Sloane, or the Library of Cotton; but its literary value, as all students of our history and literature know, is, nevertheless, considerable. Its first Collector, Robert Harley, the Minister of Queen Anne and the first of the Harleian Earls of Oxford, is fairly entitled to rank, after Cotton, Courten, and Sloane, among the virtual or eventual co-founders of the British Museum. Chronologically, then, Sir Robert Cotton, William Courten, Hans Sloane, and Robert Harley, rank first as Founders; so long as we estimate their relative position in accordance with the successive steps by which the British Museum was eventually organized. But there is another synchronism by which greater accuracy is attainable. Although four years had elapsed between the passing — in 1753 — of 'An Act for the purchase of the Museum or Collection of Sir Hans Sloane, and of the Harleian Collection of Manuscripts, and for providing one general repository for the better reception and more convenient use of the said Collections, and of the Cottonian Library and of the additions thereto,' and the gift — in 1757 — to the Trustees of those already united Collections by King George II. of the Old Royal Library of the Kings his predecessors, yet that royal collection itself had been (in a restricted sense of the words) a Public and National possession soon after the days of the first real and central Founder of the present Museum, Sir Robert Cotton. But, despite its title, that Royal Library, also, was — in the main — the creation of subjects, not of Sovereigns or Governments. Its virtual founder was Henry, prince of Wales [son of James I.]. It was acquired, out of his privy purse, as a subject, not as a Prince. He, therefore, has a title to be placed among the individual Collectors whose united efforts resulted — after long intervals of time — in the creation, eventually, of a public institution second to none, of its kind, in the world."— E. Edwards, *Founders of the British Museum*, *bk.* 1, *ch.* 1.— "Montague House was purchased by the Trustees in 1754 for a general repository, and the collections were removed to it. . . . On the 15th of January, 1759, the British Museum was opened for the inspection and use of the public. At first the Museum was divided into three departments, viz., Printed Books, Manuscripts, and Natural History; at the head of each of them was placed an officer designated as 'Under Librarian.' The increase of the collections soon rendered it necessary to provide additional accommodation for them, Montague House proving insufficient. The present by George III. of Egyptian Antiquities, and the purchase of the Hamilton and Townley Antiquities, made it moreover imperative to create an additional department — that of Antiquities and Art — to which were united the Prints and Drawings, as well as the Medals and Coins, previously attached to the library of Printed Books and Manuscripts. The acquisition of the Elgin Marbles in 1816 made the Department of Antiquities of the highest importance, and increased room being indispensable for the exhibition of those marbles, a temporary shelter was prepared for them. This was the last addition to Montague House. When, in 1823, the library collected by George III was presented to the nation by George IV. it became necessary to erect a building fit to receive this valuable and extensive collection. It was then decided to have an entirely new edifice to contain the whole of the Museum collection, including the recently-acquired library. Sir R. Smirke was accordingly directed by the Trustees to prepare plans. The eastern side of the present structure was completed in 1828, and the Royal Library was then placed in it. The northern, southern, and western sides of the building were subsequently added, and in 1845 the whole of Montague House and its additions had disappeared; while the increasing collections had rendered it necessary to make various additions to the original design of Sir R. Smirke, some of them even before it had been carried out."—J. W. Jones, *British Museum: a Guide*, *pp. ii–iii.* — "The necessity of a general enlargement of the library led to the suggestion of many plans — some impracticable — some too expensive — and all involving a delay which would have been fatal to the efficiency of the Institution. . . . Fortunately . . . after much vigorous discussion, a plan which had been suggested by the . . . Principal Librarian [Mr. Panizzi] for building in the vacant quadrangle, was adopted and carried out under his own immediate and watchful superintendence . . . The quadrangle within which the new library is built is 313 feet in length by 235 wide, comprising an area of 73,555 square feet. Of this space the building covers 47,472 feet, being 258 feet long by 184 feet in width, thus leaving an interval of from 27 to 30 feet all round. By this arrangement, the light and ventilation of the surrounding buildings is not interfered with, and the risk of fire from the outer buildings is guarded against. The Reading Room is circular. The dome is 140 feet in diameter, and its height 106 feet. The diameter of the lantern is 40 feet. Light is further obtained from twenty circular-headed windows, 27 feet high by 12 feet wide, inserted at equal intervals round the dome at a height of 85 feet from the ground. In its