THE

HISTORY OF CIVILIZATION,

BY

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HISTORY OF CIVILIZATION.

CHAPTER I.

EUROPE—ITS RELIGION.

The development of the religious element in Europe merits, from the student of history, the highest degree of attention. The religious faith that has actuated its different peoples, permeating its masses, and running along through its generations and centuries, has ever exercised a prodigious influence in moulding the elements of character, and in giving both direction and power to the exertion of every human energy. It has not alone been the direct subject of contest, thus entering immediately into the conflicts of nations; but has exerted a far wider, and a vastly more important influence in giving to character its strength, its high tone, and its more effective agency in the production of good or evil.

It has entered into the industrial pursuits of nations; and, to a large extent, directed, encouraged, suspended, palsied, and sustained, the arm of labor. It has become inwrought into the jurisprudence of state, and infused its spirit into the cold formalities of law. It has descended into the manners and customs of a people; taken its stand at the social board, mingled in the gay socialities of life, and imparted even to them a deeper tone of seriousness. It has ascended into their philosophy; laid its fingers upon

the pulse of speculation; demanded of the thinker that he should investigate the tendencies of his thought, and stamped upon all the productions of mind its own peculiar earnestness. It has invaded the domain of art; guided the chisel and the pencil; glowed on the canvas of Michael Angelo; and touched with seraphic fire the muse of Dante and of Milton. Thus while studying the religious element in Europe, we shall find ourselves seated at the well-spring of its civilization, and happy if we are able to trace its living streams as they are everywhere dispensing their active influence.

We shall investigate the religions of Europe in the following order:

I. The religion of the Celtic stock, that of Gaul and Britain, culminating in the institutions of the Druids.

II. The religion of the Teutonic stock, including that of the ancient Scandinavians.

III. The Roman hierarchy, including the organization, doctrine, instrumentalities, and practices of the Roman church.

IV. The Greek church.

V. Protestantism. Its origin, history, kinds of faith, effects.

Celtic Religion.

I. The religion of the Celtic stock. This is first taken up, as it is, undoubtedly, the most ancient religious faith in Europe; or the most ancient of any that we have any accurate knowledge of. As we have formerly seen of the three great waves of population that have rolled from the east over Europe, the Celtic was the first in the order of time; the Teutonic, the second, and the Slavic, the third. The Celtæ and the Cymri or Kimmerii are by some supposed to be branches of the

same stock,[1] and the Kimmerii are the Gomerii, the descendants of Gomer,[2] the eldest son of Japhet, and grandson of Noah.[3] It is hardly safe, however, to assert that the Celtæ and the Cymri, or Cimbri, are cognate branches of the same stock. The latter are traceable to the north of Europe, and were the early inhabitants of Jutland, or the Cimbric Chersonesus. They were Teutonic or Gothic in their origin, character and language. On the other hand the Celtæ are very generally admitted to have been of eastern origin, and present some evidence of having been a Phœnician colony. Having been the first wave of population that swept over Europe from the east, they are justly regarded as among the most ancient of people who inhabit the globe. It will, therefore, be both interesting and instructive to gather up and present all that is possible of the religion of this ancient people. We shall accordingly consider:

1. The countries where the Celtic religion prevailed, and its principal seat.
2. Its derivation and antiquity.
3. Its analogies with the ancient Persian, Indian and Egyptian religions, and with the Pythagorean doctrine.
4. Its priests and ministers.
5. Their various orders.
6. Their dresses and ornaments.
7. Their peculiar religious faith and belief. Their doctrines and deities.
8. Their places of worship.
9. Their forms of worship, rites, ceremonies, festivals, sacrifices, and principal maxims.
10. Their ideas of a future state.
11. Their knowledge and power in the state.
12. Their declension and extirpation.

[1] *Davies*, 124. [2] *Great Britain*, 1, 3. [3] *Constable's Miscellany.*

1. The countries where the Celtic religion prevailed and its principal seat.

The Celtic religion, which may be summed up in Druidism, prevailed probably through all the Celtic family of nations. This family, being the first to reach the western shores of Europe, peopled the British isles and the neighboring province of Gaul. It was amongst the ancient Britons that the institutions of the Druids more peculiarly flourished. Cæsar says that the Druids of Gaul came from Britain. Still we must suppose Gaul to have been first peopled, and that from thence Britain derived its inhabitants. Still it is rendered very clear that it was in Britain and its neighboring islands that the faith of Druidism was more especially nourished, and all its peculiar institutions attained there far more completeness than anywhere else. The remains of Druidism are found far more extensively in Britain and its neighboring isles than on the continent. It was there that it made its last stand against the aggressions of Rome. It was notorious that those desiring to be educated in its mysteries on the continent went over to Britain for that purpose. We may, therefore, well regard ancient Britain as the home of the Druid, although the Druidical faith, doctrines and rites, were probably coextensive with the Celtic race.

2. Its derivation and antiquity. Some have supposed that the Druidical doctrines were derived from Pythagoras, but it seems to be generally admitted that they have a greater antiquity than that philosopher, who died about four hundred and ninety-seven years before the Christian era. Druidism must be a more ancient system than the time of this philosopher, who appears to have borrowed his tenets from it. Valerius Maximus asserts that his opinions were those of the Celts, and Jamblichus says that he heard that his learning consisted of the Gallic and

Iberian mysteries.[1] These latter then must have been of a higher antiquity.

As the Celtic family of nations are of very early origin, it is easily presumed that the pure faith of the early patriarchs, together with the evidences attesting it, were transmitted to their descendants. But as the only vehicle of its transmission was tradition, it is evident that at each remove from one generation to its next succeeding one, it must continually lose its primitive purity, and become more and more debased with foreign matters.

There would be two sources of corruption, the one deriving its origin directly from man's fallen nature, receiving from that, from time to time, whatever is akin to it, while the other is found in the idolatries of surrounding nations, the precise influence of which it is difficult to estimate, but which must be conceded to possess great efficiency. Thus there are causes sufficient to account for its deviation from the purer faith and doctrines that might have existed at its origin. Without the written or printed record, by which the revelations of God can be stereotyped, and thus preserved from being mingled with the imperfections of man, it is obvious that no long period of time can ever be required to pervert the oracles of God, and transform them into creations of the human mind. The fallen nature of man, at every succeeding step, will continue to wander still further from God. Thus we shall cease our surprise that the Druid, during the course of ages, had achieved such a returnless distance from the purer faith of his ancestors.

The Druidical religion, therefore, must be a very ancient one, being probably an elder faith to that of almost any other nation.

[1] *Scottish Gael*, 446.

3. Its analogies with the ancient Persian, Indian and Egyptian religions, and with the Pythagorean doctrine. These, especially the three first, are all of early origin, and run back into a high antiquity. It might, therefore, naturally be expected that all these forms of faith, thus going back to the primitive periods of history, would have some features in common with each other. It is at once the evidence of a common origin, of common elements, and of being contemporaneous, or nearly so, with each other.

Analogies between the Persian, Indian and Egyptian, and Druidism are traceable :

First. In the fact that in each was a priesthood, a species of hierarchy, to whom was confided everything of a religious nature and appertaining to faith.

Second. In the fact that this priestly hierarchy did not confine itself to the offices of religion; but by means of the dispensation of justice, and the control it exercised over the nation's conscience, was enabled in reality to rule the people whose rights and religious faith it had in its keeping.

Third. In the fact that the great problems which formed the grand objects of their speculation were substantially the same. These were the nature of the deity — that of the human soul; of the future state; of the heavenly bodies; of the terrestial globe, and of its various productions.

Thus between the Persian Magi and the Druids were marked and peculiar analogies.

a. They were the sole ministers of religion.

b. They led a very austere and retired life.

c. They administered justice to the people.

d. With both the soul's immortality was an essential article of belief.

e. Both opposed the opinion which gave the gods a human original, and which divided them into male and female deities.

f. Neither had temples nor statues.

g. Both preserved a perpetual fire, and might be denominated fire worshipers.

With the Brahmins of India the following resemblances have been pointed out: These latter, like the Druids, "delighted in the deep shade of trees of gigantic growth, rocks of immense magnitude, caverns of the profoundest depth, altars eternally smoking with sacrifices. In their sacred ceremonies they used an infinite number of consecrated grasses, cautiously gathered under the benign aspect of some particular planet, with more especial reference to that of the silver empress of the night; their ablutions were innumerable, they were conversant with the most dreadful rites of magic, devoting their enemies to destruction with tremendous imprecations; they believed in the transmigration of the human soul, and were absorbed in astronomical speculations and physical researches." While the Brahmins venerated serpents, the Druids reverenced the anguinum, or serpent's egg. The Brahmins had their sacred staff, the Druids their magic wand. They alike venerated the circle, which adorns the hand of a Brahma, and which was a symbol of eternity with the Druid. They had each solemn rites of initiation, the Brahmin in the caves of Elephanta, and the Druid in the subterraneous recesses of Mona. Both were addicted to the worship of the sun, and preserved the sacred fire in the depths of their caverns. The Brahmins were the most venerated tribe of India; the Druids of Europe. The priests of each during solemn rites were arrayed in white robes. At some remote period in the past these two orders were probably united, or educated in the same great school

with the Magi of Persia and the Chaldees and Soothsayers of Babylon.

Not only are these analogies traceable between the Brahmins of India, the priests of Egypt, and the Persian magi, but they are also to be found as strong, and even stronger, between the ancient patriarchs and the Druids.

a. Both the Jews and the Celts had a sovereign pontiff, who was the head of the order.

b. Both pontiffs exercised immense power in religious and civil affairs, each reaching its highest point in the excommunication.

c. Both wore white garments, and assembled together once or more a year.

d. The Druids lived in woods and groves, and so did the patriarchs, the sons of the prophets.

e. The Jews offered up sacrifices, and had their scapegoat. The Druids also sacrificed, and in public calamities offered up human victims on whom they threw the curses that threatened them.

f. Both began their days from the evening, and distinguished the year into only three seasons, spring, summer and winter.

g. Both believed in the immortality of the soul.

h. Both, when liberty or life were in danger, endeavored to redeem it by one or more of their own servants.

Other analogies between these ancient orders will be more apparent as we unfold the mysteries of Druidism. What will explain these numerous and close analogies between the ancient patriarchs and Jews, among the Hebrews; the priest caste among the Egyptians; the Brahmins of India; the Magi of Persia; and we may, perhaps, add the Chaldees of Babylon and Assyria, and Druids among the Celts? The problem cannot be solved by supposing an intercourse carried on and kept up be-

tween them, so entirely different were they in their language, in the circumstances under which they existed, and in the wide intervals of space that separated them from each other. The only principle upon which it can be satisfactorily accounted for is a derivation of customs, usages and doctrines from a common source; from the early patriarchs, and through them, from Noah himself. Here we must seek for the common origin of those ideas which have made themselves known and felt on the banks of the Ganges, on the uplands of Persia, in the ancient city of Babylon, along the valley of the Nile, and through the ancient forests of Gaul and of Britain. It is pleasant to find these evidences of a common origin thus frequently presenting themselves to the student of history.

4. Its priests and ministers. These were the Druids, Druidesses, Bards, etc., which will better come up for consideration under the next following head.

5. Their various orders. At the head of this hierarchy stood the Druid. This term is variously derived. Some derive it from druthius, a servant of truth. Others from dry, a magician. Others from drus the Greek name of an oak. Others from dar, superior, and gwydd, a priest or inspector. Thus dar-gwydd, softened to der-wydd, and still more, Druid.

The Druids were the chief priests, and constituted the ruling class in the priestly hierarchy. They were the head, and enjoyed the monopoly of thought and control. With them lay the forces which sustained and perpetuated the priesthood.

With the extraordinary powers, which we shall see hereafter they possessed and exercised, we cannot suppose they would ever be wanting in numbers. They were not a self-perpetuating society or priesthood, but their society was open for new accessions, and thus a sympathy was

constantly kept up with the people. Their order was not fixed or confined to any particular families or nation of Britain or Gaul, but every man had power to stand candidate for it, and, if approved by the society, was admitted into it.[1]

In this single point we perceive a wide deviation from all the eastern priesthoods. The Egyptian, Brahmin, Magi, Chaldee, and Hebrew priesthood each composed a priest-caste, a peculiar stock, self-perpetuating, and receiving no accessions from any other class. The policy of the Druid in this respect was greatly the superior. It not only enabled him to keep in sympathy with the people, but by offering large inducements, kept the ranks of the priesthood always full from those who were the best and worthiest representatives of the people.

The result of this was, that the sons of the noblest families in the nation,[2] were those who were admitted. The order did not consist of strangers, but of the most illustrious descent which the Celtæ could boast. Their mysteries were confined within the Celtic pale, from which all were excluded except those who had been duly initiated.

They had besides special immunities. They were exempted from all taxes and tribute, from all military service and warlike engagements.[3] Hence princes were desirous of being admitted into their society. There was also, in further aid of their numbers, a prevailing superstition, that the greater the number of Druids, the greater would be the harvests and the plenty of the country.

They had a chief, or grand arch Druid, who acted as high priest.[4] He was invested with absolute authority over all the rest, and commanded, decreed, and punished, at pleasure. At his death, he was succeeded by the most

[1] *Universal History*, XVIII, 587. [2] *Davies*, 140. [3] *Bell*, I, 265. [4] *Idem*, 266.

learned and experienced among his survivors. If there were several candidates of equal merit, an election took place, which was sometimes terminated by arms.

Next in order to the Druids were the Bards, whose peculiar duty it was, to sing the praises of their heroes,[1] and to accompany their songs with musical instruments. Their compositions were held in the highest esteem, and were the only means of eternizing their distinguished men. It is said that so great was the power of these Bards, that by their interposition they could, at any time, put a stop to a battle between contending armies.

It was their business also, to accompany the Gaulish armies with their songs, which were calculated to inspire them with valor and intrepidity. They were also generally present at engagements, cheering on with loud shouts, or intimating danger if the fight was not valiantly kept up. By these means they were themselves the eye-witnesses of the valor they celebrated in song. While the Druids, therefore, presided over all religious matters, and bore a great sway in those of a civil nature, the bards were the recorders of events, and treasured up in their poetic compositions the knowledge of things and persons, making known to the public only what the Druids thought proper.

The Bards sang to the lyre or harp the actions of illustrious men. Those ancient relics of the British language called triads, have been regarded as genuine remains of the Druidical ages. In them the duties of the Bards are said to be "to reform morals and customs, to secure peace, and to celebrate the praises of all that is good and excellent." "Three things," they continue, "are forbidden to a Bard, immorality, to satirize, and to bear arms."

[1] *Universal History*, XVIII, 593.

A third order in this hierarchy were the Eubages, who were professors of natural philosophy, and the Vates, who executed many of the higher offices of religion, such as being present and performing, or assisting in the performing sacrifices, and also in the composition of hymns in honor of the gods. The Celtic nations called them faids or prophets.

There were also Druidesses, of whom there were three orders. The first were composed only of such as were under vows of perpetual virginity, and resided together in sequestered sisterhood. They practiced divination; professed the working of miracles; of prophecy; curing the most inveterate diseases; raising of storms; and converting themselves into all kinds of animals.

Another order, inferior to the first, was made up of those, who, though married, lived regularly in the places of worship which they served,[1] except one day in the year, when they were permitted an interview with their husbands.

Those of the third order were not only married, but lived constantly with their husbands in the ordinary manner.

6. The Druidical dresses and ornaments. The Druids had six different gradations, each distinguished by its own peculiar costume.

The first was the priest's habit without any decoration, differing from that of the laity only in shape, color, and cassock girdle.

The second wore a sash passing from the right shoulder across the body to the lower edge of the garment.

The third had a broad piece of stuff like a scarf, reaching round the neck and as low as the clothes, crossed with horizontal stripes, and loose without any girdle.

The fourth had about the same as last mentioned.

[1] *Bell*, I, 268.

The fifth wore a large sash suspended over the right shoulder across the body, the back and front being united.

The sixth was the arch Druid, who was completely covered by a long mantle and flowing robes, wearing an oaken crown, and carrying a sceptre. At religious ceremonies their garments were always white. The younger Druids were without beards, and were decorated with collars, bracelets, and armlets of brass; but the elders wore their hair very long, and the superior ones had their ornaments of gold.

7. Their peculiar religious faith and belief, their doctrines and deities.

In inquiring into the religious faith and deities of the Druids it is important to distinguish between those times prior to the conquest of Britain and Gaul by the Romans, and subsequent.

The Roman power and influence were effectual in introducing many of the Roman deities, and hence the account given by Cæsar and the subsequent Roman writers, should be considered as applying to a mixed state of things so far as regards their deities and religious faith. That mixed state is a matter of far less important inquiry. We shall, therefore confine ourselves entirely to the ancient Druidical faith and deities. And here a difficulty arises out of two things.

First. The Druids would permit nothing to be reduced to writing. With them the living memory was the only depository of their system of faith, or deities worshiped. The principles of their theological system were embraced in triads, which were very numerous, consisting altogether of some 20,000 verses. These were committed to memory by the Druids, the study and acquisition of them frequently occupying twenty years.

Second. The secrecy which impressed itself upon every act of the Druid. Instruction was given to the Druidical student in the most private manner. The gloomy cavern, or most retired recess of the dense forest was selected for that purpose, in order that their lessons might not be overheard. In some of the triads which remain, the injunction of secrecy is inforced, as in the following:

The shoots of the green topped birch
Will draw my foot out of a snare;
Reveal not the secret to a youth.

The shoots of the kindly oak
Will draw my foot out of a chain;
Reveal not the secret to a maid.

The shoots of the leafy oak
Will draw my foot out of prison;
Trust not the secret to thy voice.

These two difficulties stand in the way of our obtaining anything like a perfect knowledge of the old Druidical system. Only a part of their religious tenets was publicly communicated, the higher mysteries being reserved for those initiated into the Druidical order, who were sworn to keep that system of doctrines concealed from all men.

The studies of the Druids had embraced those elevated objects which had engaged the attention of the world in its primitive age,[1] such as the nature of the deity, the nature of the human soul, of the future state, of the heavenly bodies, of the terrestrial globe, and of its various productions.

It has been supposed that the principal secret of Druidism was the great doctrine of one God, the creator and

[1] *Davies*, 119.

governor of the universe, which was retained by them long after the commencement of their idolatries. It has also been believed that they recounted to their disciples a great part of the Mosaical history of the creation of the world, the formation and fall of man, the revolt and expulsion of the angels, the deluge, and the final destruction of the universe by fire.

The Druids divided the whole of existence into three circles or spheres. These were:

The circle of space which God alone can pervade.

The circle of courses which comprehended the material creation, and the condition or state of humanity.

The circle of happiness, which man would ultimately attain.

The circle of courses was that in which man, with all the works of nature, began in the great deep, or in the lower state of existence. This contained a mixture of good and evil. But man, endowed with a power of choice between good and evil, could bring all his passions and propensities to a just balance, and this condition was termed the point of liberty.[1] From thence he passed through the gate of mortality into the circle of happiness, no more to be the victim of adversity, want, or death.

But if he permitted evil affections to govern and predominate, such as pride, falsehood, or cruelty, that bias would sink him down from the circle of happiness. Death would return him to the circle of courses, allotting him a punishment, in due proportion to his moral turpitude. Here the soul was to do penance in a beast, or in a reptile, or in several of them successively. From this degradation it rose, at length, and reassumed the human form. Repeated probations and corrections would ultimately

[1] *Davies*, 185.

subdue all evil propensities. The point of liberty would be attained, and the divine particle would be introduced, by death, to infinite happiness.

Thus, according to this statement, the doctrine of the metempsychosis was a received doctrine of the Druids. Some, however, assert that such a change with the Druids related solely to other human bodies of the same sex. So also it has been suggested that their doctrine of immortality was represented under the metaphor of the soul passing into another body, only as being more easily comprehended. It is quite possible, that, like the priest caste among the Egyptians, they may have communicated to the people a different doctrine from what they themselves believed; or they may have taught, as symbols, what the people received as realities. The ideas they entertained of a future state are hereafter considered.

Another doctrine of the Druids which is embraced in one of their triads is the following: It commands,

To worship the gods,
To do no evil,
And to exercise fortitude.

It is rendered pretty evident, that prior to their intercourse with the Romans, the Druids worshiped one supreme being who was the sole object of worship, and to whom they gave the name of Beil, which is but the contraction for beauil, which signifies the life of everything,[1] or the source of all beings. This term seems to have been adopted by the Druids to express their conception of the nature of deity, and to guard against polytheism. To this august being there is good reason to suppose the Druids rendered the silent homage of the heart. But the minds

[1] *Bell*, 1, 270.

of the common people could not rise to such a conception. "They went forward, but could not find him; and backward, but could not perceive him." The Druids, like the priests of Egypt, felt the necessity of fixing upon some object or thing that would represent this invisible being.[1] They accordingly selected the sun, the great reviver of nature, as the fittest emblem of him who was the life of everything. In adopting the sun, or fire, as an emblem of the deity, and in presenting it to the people as an object of worship, it would seem that their religious notions bore some correspondence with those of the ancient Persian Magi.

There was also a further resemblance to the Magian faith in the fact that the Druids believed in an evil or inferior dæmon, who was ever endeavoring to counteract and oppose the designs of the great supreme. The existence of evil, and probably the traditionary accounts of its introduction originally by an evil spirit, has led to such an universality in the belief of the dæmon of evil.

The power and influence of the Romans corrupted the Druidical faith, and introduced polytheism. Subsequently, they worshiped Greek and Roman deities under Celtic names. These we shall not consider, as it is only the uncorrupted religious faith of the Druids that we proposed to notice.

8. Their places of worship.

The Druids taught their disciples, and performed their religious rites in caves, and the deep recesses of forests. The selection of the grove as the place of worship is not limited to the Druids. The Hebrews made choice of groves for the performance of their idolatries.

[1] *Bell*, I, 270.

Europe in early times was overspread with dense forests. There is much in them to awake solemnity. They are imposing in their leafy grandeur, and when agitated by the winds, they send forth voices that readily wake their echoes in every human heart. To retire into its deep recesses, where the music of the brook falls upon the ear, and the rocks and rills and thousand stately waving trees strike the eye, and the voices of the forest fill the soul, man feels what it is to be alone with God.

I wonder not that the Druid selected the forest as the scene of his devotions. It would be there that he would be far the most likely to feel the presence of the invisible God. Its immensity would proclaim the illimitable deity. Its silence would be solemn, and its thousand echoes fill the soul with the sense of a power above and beyond itself.

These groves were often held sacred, no one being permitted to cut them down, or even to approach them except with a religious awe.[1] There is an account of one held so sacred that no one was permitted to enter it without carrying with him a chain in token of his submission to the supreme being, and if he should happen to fall, none must dare to help him up, but he must either roll himself or crawl out of the place.

Within the gloom of the grove, or under the shade of some venerable oak,[2] and near the deep murmur of some stream, was their circle of stones, or clachan, which constituted their immediate place of worship. These clachans, or circles, within the consecrated pale of which Druids were alone admitted, were generally from twenty feet to twenty yards in diameter. They often exceeded this size when the Druids held their larger assemblies, or general

[1] *Universal History*, XVIII, 545. [2] *Bell*, I, 271.

meetings, and had within the outer precinct another lesser circle or square, which is supposed to have been the place of the arch Druid.

The stones forming these circles were often of vast size, some of them measuring from fifteen to twenty feet in height, and sometimes more, and ten or twelve in circumference. In the centre was a stone still larger than the surrounding ones, which served the purpose of an altar. When a single stone of sufficient size for this purpose could not be obtained, they substituted, in its place, a large oblong flag, supported by pillars.[1]

They had also altars without having this pale to proclaim their sanctity. The size of these was sometimes enormous. One was twenty-eight feet high, and about twenty in circumference. Another was thirty-six feet in circumference, twelve and a half in breadth, and more than four in thickness, being reared on a parcel of other stones, three or four feet above the earth's surface. A third was ninety-seven feet in circumference, sixty feet across the middle, and computed to be of the weight of seven hundred and fifty tons. Many of these altars and obelisks in the Highlands and Western isles remain at the present day, monuments of the power and resources of the Druids.

9. Their forms of worship, rites, ceremonies, festivals, sacrifices, and principal maxims.

The whole religion of the Druids was originally very simple.[2] It consisted in acknowledging that the supreme being, who made his abode in the sacred groves, governed the universe, and that every creature ought to obey his laws, and pay him divine homage. They regarded the oak as the emblem, or residence of the deity, and wore

[1] *Bell*, 1, 271. [2] *Idem* 266.

chaplets of it in their religious ceremonies. Their altars were strewed with its leaves, and encircled with its branches. The misletoe, a parasite that grew upon it, was more especially thought to contain a divine virtue, and to be the peculiar gift of heaven.

It was gathered with great ceremony in the following manner: It was sought on the sixth day of the moon. When found, a large concourse of people attended, and two white bulls were fastened by the horns under the oak. The arch Druid, dressed in white, then ascends the tree and, with a consecrated golden knife or pruning hook, crops the misletoe, and receives it in his sagum, or robe, amidst the rapturous exclamations of the people. Descending from the tree with the sacred plant, the bulls were sacrificed, and the deity invoked to bless his own gift, and render it efficacious in those distempers for which it should be administered. It was sacrilege in any person to cut it except the Druids. To this plant were attributed the most extraordinary virtues. It was supposed to bestow fertility on man and beast, to be a specific against poisons, a sovereign remedy in all diseases, and a preservative against apparitions and evil spirits.

Another superstition in which they indulged was the placing a thorough confidence in the eggs of serpents, which were gathered after a peculiar manner, and under a certain disposition of the moon. These they imagined effectual for the gaining of lawsuits, and procuring the good graces of princes.

Another ceremony was that termed the deasuil, which usually commenced and concluded the Druidical service. This consisted in pacing three times round an earthen walk which externally encompassed the altar or circle, and which is still visible at Stonehenge. This route was in imitation of the course of the sun, being from the east southward to

the west, and a contrary progress was called Cartua-suil, probably from car, a turn, and tauthal, the left hand, which constituted a most bitter imprecation. This custom or ceremony, is of very great antiquity, and has been supposed to be an imitation of the Jewish ceremony for blessing the altar of burnt offering, or of the march of the Israelites, round the walls of Jericho.

The sacred fires were celebrated twice a year, the principal one being on the first day of May, and dedicated to Belinus or the sun. On this, and the preceding day, great fires were kindled in all sacred places; and more especially two were lighted in every village through Gaul, Britain, Ireland and the isles; one on the summit of the cairn or altar, and another on the adjoining ground, and between the two a procession was made of the men and animals intended for sacrifice. A remnant of this remains even to the present day, as in Scotland and Ireland that day still retains the name of Beltaine or Bell's fire.

Similar fires were also kindled on the eve of the first of November, to which all the people were obliged to resort to relight their own private fires, which had been extinguished on the previous day. It was at this festival, that the nation acknowledged and supplicated the influence of heaven upon the harvest, and paid the yearly contributions to the ministers of religion.

I now proceed to the sacrifices, including those of human beings. It has been denied that there ever were any of these latter sacrifices, and that even those of the animal kind were not frequent, and then only of the more hurtful, such as the boar. The Gaelic language is said to contain no traces of such ceremonies; and the word expressive of sacrifice actually means "the offering of the cake." It seems extremely probable that while the religion of the Druids continued pure and uncontaminated by any foreign

customs, they offered only oblations of fine flour sprinkled with salt, and adored the supreme being in prayers and thanksgivings. But after they began to carry on commerce with the Phœnicians, they lost their original simplicity, and, in their sacrifices, even improved upon the barbarous practices of other nations.

Before commencing the sacred rites, the practice usually was, to wash away all impurities, by sprinkling and carrying fire from the priests, the assembly, the victims, and the sacrificial instruments; and when the priest had prayed, the victim was offered, having been first ritually devoted, with the salted meal, wine, and frankincense, which formed part of the offering. Then followed the libation, and, when the victim was dead, the blood was poured out, and the part to be burned placed upon the fire altar.

In these sacrifices were to be found the most inhuman features of Druidism. The priest not only sacrificed animals, and especially white bulls, but also human beings. These latter were sacrificed upon the principle that the life of man can only atone for the life of man. They, however, preferred criminals as being most acceptable to the gods, though when these were wanting, they did not scruple to offer the innocent, as captives, strangers, and even their own disciples.

There were various methods of destruction. Some were destroyed by arrows, and crucified in the sacred groves. Sometimes a wholesale mode of slaughter was adopted by constructing an immense statue of straw, or twisted oziers, which was filled entirely with wood, cattle, and human beings, and then all burnt together in one entire burnt offering.

The victims, it is said, were brought into the temples naked, and stained with the juice of herbs. When sacri-

ficed separately, they killed with one stroke of a sword above the diaphragm, and then by observing the posture in which he fell, together with his different convulsions, and the direction in which the blood flowed from his body, they formed their predictions of the future according to certain rules which had been left them by their ancestors.

The following maxims have been attributed to the Druids:

Everything that is born derives its origin from heaven.[1]

The misletoe ought to be gathered with great respect, and if possible at the sixth moon; and a golden sickle is to be used for that purpose.

The misletoe beaten to powder makes women fruitful.

The secret of sciences is not to be committed to writing, but to the memory.

Great care must be taken in the education of children.

It is necessary to be educated in the groves by the sacred priests.

Children are to be educated till the age of fourteen years, at a distance from their fathers and mothers.

The disobedient ought to be removed from sacrifices.

Let the disobedient be cast out; let them have no justice done them; let them be received into no company, nor be admitted into any office.

All heads of families are kings in their own houses; they have power of life and death over their wives, their children and their slaves.

Souls are immortal.

Souls pass into other bodies after the death of those which they have animated.

If the world perishes, it will be by fire or water.

[1] *Mayo*, II, 239.

On extraordinary occasions, a man must be sacrificed, and according as the body falls, or according as it moves when fallen; according as the blood flows, or according to the opening of the wound, shall future events be predicted.

The prisoners of war are to be slain upon the altars, or to be shut up in apartments of osier, to be burnt alive to the honor of the gods.

There is another world; and they who kill themselves to accompany their friends thither, shall live there with them.

Money lent in this world, shall be repaid to creditors in the next.

The letters given to the dying, or thrown into the funeral pile of the dead, are faithfully delivered in the other world.

Foreign commerce must not be permitted.

He who comes last to the assembly of the estates is to be punished with death.

The moon cures all, as her name in Celtic implies.

10. Their ideas of a future state.

The Druids believed in the immortality of the soul, and in a future state of rewards and punishments. We are told that their belief in a future state was so strong, that they were actually accustomed to fling the account books of the deceased into his grave, or, if he was burnt, into the fire,[1] in order that he might make such use of them in the next world, as would make his life more easy and comfortable there.

They also believed that rewards or punishments awaited the soul in a future state according as its good or bad conduct in this world should merit. In order to render the

[1] *Universal History*, p. 588, note f.

soul a proper recipient of these, they clothed it with a kind of airy vehicle, or lighter body, which was not altogether incapable of pleasure or pain.

The souls of the good and brave, whose conduct entitled them to rewards, after being released from the body, immediately entered Flath-innis, which signifies the island of the brave or virtuous. In this island their fancy pictured "an eternal spring, and an immortal youth, the sun always shedding there its kindest influence: gentle breezes fanned it, and streams of ever equal currents watered it. The trees were alive with music, and bending to the ground with flowers and fruit. The face of nature, always unruffled and serene, diffused on every creature happiness, and wore a perpetual smile of joy; whilst the inhabitants, strangers to everything that could give pain, enjoyed one eternal scene of calm festivity and gladness." [1]

This seems to have been modeled upon the first paradise, the tradition of which may have come down to the Druids. Its situation seems to have been in some calm, upper region, beyond the reach of the evils which infest this lower world. It was not like the Elysian fields of the Greek and Roman, a subterranean region. It had nothing in it, or in its approaches, of forbidding gloom. The passage was short and agreeable, and the soul, if clogged with no crime, ascended with joy as to its native element. This easy ascent to Flath-innis inspired the Celts with courage in the accomplishment of all things recommended by their Druids, and hence their contempt of death and intrepidity in war.

The souls of the wicked whose conduct merited punishment were sent to Isurin, the Druid's hell. This was a dark, dismal region, which no ray of sun-light ever

[1] *Bell's Pantheon*, I, 273.

visited. It was infested with animals, vile, venomous, and hurtful. There were serpents stinging and hissing, lions roaring, and wolves devouring. The wretch had not there the privilege of dying.[1] Different punishments were inflicted upon different grades of crime. The most criminal were confined to caverns or lower dungeons, the bottoms covered with snakes, the roofs distilling poisons. The least guilty had their residence assigned them in thick, fenny vapors, elevated above these dismal abodes. There were also regions of thick ribbed ice, and this gave the name Isurin, the isle of the cold land.

11. Their knowledge and power in the state.

The knowledge of the Druids is supposed by many to have been very profound.[2] They studied the stars and their motions, the magnitude of countries, the nature of things, and the power of the gods. They pretended to great skill in some branches of geography and astronomy, such as knowing the bigness and form of the earth, the motions of the planets, their influence, and also that of the stars. They endeavored to render this knowledge available in prying into the divine will, and in looking into futurity. It has even been asserted that by means of telescopes, or some analogous instruments, they could show the moon nearer, and discover mountains, rocks, etc., upon its surface.

They taught that there were seven elements, fire, earth, water, air, mist, atoms, and the animating winds; and also that there were seven sources of ideas,[3] perception, volition, and the five senses; coinciding in this respect, with John Locke. They held also that there were seven spheres, with seven real planets, and three that are aqueous. The planets were Sola, Luna, Marcarusia, Venerus, Seve-

[1] *Bell*, I, 274. [2] *Universal History*, XVIII, 588. [3] *Scottish Gael*, 468.

rus, and Saturnus. They also taught that there were five zones, two of which were uninhabited, one from excessive cold, and the other from excessive heat.

The Druids reckoned time by nights and not by days, and they made thirty years compose an age.

The knowledge of mathematics possessed by the Druids must also have been great. This is inferred from the astonishing temples, such as the Stonehenge which they erected. It is difficult to conceive, how, without the use of machinery, it was possible to bring together, and pile up such immense stones, poising them on their ends with such exact precision. It has been supposed that they were placed in the proper position by means of an inclined plane of earth, up which they were rolled, and at the highest end, slipped into their place. They are set on so perfect a perpendicular that, although some of the largest are not deeper in the ground than one and a half or two feet, yet they have never swerved from the upright position. It is a tradition that in the erection of these structures the Druids worked at night, and rested during the day.

The Druids were also physicians, but their real knowledge probably did not go beyond the use of simples. They intermixed astrology with medicine, and many mysterious practices.

The power they exercised in the state was enormous. They engrossed all real power, civil as well as religious. They were the ministers of justice, as well as the priests of religion. In their character of physician, priest, and judge, they ministered to the body, soul, and will. By means of divination, augury, astrology, and the mysteries of a dark religious faith, they could easily, by an appeal to hopes and fears, and to the superstitions of the ignorant, rule over the consciences, hearts, minds, and actions of men. The youth were educated by them, and the kings

themselves were their ministers, and could not without their consent, declare peace or war, nor even so much as call a council.[1]

12. Their declension and extirpation. The Roman invasion found the Druidical faith strongly prevailing in Britain. It was peculiar, entirely unlike the Roman, and could hold no sympathy with it. Its hostility to every other faith was never disguised or concealed.

The Romans were ever hostile to it. Augustus Cæsar forbade the Roman citizens to practice any of its rites. Tiberius banished them from Rome and the adjoining provinces. Claudius, in the year A. D. 45, destroyed the Druids in Gaul. About the same time the Romans assailed it in the southern parts of Britain. Worn out with age and sufferings, this once formidable phantom was forced to take shelter in the retired isles of Anglesea and Iona, where, although weak, it subsisted for some time.

The isle of Anglesea was subdued, in A. D. 61, by Suetonius Paulinus, governor of Britain under Nero. He cut down the sacred groves, destroyed the temples, overthrew the altars, and burned many of the Druids. It lingered in the groves of Mona until supplanted by Christianity in about the year A. D. 277.

Scandinavian Religion.

II. The religion of the Teutonic stock, including that of the ancient Scandinavians.

The subjects of inquiry presented under this head are vastly important. The Germanic races, including the Germans proper, the Saxons, the Danes, Norwegians, and other inhabitants of Scandinavia, have ever possessed and

[1] *Bell*, 1, 265.

developed great strength and power, both of body and mind. They have manifested powers of endurance; have displayed a fixedness of purpose; and a persistency in carrying out their original designs, unequaled by any other people, unless we except the ancient Romans. In illustration of this, it is only necessary to point to the Anglo-Saxon, and to note how his onward movements through successive centuries, over all countries, and in all climates, has dispensed everywhere the blessings of civilization and of progress. The inquiry must be fraught with immense consequences, what, and how developed, is that religious faith, which could animate natures of such inherent strength and power. This inquiry will be best conducted under the following general heads:

1. What was the primitive faith and worship of the Scandinavian, Saxon and German nations?

2. What were the religious beliefs and superstitions, which succeeded this primitive faith and worship?

3. What were the forms of worship, and religious ceremonies prevailing among these nations?

1. What was the primitive faith and worship of the Scandinavian, Saxon and German nations?

It is of great importance to notice that when we are able to trace back the religious belief of a people to some primitive era in their history, we almost invariably land in pure theism. Their original belief centered in the one God, in whom alone dwelt all the attributes of deity. This is undoubtedly attributable to one of two causes. Either the human mind when left to itself in its simple state, prior to the corrupting influences which it, in time, finds either in or out of itself, naturally falls into this kind of belief; or the traditions of the elder time have come down to the primitive era in the history of every people,

and upon their strength this belief is grounded. The further back we go towards the era of creation, the more uniformly do we find this belief entering into the life of every people.

It is, however, undoubtedly true, that the descent to polytheism and idolatry was owing to the efforts, and even, in some measure, to the progress of the human mind. As it enlarged, and acquired knowledge, it became unable to comprehend how the deity could immediately superintend all the works of creation, and especially the numberless acts proceeding from human volition. Hence the idea originated of ministers exercising a delegated power. Finally these latter being connected with the departments and agencies of nature, came at last to be venerated, first as the representatives of God, and ultimately as deities themselves. Thus the depravity of human nature is evidenced by the natural working of the human mind itself, totally irrespective of the influence of the passions or of any seductive influences that might be brought to bear upon it.

The early belief of the northern nations was that there was one God, the author, in the language of their Edda, "of everything that existeth; the eternal, the ancient, the living and awful being; the searcher into concealed things, the being that never changeth, who liveth and governeth during the ages, directeth everything which is high, and everything which is low. He lives forever, he governs all his kingdoms, both the small parts and the great. He made heaven and earth, and the air. He made man, and gave him a spirit, which shall live even after the body shall have vanished."

This early faith attributed to the supreme deity "an infinite power, a boundless knowledge, an incorruptible justice."

In perfect consistency with this idea was their refusal to confine him within any walled enclosures, or to circumscribe him with any outline, thus giving him any assigned form. Their places of worship were woods and forests, where the voices of nature seemed but echoes from the eternal.

From this supreme god, in process of time, originated an infinite number of subaltern deities or genii of which every part of the visible world was the seat and temple.[1] These intelligences presided over the operations of every department of nature. Each element was supposed to be under the guidance of some being peculiar to it. Even trees, forests, rivers, mountains, rocks, winds, thunder, tempests, each had its divinity. They regarded the deity as the active principle, which, by uniting with the earth or passive principle, had produced men, animals, plants, and all visible beings; believing that he was the only agent in nature, who preserves the several beings, and disposes of all events. To serve this divinity with sacrifices and prayers, to do no wrong to others, and to be brave and intrepid in themselves, were all the moral consequences they derived from these doctrines. These were the three fundamental precepts of morality, and to enforce these they invoked the aid of the life to come. All who had lived in the observance of them went, at death, to Valhalla, a land where heroes spent their days in martial sports; and their nights in feasting on the inexhaustible flesh of the boar scrimner, and drinking beer and mead from the skulls of the enemies whom they had slain; the cups being presented to them by virgins of exceeding beauty.

But the wicked went, at death, to Nifleheim, which was the dwelling of Hela or Death, whose looks struck terror into all beholders, whose palace was Anguish, her table

[1] *Mallet*, 89.

Famine, her waiters Expectation and Delay, the threshold of her door Precipice, and her bed Leanness.

2. What were the religious beliefs and superstitions, which succeeded this primitive faith and worship?

These consisted in the greater number of deities. The first step here was in still adhering to an all-presiding intelligence, but in giving to it aids and assistants, in various spirits, genii, and divinities of all kinds. In time, however, and what constituted the next step, was in restraining the supreme being to one particular province, and investing him with the character of the god of war. Hence Odin, or Woden, the principal of the northern deities, which signifies all-father, and is believed originally to have been the name of the true God.

He had terrible attributes. He was called the terrible and severe god; the father of slaughter; he who giveth victory, and reviveth courage in the conflict; who nameth those that are to be slain. The warriors vowed to send a certain number of souls, which were consecrated to him, and considered his right. Those who died sword in hand, he received at Valhalla, and amply rewarded. His assistance was implored in every war, and his aid invoked in every battle, and it was believed he often descended to intermix in the conflict. Notwithstanding this he was the all-father and creator, his bloody characters given him no doubt in deference to the spirit of the age. His worshipers transferred to him their own character and nature, and hence his delight in vengeance, desolation and slaughter. The fourth day of the week is called after him. It is Wednesday, Wodensday. The Odinic worship was not only spread over the Scandinavian nations, but also over most of Germany and the Netherlands.

The principal goddess among the northern nations of Europe was Frigg, Frigga, or Freia, the wife of Odin.

She, or according to others, another goddess, Freyja, was the goddess of love, dispensing pleasures, enjoyments, and delights, and always addressed to obtain happy marriages and easy childbirths. She gave the name to Friday, the sixth day of the week.

Another principal god among the Scandinavian and Germanic nations was Thor, the son of Odin, and the Edda calls him the most valiant of his sons. In the primitive religion he was probably one of the genii, or subaltern divinities. He gave the name to the fifth day of the week Thursday or Thorsday. He was looked upon as the defender and avenger of the gods.

He always carried about with him a ponderous hammer, which he grasped with gauntlets of iron, and the force of its terrible descent was irresistible. When discharged, it would always return back of itself to his hand.[1] He was also possessed of a girdle, which had the virtue to renew his strength whenever it became necessary.

These were the principal deities of the Scandinavian nations, although they were not all equally venerated by all. The Danes paid the highest veneration to Odin; the Norwegians and Icelanders to Thor, and the Swedes to Frigga or Frey, her brother, who was believed to preside over the seasons, bestowing peace, fertility and riches.

Some have sought to find in these three deities a species of trinity, Odin being the all-father, Frigga, the mother, and Thor the son; and they do, in fact, stand in about the same relations to each other as, in Egypt, we have seen existing between Osiris, Isis, and Orus, but there is little, if anything, of the trinity traceable in either.

All the gods worshiped by the Scandinavians were included together under the general name of Æsir. Of

[1] *Mallet*, 94.

these there were twelve besides Odin, the all-father, who had his own throne.

Thor, already mentioned, was the first of Odin's children. His second was Baldur, who was fair of aspect, and so bright that light issued from him. He was accounted the wisest, most eloquent, and most amiable of the Æsir.

The third son was Niord, who ruled the course of the wind, could still the ocean, and quench fire.[1] The seafarer and the fisherman invoked him, and he was the patron of temples and altars.

Another Frey was the son of Niord, and one of the most renowned of the Æsir. He presided over rain and sunshine, and the fruits of the earth. Also over the seasons, and the wealth of men. He was regarded as the god of the year, the giver of cattle, and the loosener of the bonds of the captive.

Another son of Odin by a giant mother was Ty or Tyr the boldest and stoutest of the Æsir. He was invoked by the warrior, and was the giver of victory. He was also famed for wisdom. Another one of the Æsir, and son of Odin, was Bragi, who was famed for wisdom and eloquence, and was profoundly skilled in the art of poetry.

Heimdall was called the white or bright god; he was born in the beginning of time on the boundary of the earth, of nine giant maidens, who were sisters, and was nourished with the strength of the earth, and the cold sea.

Hod (Hodur) another of the Æsir, was blind, but exceedingly strong.

Vidar, the son of Odin and the giantess Grid, was the silent god. He was called by a name signifying the owner of the iron shoe, and, after Thor, was accounted the strongest of the gods.

[1] *Thorpe, Mythology*, 1, 24.

Vali, a son of Odin and Rind, was stout in battle and an excellent archer.

Ull, the son of Sif and stepson of Thor, was a good archer, a rapid runner on snow shoes, warlike in habit and manner, and was invoked in single combats.

Forseti, a son of Baldur, was the settler of all quarrels, all the gods and men appealing to his judgment.

Loki is reckoned among the Æsir, although a traducer of the gods, and a scandal to both gods and men. He was comely in aspect, but evil-minded and capricious. He was the embodiment of the spirit of evil, full of guile and artifice, and always delighted in bringing the Æsir into perilous plights, from which, however, he generally, in the end, extricated them by his cunning. By Angurboda, a giantess from Jotunheim he had three remarkable children, viz: the wolf Fenris, Midgard's Serpent, and Hela, the goddess of the dead.

In the beginning of time, Odin and Loki were foster-brothers, having mingled their blood together.

Of the goddesses, the chief was Frigga the wife of Odin, and mother of the Æsir. She was the goddess of marriage, and knew the destiny of men.

Freyia, the daughter of Niord, delighted in love songs, and was invoked in love matters. Her chariot was drawn by two cats.

Idun, was the wife of Bragi, and kept in her casket the apples of which the gods must eat, when they began to grow old. They then again became young, and this process was to continue until their destruction.

There were several other goddesses, making in all twelve in number. Besides these, there were numerous virgins in Valhalla, whose offices were various; some to wait upon the heroes there, others were sent by Odin to choose in battle those who were to perish, and to make the victory

incline to whichever side he pleased. There were also three virgins who dispensed the days and ages of men. Every man was believed to have a destiny appropriated to himself, who determined the duration and events of his life. The three destinies of more especial note were Urd (the past), Verdandi (the present), and Skuld (the future).

The process of creation as described in the Edda is remarkable, and worthy of special attention.[1] It commences with a description of chaos: "In the day-spring of the ages, there was neither sea nor shore, nor refreshing breezes. There was neither earth below, nor heaven above, to be distinguished. The whole was only one vast abyss, without herb and without seeds. The sun had then no palace; the stars knew not their dwelling places; the moon was ignorant of her power.

"There was a luminous, burning, flaming world towards the south; and another, nebulous and dark, towards the north. From the latter world flowed out incessantly into the abyss that lay between the two, torrents of venom, which in proportion as they removed far away from their source, congealed in their falling into the abyss, and so filled it with scum and ice. Thus was the abyss by little and little filled quite full: but there remained within it a light and immovable air, and thence exhaled icy vapors. Then a warm breath coming from the south, melted those vapors, and formed of them living drops, whence was born the giant Ymir.

"It is reported that whilst he slept, an extraordinary sweat under his arm-pits produced a male and female, whence is sprung the race of the giants, a race evil and corrupt, as well as Ymir their author.

[1] *Mallet*, 97.

"Another race was brought forth, which formed alliances with that of the giant Ymir. This was called the family of Bor, so named from the second of that family, who was the father of Odin. The sons of Bor slew the giant Ymir, and the blood ran from his wounds in such abundance, that it caused a general inundation, wherein perished all the giants, except only one, who saving himself in a bark, escaped with all his family.

"Then a new world was formed. The sons of Bor, or the gods, dragged the body of the giant in the abyss, and of it made the earth. The sea and rivers were composed of his blood; the earth of his flesh; the great mountains of his bones; the rocks of his teeth, and of splinters of his bones broken. They made of his skull the vault of heaven, which is supported by four dwarfs, named North, South, East and West. They fixed these tapers to enlighten it, and assigned to other fires certain spaces which they were to run through, some of them in heaven, others under the heaven. The days were distinguished, and the years were numbered.

"They made the earth round, and surrounded it with the deep ocean, upon the outward banks of which they placed the giants. One day, as the sons of Bor, or the gods, were taking a walk, they found two pieces of wood floating upon the water. These they took, and out of them made a man and a woman. The eldest of the gods gave them life and souls; the second, motion and knowledge; the third, the gift of speech, hearing and sight, to which he added beauty and raiment. From this man and this woman, named Ask and Embla, is descended the race of men who are permitted to inhabit the earth."

Thus, according to that northern mythology, came earth and the race of man. Although wild and extravagant, yet we cannot fail to detect in it that elder tradition, that

appears in some of the earlier nations,[1] developing itself in the theogony of Hesiod, the mythology of some of the Asiatic nations, and in the opening of the Hebrew scriptures. Thus it commences with chaos. Then a vivifying breath produces the giant Ymir, asleep, during which a male and female spring from his sides, the race of the sons of the gods; the deluge, which only one man escapes, with his family, by means of a bark; the renewal of the world which succeeds, the first man and first woman created by the gods, and who receive from them life and motion; all point to an ancient form of belief, almost universal among the earlier nations. The identity of these traditions is among the proofs showing the identity of the race.

It is also a fact here noticeable that the creation, according to the ideas of these northern nations, was not the actual calling of matter into existence, but it was the animating and disposing of matter as we now behold it; the bringing of order out of confusion; thus proceeding upon the same principle as the account given by the sacred penman.

The northern nations not only surrendered nothing to chance, in the occurrence of natural phenomena, but they did not leave nature to work out its own results either of itself or in virtue of any laws originally impressed upon it. They did not take her away from the gods, and put her upon her own resources, but they animated her various forms, thus moving her by intelligent causes, and developing deity through her ever varying phenomena.[2]

This belief, however, was the fruitful parent of superstition. If nature really furnished so many tongues, each proclaiming the divine will, then all were significant, and none to be neglected. The quivering of the leaf, the

[1] *Mallet*, 99. [2] *Idem*, 100.

crackling and color of the flame, the fall of the thunderbolt, the flight or singing of the bird, men's involuntary motions, their dreams and visions, the movements of the pulse, and many other things were only so many intimations of the divine will proclaimed through the tongues of nature.

Hence the voices and the flights of birds were received as interpreters of the divine will. Horses were supposed to neigh from celestial inspiration,[1] and they decided their public deliberations by the wisdom of lots.

In order to explore the fate of an impending battle, the Saxons were accustomed to select a captive of the opposing nation, and let him fight with one of their own number. The issue enabled them to judge of their future victory or defeat.

The ancient Anglo-Saxons had their witchcraft, their charms, and their prognostics. They seem to have used philters. The charms used were innumerable. They trusted in their magical incantations for the cure of disease, for the success of their tillage, for the discovery of lost property, for uncharming cattle, and for the prevention of casualties.

Their prognostics from the sun and moon, from thunder, and from dreams, were very numerous. Every day of every month was catalogued as propitious or unpropitious for certain transactions.[2] Dreams, also, had regular interpretations and applications; and thus life hung vacillating between hope and fear, constantly preyed upon by the most meaningless superstitions.

Another legitimate result of this belief was, the surrendering up the actions of their lives to a resistless fatality. Their warriors complain that their destinies are

[1] *Turner, Anglo-Saxons*, I, 223. [2] *Idem*, III, 136–7.

inflexible. The eldest Norn, as the goddess of fate, attended human beings when at the point of death; and the influence of the Norns in the guiding of fate was metaphorically expressed as the weaving of a web. The Norns were of the race of dwarfs.

They also believed that the term of a man's life might be prolonged, if any one would put himself in his place and die in his stead. This was often practiced when a prince or illustrious warrior was ready to perish by some accident. In such case, Odin, content to have a victim, was supposed to revoke the decree of the destinies, and to lengthen the thread of life.

It is interesting to notice the final destiny of the world according to the belief of the northern nations.

"There will come a time," says the Edda,[1] "a barbarous age, an age of the sword when iniquity shall infest the earth, when brothers shall stain themselves with brother's blood, when sons shall be the murderers of their fathers, and fathers of their sons, when incest and adultery shall be common, when no man shall spare his friend. Immediately shall succeed a desolating winter; the snow shall fall from the four corners of the world, the winds shall blow with fury, the whole earth shall be hard bound in ice. Three such winters shall pass away without being softened by one summer. Then shall succeed astonishing prodigies; then shall the monsters break their chains and escape; the great serpent shall roll himself in the ocean, and with his motions the earth shall be overflowed; the earth shall be shaken,[2] the trees shall be torn up by the roots, the rocks shall be dashed against each other. The wolf, Feniri, broke loose from his chains, shall open his enormous mouth which reaches from heaven

[1] *Mallet*, 102. [2] *Idem*, 102.

to earth; the fire shall flash out from his eyes and nostrils, he shall devour the sun; and the great serpent who follows him shall vomit forth upon the waters, and into the air, great torrents of venom. In this confusion the stars shall fly from their places, the heaven shall cleave asunder, and the army of Surtur shall break in. But Heimdall, the doorkeeper of the gods, rises up, he sounds his clanging trumpet; the gods awake and assemble; the great ash tree shakes its branches; heaven and earth are full of horror and affright. The gods fly to arms; the heroes place themselves in battle array. Odin appears armed in his golden casque and his resplendent cuirass; his vast scimitar is in his hands. He attacks the wolf, Fenris; he is devoured by him, and Fenris perishes at the same instant. Thor is suffocated in the floods of venom which the serpent breathes forth as he expires. Loki and Heimdall mutually kill each other. The fire consumes everything, and the flame reaches up to heaven. But presently after, a new earth springs forth from the bosom of the waves, adorned with green meadows; the fields there bring forth without culture, calamities are there unknown, a palace is there raised more shining than the sun, all covered with gold. This is the place that the just will inhabit, and enjoy delights forever more. Then the powerful, the valiant, he who governs all things, comes forth from his lofty abodes, to render divine justice. He pronounces decrees. He establishes the sacred destinies which shall endure forever."

The idea of all nature awaiting a deliverance from the existing state of things,[1] and a renewal or exaltation of its blunted powers, is deeply impressed upon the human mind. It is also oriental, but manifests itself among

[1] *Thorpe, Mythology*, I, 206.

several nations under various forms, though essentially the same.

According to the northern mythology there were two different abodes for the happy after death, and as many for the miserable. The first of the former was Valhalla, the palace of Odin, where all the sons of men who had died a death of violence, were received by the god. The second seems only to have come into existence after the renovation of all things. It was called Gimli. It was a palace covered with gold, and was to be the eternal abode of the blessed, where they were to enjoy delights forever.

The first of the two last named was called Niffheim, which also terminated with the renovation of the world, while the second, called Nastrond, the shore of the dead, was to endure forever. It was, according to the Edda, a place remote from the sun, the gates of which face towards the north. Poison rains there through a thousand openings. The place is all composed of the carcasses of serpents, and there run certain torrents, in which are plunged perjurors and assassins.

Niffheim was a place sufficiently spacious, consisting of nine worlds, and was reserved exclusively for those who died of disease or old age. The despotic power of Hela, or death, was here exercised. She was livid and ghastly pale; and her looks inspired horror.

With such a future it is easy to see what should be the elements composing the character of the northern nations. Wild, dashing, brave, valuing life only as an achiever of heroic deeds the man of the north gloried in his high daring, ever anxious that his life should be the prey of violence, so that his death should send him to the hall of Odin. Hence the death song of Ruynar Lodbrok: "We are cut to pieces with swords; but this fills me with joy,

when I think of the feast that is preparing for me in Odin's palace. Quickly, quickly seated in the splendid habitation of the gods, we shall drink beer out of curved horns. A brave man fears not to die. I shall utter no timorous words as I enter the hall of Odin."

3. What were the forms of worship and religious ceremonies prevailing among these nations?

Under this head will come to be considered:

The priests or officers of religion.

The temple, the idol, the grove.

The altar.

The sacrifice.

The festivals.

The oracle, diviner and sorcerer.

Of the priests or officers of religion. Of these we have not very full accounts. We know, however, that the priestly organization was very different from the Druids. There we have seen prevailing a priestly hierarchy, perfect in its appointments and organization. In the Teutonic race, the priests have no such organization. Their functions embrace only the offices of religion, more particularly the numerous sacrifices which were offered. They appear, however, to have wielded immense power, and to have exerted a prodigious influence, even to the enormous extent of sacrificing the king himself when any great public calamity was impending over the people, admonishing that extraordinary efforts were required to appease the wrath of the gods.

The temple, the idol, the grove. There were very few temples among the Germans, none in the earliest periods of their history. In the interior of Germany it seems probable that none ever existed.[1] The Frisians are said to

[1] *Thorpe, Mythology*, I, 259–60.

have had temples. Those mentioned on the Rhine or in Gaul, may have been of Celtic origin. If the temples were few among the Germans, so also must have been the idols, as the heathen temple was originally a mere shelter or house for the image of the god.

In Scandinavia there seems originally to have been no temples or idols. But the northern nations experienced, in this respect, a change. They ultimately vied with each other in the erection of temples. That of Upsal in Sweden glittered on all sides with gold. Another, fully equal, was erected near Drontheim in Norway. Iceland had also its temples.

The great temple of Upsal was more especially consecrated to the three superior deities, each one of which was characterized by some particular symbol. Odin held in his hand a sword; Thor, a sceptre in one hand, and a mallet in the other; while Frey was represented as of both sexes, with attributes which characterized productiveness.

Around the temple was usually the sacred grove, or a solitary tree on which offerings were suspended. Such trees were supposed to possess great virtue in the cure of diseases. Hence, even now, some trees are regarded with a superstitious veneration, particularly those in which elf-holes, or openings are found formed by two branches that have grown together.[1] So long are these superstitions lingering among the people, that even now persons may be often seen carrying sickly children to a forest, for the purpose of dragging them through such holes. By every sacred grove there was a well or fountain, in which the offerings were washed.

The altar. Altars are found at the present day in Denmark, Sweden, and Norway. They are found usually

[1] *Thorpe, Mythology*, I, 212.

in the midst of a plain, or upon some little hill top. The greatest number are found raised upon a little hill, either natural or artificial. They are very uniform in their mode of construction. Three long pieces of rock set upright serve for a basis to a great flat stone,[1] which forms the table of the altar. Sometimes a double range of enormous stones surrounds the altar, and also the little hill on which it is erected. In one of this kind on the island of Zealand, the stones are of such prodigious magnitude that with the aid of the mechanical powers now in use, the work of erecting it would hardly be undertaken, especially as they must have been brought from a great distance. There is commonly a large cavity under the altar, which might be intended to receive the blood of the victims. Around it are stones for striking fire; for no other fire, but such as was struck from a flint, was deemed sufficiently pure for so holy a purpose.

In Norway have been found grottoes which have also been employed for religious uses. Some of these have been cut in the hardest rocks, while others are formed of prodigious stones brought near and combined together with prodigious force.

When the Northmen began to construct temples, there was in each a private chapel which was regarded as a holy place, where they placed the idols upon a kind of altar, around which they ranged the victims before offering them up. Opposite to it stood another altar plated with iron, in order that the fire burning there perpetually should not damage it. Upon this altar was placed a vase of brass, in which the blood of the victims was received. Beside it stood a brush which they used to sprinkle the blood upon the bystanders.

[1] *Mallet*, 107-8.

The sacrifice. In the earlier ages all the offerings to the gods were simple. They consisted of fruits and products of the earth. Then came offerings of animals. Horses, oxen and goats were those generally sacrificed. The horse sacrifice was the most considerable among the German races. When they offered up animals they speedily killed them at the foot of the altar, receiving their blood in a large brazen vessel. Then they proceeded to open their entrails to draw auguries from them, after which they dressed the flesh which they served up in a feast prepared for the assembly.

From the sacrifice of animals the transition was natural to that of man. They were offered as expiations; the gods being supposed to turn aside upon the victims those strokes which were destined for men. Thus their justice was satisfied, and their anger appeased.

But when they wished to deprecate some fearful public calamity, they would naturally seek to offer up something higher than animal life. The blood of animals was not then deemed of sufficient value, and they began to shed that of men. This barbarous practice was formerly almost universal, and is traceable to a very remote antiquity. Among the northern nations it was not entirely abolished till towards the ninth century.

Human sacrifices were offered by all the Germanic races. They appear chiefly to have served for sacrifices of atonement, and were either offered to the malign deities, or, as propitiatory to the dead in the nether world.

Prisoners of war, purchased slaves, or criminals, were especially chosen for sacrifice. The criminal was offered to the god whom, it was believed, he had particularly offended, and his execution was reserved for the festival of that divinity.

But they did not always confine themselves to criminals, slaves and prisoners. In great calamities, such as a wide spread famine, the people have even sacrificed their king. So also kings have sacrificed their subjects, even in some cases, their children.

In the offering of human sacrifices those selected were laid upon a great stone, where they were instantly either strangled or knocked on the head. The priest, in consecrating the victim, always took care to pronounce certain words as "I devote thee to Odin." "I send thee to Odin," Or, "I devote thee for a good harvest; for the return of a fruitful season." The ceremony was concluded with feastings and immoderate drinking.

The festivals. Three great festivals were celebrated every year by the northern nations. The first was held at the new year. This was reckoned from the Mother-night, so called because the new year sprang out of her lap.[1] At this time kings and jarls in the ancient Scandinavian kingdoms held their great sacrificial meetings or guilds. The wealthy regarded their friends and kindred with yule-beer, the poor with hop-ol (social beer). On these occasions were offered sacrifices for a prosperous year. To Odin the sacrifice was made, and the prayer offered for success in war; to Frey for a good harvest. Animals were then sacrificed, especially the hog, which was sacred to Frey, this animal being supposed to have first taught mankind to plough the earth. It was the custom to make vows over the sacred hog, and pledge themselves to some great enterprise to be performed within the year. Feastings, bodily exercises, and yule-games occupied the whole of this month.

[1] *Thorpe, Mythology*, I, 208.

The second grand festival was the midwinter sacrifice, and took place on the first new moon after yule-month, to the honor of the goddess Goa, the daughter of Thor. She was believed to preside over the fertility of the earth, and now in many places, when thunder is heard, the people say Goa is passing.

The third great yearly festival was held at the beginning of spring, for prosperity and victory by land and sea. It was celebrated more especially for naval expeditions, in which almost every freeborn, warlike man now prepared to participate. This was more especially an invocation to Odin.

The oracle, diviner and sorcerer. The northern nations were not without their oracles. These were much revered. It was generally believed, either that the gods and goddesses, or more commonly, that the three destinies, delivered out these oracles in their temples.[1] That of Upsal was famous both for its oracles and its sacrifices. There were also celebrated ones in Dalia, a province of Sweden, in Norway, and in Denmark. It was a custom with the ancient Danes to consult the oracles of the destinies concerning the future destiny of children newly born. According to some, the idols or statues themselves of the gods and goddesses delivered these oracles *viva voce.*

But oracles were not the only efforts made by the Scandinavians to penetrate the darkness of futurity. They had diviners, both male and female, honored with the name of prophets, and much revered by them.[2] Poetry was regarded as something supernatural, and letters or runic characters, possessed mysterious or magical characters. These letters, disposed and combined after a certain manner, were able to work wonders, and to pre-

[1] *Mallet*, 116. [2] *Idem*, 118.

sage future events. There were runes to procure victory, to preserve from poison; to relieve women in labor; to cure bodily diseases; to dispel evil thoughts; to dissipate melancholy, and to soften the severity of a cruel mistress. Nearly the same characters were employed for all these different purposes, but they were varied in their order and combination. They were written either from right to left, or from top to bottom, in the form of a circle, or contrary to the course of the sun.

The northern nations had also their wise men and women, or soothsayers.

There were two kinds of witchcraft, the galder and seid. The first was derived from a word meaning to sing, and consisted in producing supernatural effects by means of certain songs, or by cutting certain runes.[1] There was a particular kind of galder by which the dead were waked and made to converse that from their mouth might be made known the will of fate. This was ascribed to Odin, who sat under one hanged, and compelled him to speak, or went down to the nether world, waked the dead vala, and made her prophesy. There were also songs cut on wood, which being laid under the tongue of a corpse, were supposed to possess the extraordinary virtue of compelling it to rise and sing. By means of galder, all changes in nature were effected, such as quenching fire, stilling the sea, turning the wind, and waking the dead.

The seid is derived from a word which signifies to boil, although there is little of it having reference to that process. The Æsir learned it from Freyia, and it was usually practiced by women only.

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[1] *Thorpe, Mythology*, I, 212–13.

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quired. Death, misfortune, and disease could be caused to others, and intellect and strength taken from one and given to another.

A remarkable class of seid-women comprised the valas. These were present at the birth of children. They either acquired their knowledge in the night, uttering their oracles in the morning, or they received sudden inspirations during the singing of certain songs appropriated to the purpose, without which the sorcery could not perfectly succeed. These seid-women were common all over the north, and were paid for their soothsaying and prophesying.

There were also other kinds of sorcery. The Fins were believed to possess the art of raising storms and of deceiving the sight of their enemies, so that stones would appear as mountains, and a snow ball as a great river. These arts were very ancient.

There were said also to be viands prepared from snakes or serpents, by which strength, wisdom, and success in war could be procured for a favorite individual. So, also, by oblivious potions and philters, lovers were made to forget their old love, and contract a new one.

Such were the principal forms of belief, superstitions, and modes of worship of the northern nations. They are in perfect harmony with the character from which, in part, they issued, and which, in return, they helped to form. The elements of that character have a boldness and daring, an originality, a fullness of living energy, a recklessness of results, a strong persistency of purpose, a contempt of danger and death, which we should naturally expect to find in the worshiper of Odin, and the eager expectant of the hall of Valhalla. At the same time a thousand superstitions have grown up, and worked themselves into the belief of these hardy adventurers, which had served to

modify that character, to bring it, to some extent, under other influences, and to modify it in its general action.

The religion of the Teutonic races was longer continued than that of the Celtic. Their wild idolatry continued notwithstanding the many edicts issued against it by emperors and councils in the 6th, 7th, and 8th centuries. The terrible wars waged by Charlemagne against the Saxons aimed at the annihilation of the idolatry by the extermination of their race, and almost succeeded. So thoroughly ingrained into character were those superstitions, that many of them remain even now, and are exhibited in the manners and customs of the people.

Roman Catholic Religion.

III. The Roman hierarchy, including the organization, doctrine, instrumentalities and practices of the Roman church.

We now for the first time in the world's history welcome Christianity upon the theatre of action. All the religions we have hitherto considered, with the exception of the Hebrew, have been idolatrous and pagan. The ancient Assyrian, Babylonian and Persian, the Egyptian, the Arabian, the Phœnician, the Greek and Roman, the Celtic and Teutonic of modern Europe, were each and all forms of religious faith essentially idolatrous and pagan, and yet having some primitive truths occasionally, although rarely, shedding a feeble light around much of error, and ignorance, and perversion.

It is not alone in the sacred volume that the truth of man's fallen nature is proclaimed. Nor is it limited to his own selfish actions as exhibited in the walks of business or on the theatre of history. His religious beliefs, and the degrading superstitions by which they are accompanied when

unenlightened by revelation, alike proclaim the same great fact. We are now to see how the same nature can deal with revelation itself. How it can receive the truth in its primitive simplicity, and yet run it into forms of belief, institutions, observances, and practices, that not alone obscures, but entirely extinguishes its brightness amid the darkness of that very nature which it came to elevate, to enlighten, and to save.

We approach, therefore, a problem hitherto unsolved, when we approach the Roman catholic religion. That epoch had arrived in our world's history, when the truth of God relating to man's duty and destiny had come down to earth. We had seen how all the primitive truths given to man at his creation had been perverted by his fallen nature. The problem yet unsolved was to learn how truths directly revealed and recorded in a known and written language, in terms so plain as to be readily understood, could act upon that fallen nature. Whether those great truths which the intellect could clearly perceive, and must acknowledge the force of, would renovate and renew the heart; or whether the heart, in its own desperate wickedness, would so obscure and pervert the intellect, as to render them not only totally unavailing, but to send them on errands of mischief instead of mercy. This was the problem to be solved by the Roman church. Let us attend to its solution. We shall best consider it under the following heads:

1. Its doctrines, faith and forms of belief.
2. Its organization and ordinary observances.
3. Its instrumentalities and extraordinary powers.
4. Its history, including the heresies evolved from its bosom.

1. Its doctrines, faith and forms of belief.

The Roman catholics believe all the fundamental articles of the Christian religion. They worship one God in

three persons, viz: the Father, Son and Holy Ghost. They maintain that they have to put their trust and confidence in God only, through the merits of his incarnate son, who was crucified and rose from the dead for our justification.[1] They receive with the same certainty, all the other articles of the apostles' creed.

It will be seen that in relation to the fundamentals of belief the protestants and catholics do not differ. But it is claimed by the protestants that the catholics have made to the simple faith above stated, a great many additions, some entirely repugnant to the apostles' creed, and all tending very much to weaken the fundamental articles. They also claim that the catholics tolerate an infinite number of customs and observances, which deviate from the spirit of Christianity.

In regard to the worship due to God, the catholic church teaches: That it chiefly consists in believing that he is the creator and Lord of all things;[2] that we ought to adhere to him, with all the powers of our soul, through faith, hope and charity, as being the only object that can make us happy by the communication of infinite good, which is himself. That this internal worship which we render unto God in spirit and truth, is attended with its external marks, whereof sacrifice is the chief; which can be offered to God alone, inasmuch as sacrifice was instituted in order to make a public and solemn acknowledgment of the sovereignty of God, and of our absolute dependence on him. It also teaches that all religious worship ought to terminate in God, as its necessary end; and that if the honor which is paid to the blessed virgin and the saints, may be styled religious, it is because it necessarily relates to God.

[1] *Picart*, I, 243. [2] *Idem*, 244.

The church teaches prayer to the saints, but upon the same principle that the aid and assistance of good men on earth are invoked, claiming that the mediatorial quality receives no more injury from the intercession of the saints in heaven, than from that of the faithful on earth.

The council of Trent on this point teaches: that the saints who dwell with Jesus Christ, offer up their prayers unto God for mankind; that it is good and profitable to invoke them in a humble manner; and to implore their aid and assistance, in order to obtain from God, his favors, through his Son, our Lord Jesus Christ, who alone is our saviour and redeemer. Although sacrifices were offered over saints' bodies, and to their memory, yet, says the council of Trent, "the church does not offer up sacrifice to the saints, but unto God only, who has crowned them."

The saints are not supposed by their own knowledge to be acquainted with our wants, wishes or desires, but ministering angels or God, by a special revelation, may make them known, or if not, the prayers offered are very profitable to those who offer them.

In regard to images, the council of Trent expressly forbids the belief that there is any virtue in them, that may induce to the worship of them; that no favor is to be asked of them, or confidence put in them, and requires all honor to be paid to the originals which they represent.

The honor paid to relics, according to the custom of the primitive ages of the church, must be understood in the same manner. The bodies of the saints were regarded as victims offered up to God by martyrdom or penance, without any diminution from that honor which was due to God himself.

As to what concerns justification, they believe that their sins are freely remitted by the divine mercy, for the sake of

Jesus Christ; and that they are freely justified; because none of those things which precede justification, whether it be faith or good works, can merit that favor. That the righteousness of Jesus Christ is not only imputed, but actually communicated to his faithful servants by the operation of the Holy Ghost; so that they are not only reputed, but even made righteous by his grace. That our righteousness is not perfect because of our struggle with concupiscence, but, in this life, consists rather in the remission of our sins, than in the perfection of our virtues.

As to the merit of good works the catholic church teaches that life everlasting is to be proposed to the children of God, both as a grace which is mercifully promised them by the means of our Lord Jesus Christ, and as a reward which is faithfully granted for their good works and merits, in virtue of that promise.

But, says the council of Trent further, lest the pride of mankind should flatter itself with the notion of a presumptuous, the whole worth and value of Christian works, proceed from a sanctifying grace, which is freely bestowed on us in the name of Jesus Christ; and is an effect of the continual influence of this divine head upon his members. They lay it down as a first principle, that free will can do nothing towards our everlasting happiness, further than as it is actuated and raised by the Holy Ghost. They openly declare that they cannot be agreeable to God, but in and through Jesus Christ, that they entirely place all their hopes of salvation in him alone.

The catholics teach that Jesus Christ alone, together both God and man, was able, by the infinite dignity of his person, to offer up unto God a sufficient satisfaction for our sins; but having made more than a sufficient, it was in his power to apply that infinite satisfaction to us two different ways: either by granting us an entire abolition,

without the reserve of any punishment,[1] or by commuting a greater for a lesser, that is to say, an eternal into a temporal. As the first is the most perfect and conformable to his goodness, he begins with that in the sacrament of baptism; and they believe that he uses the second in the remission he grants to those, who after baptism, relapse into sin, he being in some manner forced so to do, through the ingratitude of those who have abused his first favors. Therefore they are to suffer some temporal, though exempted from eternal, punishment. They hold it to be just, and even advantageous, that God, in remitting the sin, together with the eternal punishment, which they had deserved, should lay them under some temporal punishment only, in order to confine them within the bounds of their duty, lest it might happen, that by too easily throwing off the bonds of justice, they should give themselves up to a rash confidence, and make an ill use of that pardon which they had so freely obtained. Hence the canonical punishments inflicted by the primitive church upon penitents.

When, therefore, the church imposes those painful and laborious tasks upon sinners, and they undergo them with humility, this is called satisfaction. When the church shows any regard, either to the fervency of the penitents, or to other good works which it prescribes them, and remits anything of the punishment due to them, that is called indulgence.

All that the council of Trent proposes concerning indulgences is, that the power of granting them was given to the church by Jesus Christ, and that the practice of them is wholesome; which custom, adds that council, ought still to be retained, but yet with moderation, lest

[1] *Picart*, I, 247.

ecclesiastical discipline be weakened by too great a relaxation.

The church teaches that those who depart this life in grace and charity, and yet still liable to those punishments which divine justice has reserved for them, will suffer them in the other world; and this is what obliged the whole Christian church in the earliest ages, to offer up prayers, alms and sacrifices for the faithful departed in peace, and in the communion of the church; with a firm confidence of their being relieved by those means. This is what the council of Trent proposes concerning purgatory without determining the nature of the pains there endured.

The sacraments of the New Testament are, to the catholic, not only sacred signs of grace, or seals that confirm it to him, but instruments of the Holy Ghost, which serve to apply, and confer it on us by virtue of the words pronounced, and the action outwardly performed in his behalf, provided he do not, by his evil disposition, prevent the effects of it.

When God annexes so high a favor to outward signs, which in their nature have no proportion to such admirable effects, he plainly shows us, say the catholics, that, besides all that we can do inwardly through our good dispositions, there must still intervene a special operation of the Holy Ghost to sanctify us; and a particular application of the merits of the Saviour, represented by the sacraments.

This leads to the seven sacraments. The catholics acknowledge seven signs, or sacred ceremonies, instituted by Jesus Christ, as the ordinary means, whereby the new man is sanctified and made perfect.

These are: First. Baptism. As young children cannot supply the defects of baptism, by acts of faith, hope and

charity, or by any vow to receive that sacrament, it is the catholic belief, that if they do not actually receive it, they in no wise partake of the grace of the redemption; and so, dying in Adam, they have no share at all in Jesus Christ.

Second. Confirmation. Imposition of hands, the catholics claim, practiced by the blessed apostles, in order to confirm the faithful against persecutions, having its principal effect in the internal descent of the Holy Ghost, and in the infusion of his gifts, ought not to be rejected by their adversaries upon pretense that the Holy Ghost does not now descend visibly upon us.

Third. Confession and absolution. The catholics believe that Jesus Christ has ordained that such as have submitted themselves to the authority of the church by baptism, and have afterwards violated the laws of the gospel shall come and submit themselves to the judgment of that same church, in the tribunal of penance, where she exercises the power which is given unto her of remitting and forgiving sins.

They claim that the terms of the commission given to the ministers of the church, to absolve sins, are so general that it would be a rashness to reduce it only to public sins; and as when at the time of their pronouncing absolution in the name of Jesus Christ, they only keep up to the express terms of that commission, so the sentence is looked upon as given by Jesus Christ himself, in whose name they are constituted judges. That he is the invisible pontiff, who inwardly absolves the penitent, whilst the priest performs this external office.

Fourth. Extreme unction. The Holy Ghost, say the catholics, having annexed an express promise of remission of sins, and relief of the sick, to extreme unction, there can be nothing wanting to make this holy ceremony a real

sacrament. Only, according to the council of Trent, the sick person receives more relief in soul than in body; and as spiritual good is ever the principal object of the new law, it is that likewise which we must expect, in case we are properly prepared for it, whereas relief in sickness is only granted unto us with respect to our external salvation, according to the secret intentions of divine providence, and the different degrees of preparation, and faith to be found in the faithful.

Fifth. Matrimony. When we consider, say the catholics, that Jesus Christ has given a new turn to matrimony by reducing that holy society to the constant and indissoluble union of two persons only; and when we see this inseparable union is a sign of his eternal union with his church, we shall find no difficulty in comprehending that the marriage of the faithful is attended with the Holy Ghost and the grace of God.

Sixth. Imposition of hands. Imposition of hands, say the catholics, received by the ministers of holy things, being attended with so immediate a virtue from the Holy Ghost, and with so entire an infusion of grace, it ought to be placed among the number of sacraments.

Seventh. The eucharist. The Roman catholics believe in the real presence of the body and blood of Jesus Christ in the sacrament of the eucharist, for they maintain that there is not anything in the words which Jesus Christ makes use of in the institution of this mystery, that induces them to take them figuratively; and this reason is sufficient, in their opinion, to determine them in favor of the former.

The catholics claim that it is entirely evident that the words "Take eat, this is my body given for you," show us that the ancient Jews were not only united in spirit at the immolation of the victims that were sacrificed for them,

but that they also used to eat of the flesh that was sacrificed, which was a sign to them of the share they had in that oblation. Therefore Jesus Christ having offered himself a victim for us, it was his will that we should really eat the flesh of that offering, that the actual communication of that adorable flesh, might be a perpetual testimony to every one of them in particular, that he had assumed his body for their sakes; and had made a sacrifice of it for themselves.

Thus the eating of the flesh and blood of the Son of God is as real at the holy table, as grace, atonement of sins, and participation of the sacrifice of Jesus Christ, is actual and effectual under the new covenant.

And yet, say they, as he was willing to prove our faith in this mystery, and at the same time free us from the horror of eating his flesh, and drinking his blood, under their proper species, it was convenient to give them to us, clothed under a species of another nature; and if these considerations obliged him to let us eat the flesh of our offering in another manner than the Jews did, yet he was not therefore necessitated to take anything away from the reality and substance of it.

In order to fulfill the ancient types, and put us into actual possession of the sacrifice that was offered up for our sins, it was Jesus Christ's design truly to give us his body and blood. The words are not to be taken in a figurative sense; and it is no more difficult for the Son of God to cause his body to be in the eucharist, by saying, "This is my body," than to free a woman from her disease by saying, "Woman, thou art freed from thine infirmity:" or to save a young man's life by saying to his father, "Thy son liveth," or, in short, to remit the sins of the man who was sick of the palsy, by saying to him, "Thy sins are forgiven thee."

He, say they, who does what he pleases, can by words bring what he says to pass; nay, it was easier for the Son of God to force the laws of nature to verify his words, than for us to reconcile our sense to violent interpretations, which overthrow all the laws of speech.

As to the injunction "This do in remembrance of me," they claim that this commemoration is grounded upon the real presence; for in the same manner as the Jews, at eating their peace offerings, remembered that they had been sacrificed for them; so likewise, when we eat the flesh of Jesus Christ our offering, we ought to remember that he died for us. It is therefore the same flesh eaten by the faithful, which not only revives in us the memory of his being offered up for us; but even confirms us in the truth thereof; and far from being able to say, that this solemn commemoration, which Jesus Christ commands us to make, excludes the real presence of his flesh, we, on the contrary, find, that this tender remembrance of him which he requires of us at the holy table as being sacrificed for us, is grounded upon that same flesh being really taken there; since in truth we cannot possibly forget, that he gave his body as an offering for us, when we see that he still gives us daily the same offering to eat.

And further, as it was not convenient, that our senses should perceive anything in this mystery of faith, so neither was it that anything should be changed in respect to them in the bread and wine of the eucharist. For which reason, as we perceive the same species, and feel the same effects as before in that sacrament, we must not be surprised, if sometimes, and in some particular sense it should go under the same denomination. Yet faith, attentive to his word, who doth whatsoever is agreeable to him both in heaven and earth, on this occasion acknowledges no other substance than that which is meant by those very words, that is

to say, the very body and blood of Jesus Christ, into which the bread and wine are changed; and this is what is called transubstantiation.

The words "This is my body," pronounced by Jesus Christ, is a certain sign to us that he is present; and though these things appear still the same to our senses, yet our soul forms a different judgment of them, from what it would do, had not a superior authority intervened. We are attentive to hear him who says, that what we take, and what we eat is his body; and such is the force of these words, that they will not admit us to take these outward appearances for the substance of bread, but for that of the body of Jesus Christ present; so that the presence of so adorable an object, being confirmed to us by this sign, we make no difficulty to pay our adorations to it.

All those who believe that Jesus Christ is present in the eucharist, must of course pay their adoration to it. Taken in this sense, the sacrifice acknowledged in the eucharist will not admit of any particular difficulty.

Thus there are two actions in that mystery, really distinct, though relative to each other. The one is the consecration, whereby the bread and wine are changed into the body and blood; and the other is the eating, by which we partake of the same. In the consecration, the body and blood are mystically separated, because that Jesus Christ said distinctly, "This is my body, this is my blood," which includes a lively and effectual image of the violent death which he suffered.

Thus the Son of God is set on the holy table, by virtue of those words, clothed in the signs representing his death, which is wrought by the consecration; and this religious action carries with it an acknowledgment of the divine sovereignty, inasmuch as Jesus Christ, present in some sort, renews and perpetuates the memory of his obedience

even to his dying upon the cross, so that nothing more can be wanting to make him a real offering. Wherefore, say they, we believe, that Jesus Christ, present on the holy table under those signs of death, intercedes for us, and continually sets before God his father, that death which he suffered for his church.

When we consider, that which Jesus Christ performs in this mystery, and that through faith, we see him actually present upon the holy table under those signs of death, we unite ourselves to him under that condition; we present him to God as our only offering, and our only propitiator through his blood, protesting that we have nothing to offer up unto God but Jesus Christ, and the infinite merit of his death. We consecrate all our prayers through that divine offering, and when we offer up Jesus Christ to God, we are at the same time taught to offer ourselves up to the divine majesty, in him, and through him, as living offerings.

The doctrine of the catholic church in the council of Trent teaches that this sacrifice was only instituted in order to represent that which was once fulfilled on the cross; to perpetuate the remembrance of it forever, and to apply unto us the wholesome virtue of it for the remission of those sins which we daily commit.

Jesus Christ being really present in that sacrament, the grace and blessing is not annexed to the species, that appear to our senses, but to the very substance of his flesh, which is both vivified and endued with a vivifying power, by reason of the divinity united to it.

Jesus Christ having established his church by preaching, the unwritten word was the first rule of Christianity; and when the scriptures of the New Testament were added to it, that word nevertheless, did not lose anything of its authority, which is the reason we, say the catholics, with the

same veneration, receive all that has been taught by the apostles, either written, or by word of mouth, as St. Paul himself expressly declared; and a certain proof of any doctrine coming from the apostles, is when it is received by all the churches of Christ, though no account can be given of its beginning. Nor can we refuse to receive everything established in this manner, with a submission due to the divine authority.

The church being by Almighty God appointed the guardian of the scriptures and tradition, it is from her we receive the canonical writings.

Being thus inseparably united, as we are, to the authority of the church, by the means of the scriptures, which we receive from her; from her also we receive tradition, and by the means of that tradition, we are taught the true sense of the scriptures. It is for this reason, that the church professes to teach nothing of herself, nor to invent any new doctrine; she only follows and declares divine revelation, by the inward direction of the Holy Ghost, given unto her for her instructor.

The dissention which arose concerning the ceremonies of the law in the time of the apostles makes it appear, that the Holy Ghost makes the church his interpreter; and their acts have, by the manner of deciding that dispute, taught all ages to come to the authority by which all disputes of that kind are to be ended. Thus as long as there shall arise any dissentions, which may cause a division among the faithful, the church shall interpose its authority; and its elders being assembled, shall say after the apostles, "It seemed good to the Holy Ghost, and to us," and when the church hath once spoken, its children shall be taught not to make a new inquiry into the articles it hath resolved, but humbly to submit to its decisions. In so doing, we shall follow the example of St. Paul and

Silas, who delivered the first decree of the apostles to the faithful, and who, far from suffering them to reexamine what they had decided, went from town to town, charging them to keep the ordinances of the apostles.

It is in this manner, that the children of God submit to judgment of the church, assured of hearing the oracles of the Holy Ghost from its mouth; and it is on account of this belief, that in the creed after we have repeated, "I believe in the Holy Ghost," we immediately after add, "the holy catholic church." Whereby we oblige ourselves to acknowledge an infallible and everlasting truth in the universal church, since that same church, in which we believe at all times, would cease being a church, should it cease teaching that truth which God was pleased to reveal. Therefore, whosoever suspects the church of making an ill use of its authority, in order to establish the spirit of untruth, has no faith in him by whom the church is governed.

According to the catechism of the council of Trent, the Roman catholic church is one, visible, holy, and catholic, or universal, established by the hand of God, on a solid basis, who has bestowed on it the power of opening the gates of heaven to all true believers, and shutting them to all heretics and infidels. It also has the power of pardoning and absolving sins, and excommunicating all those who are disobedient.

The church is both triumphant and militant. The former portion is the illustrious society of those blessed spirits and saints, who, having triumphed over the world, the flesh and the devil, enjoy everlasting happiness in peace and security. The latter is the congregation of all true believers upon earth, who are constantly obliged, during their whole lives to resist the world, the flesh, and the devil. Jesus Christ is the immediate governor of that

part of the church which is triumphant in the heavens; but as the church militant required a visible head or director, he has substituted one in his room, who is accounted by all catholics as the sole and sovereign depositary of the faith and perpetual director of the belief of all true Christians.

The Son of God having decreed that his church should be only one, and firmly built upon unity, has established and instituted the primacy of St. Peter in order to maintain and cement it; for which reason they acknowledge that very primacy in the successors of that prince of the apostles, to whom, for that very reason, they owe the same submission and obedience, which the holy councils and fathers have ever recommended to the faithful.

The pope is the visible head of the church, but the catholics are divided in their notions with regard to his power. According to the opinions of some, he is the grand pastor, whose infallability in matters of doctrine and decision secures everlasting salvation to those who will adhere to and stick by him. In the language of Pope Innocent III: "The church being the spouse of Christ's vicar, brought him in marriage a full power over all temporalities as well as spiritualities. That the mitre is the sign of the latter, as the crown is of the former,[1] and that they both hold out to all Christians, that he is king of kings and lord of lords."

The Gallican church ranks the power of the pope as inferior to that of a general or œcumenical council. This latter is an assembly representing the whole body of the universal church. It is composed of ecclesiastical deputies from the sovereign states of Christendom representing their several nations, and likewise of other prelates, doctors, etc., of particular churches, all met together in a free place,

[1] *Picard*, I, 282.

where they may, without constraint, apply themselves to the reformation of manners, and of doctrine; the regulation and establishment of church discipline, etc. This assembly has the power of censuring bishops, cardinals, and even the pope himself; and likewise of deposing any of them, when the good of religion requires it. An assembly is thus formed, which, by its superiority, is able to check the unjust proceedings of popes, by subjecting them to the church in points of faith, and declaring them schismatics and heretics whenever they deviate from it, has more than once proved fatal to the see of Rome. Instances are to be found in the assemblies of Pisa, of Constance, and of Basle.

These comprise the principal doctrines, faith, and forms of belief of the Roman catholic church. They have been given mostly in the language of the church itself. The points of difference existing between these and the protestant forms of belief will be more apparent when the latter comes up for consideration.

2. The organization of the Roman church and its ordinary observances.

The Roman church in its organization constituted a hierarchy, or system of government and action, having subordinate orders through its entire extent. The tendency towards this system was early manifested. The system itself was organized in the minds of men before the great revolutions which, under Constantine, legalized Christianity, and, under Theodosius and his successors, identified the church and state. The earliest Christian communities appear to have been ruled and represented, in the absence of the apostle who was their first founder, by their elders, who are likewise called bishops, or overseers of the churches.[1] Thus Christianity, when it emerges out of the

[1] *History of Christianity*, I, 275.

obscurity of the first century, appears governed by certain superiors of each community, called bishops.

But the authority of the bishop was that of influence rather than of power. He is supposed at first to have been nominated by the apostle, and that nomination was confirmed by the suffrages of the community. It was then a post both of danger and distinction. It is thus very generally supposed, although without much direct evidence, to prove it, that there was a succession of bishops from the apostolic times; but there is little to show what was the extent of authority derived from the apostles. The consecration to that office conveyed neither inspiration nor the power of working miracles. They could, therefore, be, only in a very imperfect sense, the successors of the apostles. They were selected as men eminent for their piety and virtue, and the power they exercised at first, was rather moral than political, or even ecclesiastical.

The presbyters seem, in their origin, to have been the ruling powers of the young communities. In the absence of the primary teacher, they assumed that office. They were the regular expositors of the Christian law; the reciters of the life, doctrines, death, and resurrection of Christ. Until the period of the written gospels, they were the living evangelists, the oral scriptures, the spoken gospel. The first Christian communities in fact needed no government. The principle of Christian love which first drew them together was entirely sufficient to perpetuate their organization.

The deacons were from the first, an inferior order.[1] The office they exercised was purely ministerial, distributing the common fund to the poorer members. Their other functions were altogether of a subordinate character.

[1] *History of Christianity*, I, 280.

In its origin, Christianity had no sacerdotal order. The more eminent members of the community, those whose zeal, talents, gifts and sanctity pointed them out as superior to others, naturally led to the setting them apart as of a higher order. They would form a species of aristocracy, thus constituting a distinct class, and presenting the rudiments of an hierarchy. The manner and period of this separation from the general body of the community are little known. There was the imposition of hands to ordain them for their peculiar function. But this could add little to the reverence with which they were then regarded. It dedicated the individual for his especial function, ratified and gave its religious character to the popular election which took place by a kind of silent acclamation.

There is also little doubt but that the growing reverence for the consecrated elements tended greatly to increase the respect towards those under whose especial prayers, and in whose hands, they were sanctified for the use of the assembly. The presbyters would come to possess the chief voice,[1] a practical initiative in the nomination of the bishop. From all these different functions, the presbyters, and at length the deacons, became as well as the bishop, a sacred order.

It is natural to suppose that when the exclusive or sacerdotal principle is once admitted in a religious community, its own corporate spirit, together with the public reverence, would cause it to recede further and further, and draw the line of demarkation with greater rigor and depth. They would more and more insulate themselves, from the commonalty of the Christian republic; they would become a senate, a patrician, or privileged order, and this secession into their peculiar sphere would be greatly facilitated by

[1] *History of Christianity*, I, 282.

the regular gradations of the faithful and the catechumen, the perfect and the imperfect, the initiate and half-initiate Christians. The greater the variety, the more strict the subordination of ranks.

The bishop thus gradually assumed the title of pontiff; the presbyters becoming a sacerdotal order. A priestly caste commenced a rapid growth in a religion which, in its primary institution, acknowledged only one mediator between earth and heaven.

Everything in the primary formation of the communities tended to increase the power of their ecclesiastical superiors. The investiture of the blended teacher and ruler in a sacred,[1] and at length in a sacerdotal character, the rigid separation of this sacred order from the mass of the believers, could not but arise out of the unavoidable development of religion itself. It was not so much their pride or ambition that withdrew them, as the reverence of the people which enshrined them in a separate sphere. Their power and authority was not usurped nor assumed, but conferred by the prodigal confidence of the community. The civil and religious power of the hierarchy grew up side by side, or intertwined with each other, by the same spontaneous vital energy.

The magisterial or ruling part of the ecclesiastical function became more and more relatively important, government gradually becoming an affair of asserted superiority on one hand, and of exacted submission on the other. Still, the general voice would long be in favor of the constituted authorities. A strong corporate spirit, which naturally arises out of all associations, could not but actuate the hierarchical college which was formed in each diocese or each city by the bishop, and more or less numer-

[1] *History of Religion*, 278.

ous presbyters and deacons. The control on the autocracy of the bishop, which was exercised by this senate of presbyters, without whom he rarely acted, tended to strengthen rather than to invalidate, the authority of the general body, in which all particular and adverse interests were absorbed in that of the clerical order.

The separation between the clergy and laity kept continually widening. The episcopate became at length an object of ambition or of interest. Disturbing forces were called forth in popular elections. Towards the close of the third century the people had the right of electing, or, at least, of rejecting candidates for the priesthood. In the latter half of the fourth century a severe and bloody contest occurs at Rome, when Damasus and Ursicinus entered the lists for its vacant bishopric. Both priests and people enlisted in the controversy.

The clergy had now become a distinct and recognized class in society, consecrated by a solemn ceremony—the imposition of hands. But each church was still a separate and independent community, all its internal concerns being conducted by the bishop as its sovereign, and the presbyters and sometimes the deacons, as a kind of religious senate.

The bishops of the more important sees had, from the first, great deference paid to them, as they were generally men of the highest character and attainments, and the number and wealth of their congregations gave them weight and dignity.

The level of ecclesiastical dignity at length disappears. It was destroyed by the emerging of some bishops into a higher rank. The single community over which the bishop originally presided, grew into the aggregation of several communities and formed a diocese; the metropolitan rose above the ordinary bishop, the patriarch assumed

a rank above the metropolitan,[1] till at length, in the regularly graduated scale, the primacy of Rome was asserted, and submitted to by central and western Europe.

The office and duties of the bishop contemplated two things:

First. The conducting of divine worship.

Second. The government and discipline of the church.

It was a maxim of the early church, that the peculiar office of the bishop is to teach the people. It was therefore his duty: 1. To teach the people. 2. To confirm the baptized. 3. To ordain ministers and ecclesiastical officers. 4. To restore penitents.[2] 5. Various acts of consecration and benediction.

As to government and discipline he had: 1. The oversight and arrangement of all matters pertaining to divine worship. 2. The oversight of all the members of the church, throughout a diocese, in spiritual and ecclesiastical matters. 3. All spiritual persons and ecclesiastical officers were subject to his superintendence and jurisdiction. 4. On him devolved the visitation of the clergy, churches, schools, and religious societies. 5. The presidency in all diocesan synods. 6. The management and distribution of the property of the church.

As the insignia, or emblems of office, he had the ring, the pastoral staff, the mitre, the gloves, sandals, military boots, the pallium, a cloth, first of white linen, afterwards of wool, without seam, hanging down over the shoulders, and the cross.

The diocese grew up in two ways: 1st. In the larger cities the rapid increase of the Christians led necessarily to the formation of separate congregations, which, to a certain extent, required each its proper organization, yet

[1] *History of Christianity*, II, 284. [2] *Riddle's Christian Antiquities*, 165–6.

invariably remained subordinate to the single bishop.[1] 2. Christianity was first established in the towns and cities, and from each centre diffused itself with more or less success into the adjacent country. In some of these country congregations, bishops appear to have been established, who maintained some subordination to the head of the mother church. In general, the churches adjacent to the towns or cities, either originally were, or became, the diocese of the city bishop; for as soon as Christianity became the religion of the state, the powers of the rural bishops were restricted, and the office at length was either abolished or fell into disuse.

The next ascent from the bishop brings us to the metropolitan, or primate, who was a bishop presiding over other bishops in a province or district. He also presided at the convocation of ecclesiastical or episcopal synods.

The metropolitan bishop grew out of the controversies which were found to arise and gradually multiply between particular bishops. An umpire to settle disputes became necessary, and hence the creation of the metropolitan. The earliest synods arose out of the disputes about the time of observing Easter; but before the middle of the third century, these occasional and extraordinary meetings of the clergy in certain districts took the form of provincial synods. From the Grecian provinces, where they commenced, they extended throughout the Christian world. In some cases they seem to have been assemblies of bishops alone, in others of the whole clergy. They met once or twice in the year, being summoned by the metropolitan bishop, who presided over the meeting when assembled.

The bishops of a province elected and ordained their metropolitan. Besides summoning and presiding over

[1] *History of Christianity*, II, 285.

provincial councils,[1] he had the oversight of provincial bishops, and the ecclesiastical superintendence of the whole province. He determined, in concurrence with the provincial bishops, all causes of special importance in a provincial council. In some cases an appeal was made to him, and he had the power of controlling a provincial bishop. He could give and receive letters of communion, and publish and carry into effect laws enacted either by councils or the emperor, relating to the church. After the establishment of this order in the hierarchy, all causes relating to the bishops were withdrawn from the cognizance of the churches at large, and even from that of the clergy, and referred to the higher tribunal of the metropolitan and provincial synod. Thus the submission of bishops to their superiors involved their independence, and the increase of their power, so far as regarded the inferior clergy and laity.

As the metropolitans rose above the bishops, so the archbishops or patriarchs rose above the metropolitans. The patriarchal office originated about the year A. D. 325.

The power and duties of the patriarch were: 1. Having received their own ordination from a diocesan council, they ordained all the metropolitans who were subject to their jurisdiction. 2. They summoned all their metropolitans and provincial bishops to a diocesan council. 3. They received appeals from the decisions of metropolitans and provincial councils, with power to reverse such decisions. 4. They could institute inquiry into the lives and administration of their metropolitans, and also of the provincial bishops, with power to inflict punishment upon any who were guilty of heresy or malversation in office. 5. They could promulgate laws, ecclesiastical and civil, so far as the latter concerned the clergy.

[1] *Riddle*, 178.

There were patriarchs of Antioch, Jerusalem, Alexandria, Rome, and, finally by a decree of the council of Chalcedon, Constantinople. Those of Antioch, Alexandria and Constantinople contested the supremacy of the east, while in the west Rome stood alone. Before the end of the third century her bishops claimed lineal descent from St. Peter. Rome still retained the prestige of its former greatness, and her bishops were superior in wealth and influence to any others in the west. The term papa, pope, which is one of reverence and affection, was first given to the bishop of Alexandria, and the first bishop of Rome who assumed it was Siricius, about A. D. 384. It was not employed officially until the time of Leo the Great; It was afterwards applied exclusively to the bishop of Rome according to an order of Gregory the Great.

In the same proportion as the hierarchical pyramid tended to a point, its base spread out into greater width. The greater pomp of the services, the more intricate administration of affairs,[1] the greater variety of regulations required by the increasing and now strictly separated classes of votaries imposed the necessity for new functionaries, besides the bishops, priests and deacons. These were the archdeacon and the five subordinate officiating ministers, who received a kind of ordination. 1. The subdeacon, who, in the eastern church, collected the alms of the laity and laid them upon the altar; and, in the western, acted as a messenger, or bearer of dispatches. 2. The reader, who had the custody of the sacred books, and read them during the service. 3. The acolyth, who was an attendant on the bishop, carried the lamp before him, or bore the eucharist to the sick. 4. The exorcist, who read the solemn forms over those possessed by dæmons, the

[1] *History of Christianity*, II, 287.

energoumenoi, and sometimes at baptism. 5. The ostiarius or doorkeeper who assigned his proper place in the church to each member, and guarded against the intrusion of improper persons.

In proportion as the papal power increased in the west, that of the metropolitan diminished. When the bishop of Rome acquired patriarchal power over southern Italy and the three principal islands in the Mediterranean,[1] not one of the ten provinces which formed this patriarchate had any metropolitan, and hence the Roman bishop exercised metropolitical, as well as patriarchal power throughout his whole patriarchate. The union of these two sets of powers gave him advantages which no other patriarch possessed.

There were various causes that tended to produce decay in metropolitan power in western Europe. After the overthrow of the Roman empire the ancient bonndaries of the Roman provinces were broken up, cities became greatly changed both in their absolute and relative importance. Some were nearly destroyed, so that the metropolitan bishop would lose his power and influence. While this was occurring, the bishops were everywhere aiming at power, and striving to throw off that of the metropolitan. Whilst the bishops were striving for independence, the Roman bishop, uniting in himself both the power of the bishop and the metropolitan attacked the metropolitan from above, desiring to break up the organization of national churches, in order that he might the better extend his own power.

When the downfall of metropolitans enabled him to extend his patriarchal power, he claimed to exercise the same double set of functions he was already exercising in the south of Italy. Thus when, about the close of the

[1] *Dew*, 870.

fourth century, the province of Illyricum was annexed to his patriarchate, he claimed the privilege of consecrating all the bishops, which was a metropolitical, and not a patriarchal power. And so also he began to exercise appellate jurisdiction in regard to decisions of provincial synods and contests among the bishops.

But the wane of the metropolitan power was not alone signalized by the increase of that of the bishop of Rome. The bishops generally at first acquired power faster than the pope, and hence the ninth century has been designated as the age of the bishops. Even the first pretentions of the church to superiority over the temporal power came from the bishops. In the year 682, at the twelfth council of Toledo, in Spain, the bishops deposed Vamba, king of the Visigoths, in favor of Ervigius. In the year 842, at Aix-la-Chapelle, the bishops and priests deposed Lothaire at the instance of his two brothers, Charles the Bald, and Louis of Bavaria, and even up to the end of the ninth century the most flagrant acts of usurpation arose from the national clergy, not from the popes.

The decay of the metropolitan power left the struggle for supremacy between the pope and the bishops. In this contest, although the latter had the power of numbers, yet the former had many advantages. The bishops, although numerous, were not united, and entertained a jealousy of each other. In their quarrels the weaker would appeal to the pope. The position of umpire always gave power.

Again, the feudal age abounded in violence and oppression. The oppressed sought protection, and naturally fled for refuge to the sanctuary. The pope had many more spiritual weapons at command than the bishop, and was ever ready to use them. His decisions were ever on the side of justice and humanity, and hence he acquired a great degree of popularity among the people of Europe.

As the pope emerges out of the mere bishop of Rome to become pope or patriarch, and to wield a vastly increased power or authority, a new order of officials come into existence, viz: the body of cardinals. The name was derived from cardinalis, distinguished, and the institution itself is comparatively of recent origin. Until the eleventh century the title of cardinal was common to all clergymen who actually officiated in any church. During this century was formed the college of cardinals, a secret council of ecclesiastics of high rank, who have ever since been considered as next in dignity to the pope. This body composes the pope's council or senate, and, together with the pope, they form the sacred college, and are divided into three ranks, viz: fourteen cardinal deacons, fifty cardinal priests, and six cardinal bishops; the constitution of pope John declares that as the pope represents Moses, so the cardinals represent the seventy elders, who, under the pontifical authority, decide private differences.

The choice of cardinals depends solely on the pope, who sends the red cardinal's hat to those elected, to inform them of their election. They enjoy many privileges, among which, on the demise of the pope, is the election of a new one. For this purpose they are required to assemble, ten days after the death of the pope, in conclave, that is, in a room of the palace in which the pope died, where they are locked up and kept from all communication with the outward world, except for necessary food and drink, until an election is effected. With the sacred college of cardinals, and the conclave, the organization of the Roman church was rendered complete.

In regard to ordinary observances or customs, they are so numerous as to preclude mention except of a few. One of the most common is the offering of the mass, which is regarded as a sacrifice the most acceptable of all others,

and the most effectual of all prayers. It is Jesus Christ himself who is alone regarded as acting in this sacrifice, the priest being but his minister, instrument, or terrestrial organ.

The mass consists of two principal parts, viz: the first from the beginning to the offering, formerly called the mass of the catechumens, and the second, from the offering to the conclusion, called the mass of the faithful. The various actions of the priest at mass have been included under no less than thirty-five distinct heads, a complete allegory of the passion of Jesus Christ being said to be discoverable in all his actions. Masses among the catholics are very numerous, but the two principal ones are high or solemn mass, and the mass for the dead.

An observance which commenced about the beginning of the fourth century was the paying of adoration to the cross. St. Helena, the mother of Constantine, was said to have discovered the true cross. But others claimed to possess the genuine article,[1] and all alike were found to possess about the same power of performing miracles.

Not only crosses but crucifixes have been held in great adoration, and are famous for performing miracles. Those especially at Loretto, Trent, and St. Mary Transpontina at Rome.

The introduction of images into the churches was of early origin, the design being to heighten the devotion of the people by such objects as strike the senses. God, from having styled himself the "ancient of days" was represented as an old man; the Son in a human form; the Holy Ghost in the form of a dove, and angels as young boys with wings on their shoulders.

Many are the miracles attributed to the images of the saints. The image of St. Catharine of Sienna has often

[1] *Burder*, 215.

driven away devils, while around that of "our lady" at Rome, made by St. Luke, the angels have frequently sung litanies.

Of the sacred shroud in which was wrapped the body of the Redeemer, there are two in Europe, one in Besançon, and one in Turin, both brought from Palestine in the time of the Crusades, and both famous for the miracles wrought through them. That of the first mentioned is even reported to have raised the dead.

The canonization of saints is a very important ceremony or series of ceremonies in the catholic church. The holding of four consistories by the pope is first necessary. After it is determined upon, the day of canonization is one of great ceremony. The first canonization was that of St. Sibert, by Leo III, at the beginning of the ninth century. It was soon discovered that the relics of saints possessed surprising virtues in the cure of diseases, and that their bodies could draw down the blessings of heaven on cities and states. Nations were, therefore, happy to put themselves under their protection. Their images were erected in the churches, and their names inserted in the litanies. Canonizations became more frequent. Princes, at immense expense, procured it for some favorite Christian. The legends became full of the miracles they performed.

Among the catholic observances, one of the most remarkable is the devotion paid to the Virgin Mary, variously styled the Mother of God, Queen of Angels, Refuge of Sinners, Mother of Mercy, Gate of Heaven, Mystic Rose, Virgin of Virgins, etc. Here is a great source of relics. The greatest part of her hair has been preserved. Of her milk, it is said not a drop was lost. Her wedding ring is to be seen at Perouse; her cloths at Rome and other places; her shifts at Chartres and Aix-la-Chapelle; her handkerchief at Treves; her girdles at Our Lady of Mont-

serrat at Prato; one of her combs at Rome; another at Besançon. One of her slippers in Brittany; while the measure of her foot is in the custody of the Spaniards. Quite recently we have had promulgated the doctrine of the immaculate conception, which may justly be considered as the crowning glory of the virgin. Whether that doctrine is to be extended, and embrace a long line of ancestry, it will be for the wisdom of future popes and consistories to determine.

Another remarkable observance is the year of jubilee, supposed to be in imitation of the Jewish. The intervals between its occurrence have been various. The first institution by Boniface VIII, was that it should be celebrated once in a hundred years. Clement VI ordered it to be celebrated every fifty years. It was finally established to occur once in twenty-five years.

The year commences with the ceremony of opening the sacred gate, and closes with shutting it. The jubilee grants to those confessors who are approved by their superiors, a power to absolve, in all reserved cases; also from all censures,[1] and the greater excommunication; to annul all suspensions relating both to benefices and ecclesiastical offices, and to take off interdicts. It permits them likewise to alter vows, in case they have no relation to religion or to chastity, or be not of the nature of those that engage to certain pilgrimages, such as those of Rome or Jerusalem.

Another feature in the Romish proceedings relates to indulgences, which began to grow quite common in the seventh and eighth centuries. St. Bridget, in her revelations, declared the vision she had from our Lord Jesus Christ, who told her, "That the shortest way to atone for

[1] *Picart*, I, 381.

all her sins, was to obtain indulgences; that as to himself, when he had a mind to treat any soul kindly,[1] he would advise it to pass its life at Rome, there being no place in the world where so many indulgences might be gained." Rome has indeed vast facilities for this purpose. Her basilicas have perpetual indulgences for every day in the year, and these are doubled on festivals.

Indulgences grew out of the softening of pains imposed upon sinners who were condemned to penance. The relaxation from ecclesiatical pains gradually introduced into devotion certain practices, much easier of performance than spiritual worship; and nothing gave a greater scope to the abuse of indulgences than the commutation of pains into pecuniary fines, which were greatly advantageous to the priests, and pointed out the way in which they could sell the remission of sins.

At one time the practice of selling indulgences led to great abuse. They were granted for all kinds of sins and crimes, the prices of which were rated and the remission set up at auction. The apostolic chancery taxed them at a reasonable rate. A malefactor in Italy, might for ninety livres, purchase the right to commit a crime, for which, on the other side of the Alps, he would be hanged or burnt. The kingdom of heaven was farmed out at a low rate, and yet produced a very handsome profit, a small capital only being required to carry on the business. Most, or all, the abuses that formerly existed in reference to this practice are now corrected.

The aid and accessories to devotion are beads, chaplets, rosaries, good works, relics of saints, etc. The main use of the three first mentioned is to teach the devotee to pray by tale. The fourth is accomplished by the erection of

[1] *Picart*, I, 385.

convents, churches, hospitals, etc., and providing a fund for the celebration of masses.

The relics of saints were, at one time, greatly sought after, and held in unbounded respect. The rage for relics commenced in the fourth century, when they began to be carried from one place to another with great solemnity, and the use of shrines for them commenced. Oaths were taken on them, and the faithful touched the sacred limbs of the saints to revive their faith.

The blood of the martyrs is preserved in various parts of Christendom, more particularly in various parts of Italy, and in Rome. There are several instances in which it liquefies and runs. On the festival of St. Eustace that saints' blood is seen to boil at Rome. So also does the blood of John the Baptist at Naples. The same also occurs with the blood of St. Bartholomew and St. Stephen, and so every year when the head and blood of St. Januarius are made to approach each other, the latter is seen to liquefy, boil and rise to the very rim of the glass in which it is kept.

In 1672, a recruit of relics of four hundred and twenty-eight saints was raised from the catacombs. The custom was extensively resorted to, of wearing holy relics by way of devotion, or as a preservative against casualties, diseases, and calamities. They were also carried in military expeditions as early as the time of Theodosius the Great. In cases of great public calamity recourse is always had to them. At Venice, for example, a leg of St. Lawrence extinguishes fires, and the blood of St. Januarius has never failed to subdue the flames of Mount Vesuvius.

Another large class of observances relates to festivals. These are certain holidays set apart by the church for the peculiar service of God, commemorating some mystery, or in honor of some saint. After the Jewish custom, all the

high festivals have an octave, that is, a continuance of eight days, the eighth and last, being the solemn day of the feast.

The festivals are exceedingly numerous. The Roman calendar of feasts and stations leaves the holy city not even a single day throughout the year, unconsecrated either by festivals or stations. On the 2d January, occurs the festival of St. Macarius, who was a confectioner at Alexandria, but spent upwards of sixty years in the deserts in labor, penance, and contemplation. On the 3d January, Paris rejoices in the feast of St. Genevieve, the virgin patroness of that city. The 5th January, is sacred to the memory of St. Simeon Stylites, who astonished all Christendom by his personal mortifications. He dwelt four years on a pillar nine feet high. On a second pillar, eighteen feet high, he lived three years. On a third, thirty-three feet high, he spent ten years; and on a fourth, sixty feet high, which the people built for him, he lived the last twenty years of his life. His pillar did not exceed three feet in diameter at the top, so that he could not lie extended on it. He had no seat with him, and only stooped or leaned to take a little rest. This extraordinary man lived upon pillars thirty-seven years of his life, and at last died bowing upon his pillar, in his sixty-ninth year. He had several imitators, but none that ever went the same length.

The feast of St. Anthony, the patriarch of monks, occurs on the 17th of January. He was continually assailed by the devil; his only food, bread and salt, his only drink, water, his only resting place, a rush mat or bare floor. The contests which the saint had with devils in the form of various animals, were truly terrific, and his victories over them signal. There were also feasts of St. Thomas Aquinas, St. Gregory and others.

There are also fasts as well as feasts. The season of lent is one of fasting, and in imitation of the Saviour, is a

fast of forty days. The abstaining is not total, but an abstinence from wine, flesh, meats, and all kinds of luxury.

The ceremony of giving ashes is one of the ancient methods of expressing sorrow, and is also a type of the public penance anciently in use among Christians, during which the penitent was cut off from all communication from the rest of the faithful, and stood at the church-door covered with sack-cloth and ashes.

Every year since Pope Urban V, in 1366, occurs the ceremony of the golden rose. It is enriched with precious stones, consecrated by the pope, and sent to some princess or some church, as a mark of his peculiar affection.

There are also the ceremonies of Palm Sunday, procession of the host to the sepulchre, washing the feet of the poor by the pope, and blessing the oils. Those also of Good Friday, of Easter eve, of blessing the baptismal fonts, and procession of the blessed sacrament.

The ceremonies attending each one of the seven sacraments are numerous, some much more so than others, but a particular detail of them cannot here be entered into. It will be readily perceived that the seven sacraments contemplate an entire surrender of the whole man to the church, and the complete possession taken and exercised by the latter. First the baptismal sacrament meets the little stranger on his first entry into the world. It salutes him as a saving ordinance, and takes possession of him in the name of the church. Then comes the confessional, that takes possession of his conscience, and requires an unconditional surrender of that to the will of the church. Next the eucharist and imposition of hands are the means by which new energies are infused into his spiritual nature, and the soul confirmed in all its high and holy aspirations. By the sacrament of marriage, the relations between the sexes are taken into the care of the church, while by that

of extreme unction she stands by the deathbed of the dying, asserting her right to render the last service, and perform the last act that can be done in this world, and to announce that the soul that has been baptized upon coming into it, that has partaken of the eucharist, made confession and received absolution and confirmation in going through it, and finally extreme unction at the close, can venture to leave it with safety. And even then, although the soul has passed beyond the power of the church, yet she still continues to assert her claim over the tenantless body, and will only suffer it to moulder back into its kindred earth in a grave which she herself has consecrated. Is it in the wit of man to devise a system more perfect in all its parts and appointments, that takes an earlier possession, that maintains a firmer grasp, that retains it longer, or that more effectually mingles and moulds all life's warm sympathies and all death's cold realities? If there was ever a religion that was entitled to secure the soul's salvation through the constant and unremitting efforts and labors of the church, it must surely be the Roman catholic.

3. The instrumentalities and extraordinary powers of the church.

The former of these have already been, to a considerable extent, alluded to. The ordinary instrumentalities of the church very largely consist in almost innumerable observances and ceremonies. A heavy, unceasing, and in some respects, splendid ceremonial; heightened by the charms of music, and gorgeous with its displays of imagery; has drawn its ponderous weight along all the thoroughfares of life, summoning the energies of the soul into all its sensuous avenues, and expending them there at the eminent hazard of its own spiritual death. That living organism, the soul, is a most wonderful creation. Its adaptations and capacities are marvellous and manifold. It may lose

itself in its spiritual revealings, and mounting upward on the wings of hope, and faith, and love, may know that its redeemer liveth; or it may sink into the highest refinements of the senses, and there while reveling in the very spirit of beauty, and admiring the power, wisdom, and grandeur of God, may be verging on the very confines of spiritual death. Well does it become us to examine the tendencies of a religion that professes to feed, nourish and perfect such an organism.

To enable us to judge properly in regard to the power of the church, and the agents and instruments through which she has operated, we should inquire: First. Who were her agents? Second. Upon what has she operated? Third. By what means and instrumentalities?

Her agents were:

First. The unmarried priests.

Second. The monastic orders.

Third. The Society of Jesus — the Jesuits.

That upon which she has operated has been: 1. The consciences of men and women. 2. Their hopes. 3. Their fears.

The means and instrumentalities have been: 1. Confession, penance, absolution. 2. Excommunication, interdict. 3. Crusade, the inquisition.

First. Her unmarried priests. The celibacy of the clergy was of gradual introduction. There was no ecclesiastical law or regulation which compelled it for the first three centuries. In the east, council after council introduced regulations, which, though intended to restrict, recognize the legality of these ties. In the last half of the fourth century, the vows of celibacy under which so many voluntarily placed themselves; the influence of the monastic orders; the growing idea that the strength of the church depended on this entire detachment from worldly ties, all

darkened around the pathway of the clergy, tending more and more to send them out alone on their solitary mission. The principle, however, was of gradual introduction. 1. A second marriage by the priest was repudiated. 2. A marriage with a widow. 3. A marriage after entering into holy orders. 4. A demand of abstinence from all intercourse on the part of those who retained their wives.

The prohibition, for some ages, existed only in the letter of church canons. In every country, the parochial clergy kept women in their houses on terms of intercourse. Leo IX began in earnest to enforce celibacy among the clergy. His successors never lost sight of this point of discipline. As it involved a struggle against the natural rights, and the strongest affections of mankind, it lasted for several ages. Although its progress was slow in Germany, and still slower in England, yet the hierarchy never relaxed in their efforts, and all the councils of the twelfth century, utter the severest denunciations against concubinary priests.

The object of the church in all this was manifest. By cutting off her members from the charities of domestic life, she sought to secure their entire affection to her cause, and to render them like veteran soldiers, independent of every feeling but that of fidelity to their commander, and regard to the interests of their body. She did not seem to consider that no great law of God can ever be violated with impunity, and that the isolation of an entire class of men from all social ties, and all the kindlier sympathies of life, must lead to moral delinquencies, or to a terrible reaction which might convulse the frame work of society.

Second. The monastic orders. Monachism was born in the east. Its first appearance was in a few who voluntarily imposed upon themselves sacrifices and austerities. They did not at first flee into deserts, but only condemned themselves to fasting, silence and celibacy. Afterwards

they retired into the woods and deserts, and became anchorites.[1] These afterwards collected together, built huts side by side, and ultimately formed a regular community, receiving the name of monks.

Advancing still another step, they collected in one edifice, and from ascetes became cenobites, adopting certain rules, a certain discipline for their regulation and government.

In the last half of the fourth century the new institution came under the rule of St. Basil. More order and system were introduced.[2] But the monasteries were still purely lay associations. The monks had no ordination, no ecclesiastical engagements, nothing in common with the priests except their doctrines and reverence for the church.

Monastic institutions were introduced into western Europe during the last half of the fourth century. But it there assumed a different character. In the east it was retirement, isolation, contemplation. In the west, the monasteries became schools of theology, and focuses of intellectual improvement. To solitude and mortification had succeeded discussion and activity.

The whole monastic system in the west underwent a thorough reform, was almost recreated by a very extraordinary man, who was born in A. D. 480. This was St. Benedict. The monks, as regarded productive labor, had previously been idle and lazy. He introduced manual and agricultural labor into the monastic institution. The Benedictine monks were the agriculturists of Europe. They both labored and preached, and in their missionary efforts united the two together.

[1] *Guizot*, II, 280-81. [2] *Idem*, 282.

Another rule prescribed by St. Benedict, and which may be said to be of his introduction, was that of passive obedience of the monks to their superiors. This principle, thus introduced into the monastic system, was long afterwards, as we shall see, introduced into the Society of Jesus, and has really lain at the foundation of success both in the church, and despotic governments. It was a great principle bequeathed by monastic institutions to Europe.

The direct consequence of this passive obedience and involved in it, was self-denial, the negation of all personality, the abolition of individuality.

The monks were originally laymen and not ecclesiastics. Their union was voluntary, founding themselves the monasteries in which they lived, and administering themselves the property they possessed in common.

The monasteries became rich, but they had no special privileges. They desired these and applied for them to the bishop. He granted the right of constructing a church in the interior of the monastery, and gave them priests to celebrate divine service. Another step was taken, and, instead of receiving priests from the external clergy, the bishop ordained certain monks, priests.

The bishops became jealous of the monks, and often violated their privileges. The monasteries, therefore, invoked the aid of the king, and his intervention was readily granted between them and the clergy. But the kingly protection related exclusively to monastic property, not to any of the religious privileges of the bishops or clergy. Under various pretexts, and by various means, the bishops were succeeding in bringing under their influence and control many monastic institutions.

The monasteries were oppressed, and in looking for a new protector, addressed the pope. The papal power,

then and at all times, endeavoring both to strengthen and extend itself, was very happy to take under its care, as far as prudence would permit, all monastic institutions.

But these institutions, in the course of ages, had grown rich, lost the motives for effort, the monks had become idle, lazy, and too often dissolute, thus forfeiting much of the public esteem. The popular will demanded a new order of things, and the mendicant orders now came into existence. These were, by the very rules of their foundation, made incapable of possessing estates,[1] being maintained only by alms and pious remunerations. They were founded by St. Dominic and St. Francis, in 1216 and 1223.

The Dominican and Franciscan friars made great progress in the thirteenth century. Their activity was unceasing. They fully understood and practiced all the stratagems of itineracy, preaching in public streets, and administering the communion on a portable altar. Their activity almost subverted the regular discipline, the parish church being almost deserted, and the parish confessional seldom resorted to.

These orders were readily seized upon by the Roman pontiff. Aware of the benefits they might derive from their services, the pontiffs of the thirteenth century conferred upon the disciples of Francis and Dominic many benefits. They were exempted from episcopal authority; permitted to preach or hear confessions without leave of the ordinary, to accept legacies, and to inter in their churches. During the thirteenth century they vied with each other in magnifying the papal supremacy.

Third. The Society of Jesus, the Jesuits. This extraordinary society owes its existence to Ignatius Loyola, a

[1] *Hallam*, 291.

Spanish gentleman of noble birth, whose first appearance was as a soldier at the siege of Pampeluna, where he was wounded. At Montmartre in Paris in the year 1535, himself and five other young men took the usual monastic vows of poverty, chastity and obedience, solemnly forming together an association, and devoting themselves to their new mission, the conversion of the world.

In 1539 they went to Rome and asked the pope to constitute them a new missionary order; the Society of Jesus, undertaking to go wherever he should send them unconditionally, and without fee or reward. Although at first ridiculed as fanatics, yet they soon displayed powers and energies worthy of employment. The papal power obviously required aid and support. Its abuses had accumulated. The reformation was making rapid progress. The monks were some of them wealthy, idle, and lazy; while the mendicant orders were little better than itinerant vagabonds, peddling relics and indulgences. Under such circumstances a fresh element of power was by no means to be disregarded. In 1540, a bull of Paul III established the society, and in the year following the members assembled at Rome and chose their founder for their first general.

The popes Paul III and Julius III conferred upon this society great privileges. They conferred upon those who composed it, all the rights of the mendicant and secular orders. They exempted them from all episcopal and civil jurisdiction, and from the payment of taxes. While, therefore, they acknowledged no authority but that of the pope, and the superiors of their own order, they were permitted to exercise every priestly function among all classes of men. They had conferred upon them the power of absolving from all sins and ecclesiastical penalties; of changing the objects of the vows of the laity; and of acquiring churches and estates without further papal sanction.

Their general was invested with absolute and unlimited power over the members. He could send them on missions of every kind, and to every place; could appoint them professors of theology at his discretion, wherever he chose; and confer academical dignities equal to those given by universities.

The Society of Jesus had an organization peculiar to itself, a species of hierarchy or gradation in its classes. There was: 1st. The novice, selected from the most talented and well educated youths and men, and tried for two years in all imaginable exercises of self-denial and obedience. 2d. The secular coadjutors, who take no monastic vows, who serve the order partly as subalterns, and partly as confederates. 3d. The scholars and spiritual coadjutors, who were instructed in the higher branches of learning, who took upon themselves solemn monastic vows, and were bound to devote themselves particularly to the education of youth. These were the preachers, the professors, and the spiritual guides in institutions of learning, in courts and in families. 4th. The nobility or highest class, the professed, including only the most experienced members; whose address, energy and fidelity to the order, have been eminently tried and proved. They are termed professed because they take the vows of their order, and also a fourth vow, to the undertaking of missions. They serve as missionaries, as governors of colonies, as residents of the order in places where it has no college, and as father confessors of princes. They alone choose from their own number the general, who, in return, selects from them his assistants, provincials, superiors and rectors.

The general is the centre of the whole order, residing at Rome, surrounded by five councillors who represent the five principal nations, the Italians, Germans, French, Spanish and Portuguese. He receives all the reports, and

issues his orders which all are bound to obey, and from which there is no appeal. An organization so secret, so absolute, so devoted, and coming into existence at such a particular point of time, might well be expected to exercise no small amount of influence both in religious and secular affairs.

The progress made by this society was for some time unexampled in history. It opened a new avenue, into which rushed the active, energetic, and powerful spirits of the age. It charged itself with sustaining and carrying forward the Roman catholic religion, and became, for a time, the rising hope of the church. Its members were ever found in the places of power and trust. They were the confessors of kings and the teachers of youth. They were eloquent in the pulpit, and daring in fields of missionary labor. Neither the fears of princes, nor the hostile voice of universities, nor the jealousy of the monastic orders, could stay their onward march. In the words of an eloquent historian: "In sixteen years, from the condition of a ridiculed fanatic, whose voice would have been disregarded a century earlier or later, Loyola, the first general of the order, became one of the most powerful dignitaries of the church, influencing the councils of the Vatican, moving the minds of kings, controlling the souls of a numerous fraternity, and making his power felt, even in the courts of Japan and China. Before he died his spiritual sons had planted their missionary stations amid Peruvian mines, amid the marts of the African slave trade, in the islands of the Indian ocean, and in the cities of Japan and China. His followers had secured the most important chairs in the universities of Europe, and had become confessors to the most powerful monarchs, teachers in the best schools in Christendom, and preachers in its principal pulpits. They had become an organization instinct with

life, endued with energy and will, and forming a body which could outwatch Argus, with his hundred eyes, and outwork Briareus with his hundred arms. It had forty thousand eyes open upon every cabinet and private family in Europe, and forty thousand arms extended over the necks of both sovereigns and people. It had become a mighty power in the world inseparably connected with the education and the religion of the age, the prime mover of all political affairs, the grand prop of absolute monarchies, the last hope of the papal hierarchy."

One of the most remarkable features of this society, that, in fact, which originally prompted its formation, was its missionary zeal. The Jesuit missionary does in truth, exhibit a noble, a sublime spectacle. No obstacle could impede, no danger retard, no peril appall him in his onward progress. If offered the martyr's crown he received it rejoicingly, apparently glorying in the fact that he was deemed worthy to suffer. Francis Xavier, one of Loyola's first converts, traversed a region of country more than twice the globe's circumference, preaching, disputing and baptizing, until seventy thousand converts attested the fruits of his mission. By the middle of the seventeenth century the Jesuit missionaries had planted the cross amid the wilds of Canada, at the sources of the Mississippi, on the praries of Illinois, on the distant banks of the La Plata, and had gathered around it in villages in Paraguay, one hundred thousand Indians, to whom it was dispensing useful arts, and the blessings of civilization. Wherever they went, they preached and taught, and confessed, framing the human mind and controlling the conscience; working the machinery of society in accordance with their own views and wishes; collecting facts for science, and gathering the products of the earth possessing medicinal properties, wherewith to administer to bodies diseased.

The success of the Jesuit grew out of the organization of the society, out of the demands of the times, the wants of the catholic church, and the fact that the most active and energetic spirits there found full opportunities for the gratification of their active propensities. But this very success contributed to the overthrow of the order. It inspired great self-confidence, and gave rise to the feeling of self-sufficiency. The order felt itself to be the main prop of the papal power, and supposed itself safe under the protection of the pope. It adopted a system of casuistry which lowered the moral sense, and tended to lax and loose notions of morality. The general doctrine proclaimed was, that the "end sanctifies the means." To these modern casuists have been ascribed the invention of probabilism, mental reservation, and the direction of the intention.

The first was a systematic attempt to legalize crime, under the sanction of some grave doctor, who had found out some excuse for it. So also their theory of mental reservation, and direction of the intention was employed to sanctify the plainest violations of the divine law. The great difficulty seems to have been in the confounding of all moral distinctions, and rendering the advancement of the church the object of primary importance, to which every other must become subservient.

But the Jesuit rule could not always endure. From the depths of man's moral nature issued a protest against the confounding of all moral distinctions. The Jansenists, so called from Jansenius, waged a fierce war against them upon polemical grounds. Pascal, in his *Provincial Letters*, opened upon them a battery which was terrible in its effects. But they had the whole power of the pope to sustain them. They obtained from him the bull unigenitus which came with crushing weight upon the Jansenists.

But they soon had other enemies to contend with. In their greatness they felt their strength, and began to care little about conciliating even princes. They were so unwise as to quarrel with Madame de Pompadour, the powerful mistress of Louis XV. They attempted to undermine her influence with the king. But they had provoked a power that proved too strong for them, and received their fatal wound from the hands of a woman. She incited the prime minister of France, to unite with the marquis of Pombal, who then wielded the power of Portugal, to effect their destruction. They were expelled in the most summary manner from the kingdom.

In France, the king, Louis XV, endeavored for some time to protect them, but the parliament, people, minister and mistress raised against them a fearful clamor. The king was finally compelled to yield, and their colleges were closed, their order dissolved, and themselves expelled from the kingdom.

Even Spain revolted from the rule of the Jesuits. The measures there taken were as secret as they were effectual. On the same 2d of April, 1767, the alcaldes of all the towns opened their dispatches from Madrid, by which they were ordered, on pain of the severest penalties, immediately to enter the establishments of the Jesuits, to seize their persons, expel them from their convents, and transport them within twenty-four hours, to such places as were designated. Silence was imposed upon the pulpits and upon all classes of men. Six thousand priests were sent adrift upon the Mediterranean, who after six months of suffering, found a refuge in Corsica.

Thus expelled from the different kingdoms of Europe, the last battle was to be fought in the Vatican. A new pope was to be elected, and France, Spain, and Portugal selected their candidate, Ganganelli, who promised, that if

elected, he would abolish the order. The Jesuits also pressed their candidate, but Ganganelli was elected. He long delayed, but finally was compelled to suppress the order. Sixty-nine colleges were closed, their missions broken up, their churches bestowed upon others, and twenty-two thousand priests deprived of organization, wealth, and power. This occurred in the year 1773.

But the society was too necessary to the catholic church to allow it ultimately to perish. An attempt was made to revive it under the name of Vicentines, as early as 1787, which was unsuccessful. Pope Pius VII established their order in White Russia and Lithuania, and also silently restored them in 1804, in the island of Sicily. A bull was issued by the pope, August 7, 1814, which restored the order in the same form in which it had fallen. The novitiate was solemnly opened at Rome, Nov. 11, 1814, and in 1824, they took possession of the Collegium Romanum, in that city. On the 29th May, 1815, Ferdinand VII of Spain reinstated them in all the privileges and property of which they had been deprived in 1767. Banished by the revolution of March, 1820, they were restored on the reestablishment of absolute power in 1823. Portugal still continued to adhere to its ordinance of expulsion of September 3, 1759. They were also restored in the kingdoms of Sardinia and Naples. The fortunes of the order have thus been very various, abundantly fulfilling the prophetic words of their third general, Francis Borgia: "Like lambs have we crept into power, like wolves have we used it, like dogs shall we be driven out, but like eagles shall we renew our youth."

But the order, and the Jesuit of the present day, are very different from what they were under their first organization. For two centuries their influence in church and state has no parallel with that of any other institution. It

is difficult to conceive how the catholic church could have been sustained under the vigorous action of the reformation, had it not been for the masterly efforts of this order, subtle, ingenious, unscrupulous; secret, effective, politic; perfect in organization, wise in their arrangements, timely in their appointments; capable of adaptation to all men under all circumstances, and in all conditions; acting when unperceived, and often known only in the results of action; possessing and acting upon a system of morality questionable in its principles, and accommodating in its character; it is not at all surprising that their influence in church, state and society was all but controlling.

But the present age brings with it light and knowledge. The tactics of the order are better understood; counteracting influences everywhere exist. The Jesuits are considered as forming a part of the old regime, and they are no longer found exclusively at the origin of things, or controlling the sources of public opinion. Their power has vanished with the circumstances that gave it birth, and the necessities that required its exercise. Like other institutions it has grown old, its spirit has decayed, and it has hardly sufficient of life left to animate a body in some of the last stages of its decadence. It must soon be numbered among the things that were.

The next branch of inquiry relates to that upon which the church has operated, and here we are presented with;

First, The consciences of men and women. This is a moral lever, and it is based upon the assumption that man is a moral being. The church claiming to be infallible, might well assert its right to direct and control the conscience. Little argument would be required to show, that the conscience unenlightened and undirected would be a blind guide. It requires one or the other to render its

responses safe or reliable. The church found it easier, and perhaps safer, to direct than to enlighten, and accordingly gave all its energies an impulse in that direction. Speaking with the voice of God, its authority was unquestioned. No one could well hesitate to lay his conscience upon the altar. It was but a reasonable sacrifice, and one that was easily made.

But its results were tremendous. The control over the conscience gives the control over the actions of men. This gives to the controlling power a fearful supremacy. If guided by intelligence, wisdom and goodness its results for good would be incalculable; if by ignorance, selfishness and wickedness, deplorable for evil.

We here recognize two great sources of error, arising from two important mistakes. The first consists in assuming that a church conducted by fallible men is itself infallible; and that, being so, such infallibility was transferred by it to its officers. The second was, that whatever advanced the interests of its officers, advanced also the interests of the church, and the cause of true religion itself. The existence of the first is deduced from theory, that of the last from practice. The first furnished the grounds upon which the claim to direct the conscience was founded; the second, the objects to be had in view in its enforcement.

It is, however, to be borne in mind that it was not, in general, mere individual interests that were to be advanced. It was the interests of the church, that immense corporate power, everywhere living and acting, everywhere transfusing itself into its popes and councils, its cardinals, bishops, monks, Jesuits, and priests; and receiving from them in return all that their separate and combined thought and effort could furnish. And men and women were to be influenced and controlled in the building up of

this immense corporate power. First, by their consciences; second, by their hopes; and third, by their fears.

We will now refer to some of the means and instrumentalities by which these consciences, and hopes and fears have been rendered subservient to the advancement of the interests of the church.

a. The conscience is sifted at the confessional. The latter is a species of cell in the catholic church built of joinery, with a boarded back next the wall, or against a pillar or a pier, divided into three niches or small cells. The central one is for the priest, while the side cells are for those who come to confess.

Certain formalities are gone through with in the confession, but the great object is the disclosure of sins to the priest with the view of obtaining absolution. The confessor may, if he chooses, thoroughly sift the conscience of the one confessing, by inquiring into all the circumstances of the sin, and all the motives that led to its commission. No remembered sin of any importance must be concealed, and the father confessor is bound to perpetual secrecy. The theory of it is, that the confession must be as full, as free and as perfect as it would be if made unto God, and hence that nothing should be kept back. In all probability this necessity of auricular confession, of fully disclosing all remembered transgressions of a sinful nature, may frequently operate to prevent violations of law and the commission of crime. So also does it give the confessor an opportunity of directing self-examination, of rousing, warning, exhorting, and consoling; and thus of adapting his reproofs, exhortations and consolations to the special wants of the individual.

But on the other side are dangerous consequences. The confessor is not, as he is assumed to be, infallible. He is often young, pleasure loving, and ambitious. Possessing

the secrets of the penitent, he controls his actions. Neither rank, station, nor sex, exempts from the necessity of submitting to the confessional. The sin and the confession are coextensive, and the sacred volume declares that "all have sinned." The confessor beholds sceptres at his feet, he humbles crowns; and makes the rulers of nations tremble. He has in his keeping their heart secrets, and after that, they have little moral independence left.

Again, all odious and disgusting details, all the forms of impurity, are brought out at the confessional. These have their effect upon the mind of the confessor, and thus, instead of checking, they often furnish new incentives to sin. All this is entirely irrespective of what a cunning and unconscientious priest may choose to effect, both in the extracting of secrets, the exciting of impure desires, and the taking himself the advantage of both.

By means of auricular confession, or through other sources, the priest comes to know of the sins committed. Then we have:

b. The penance imposed. This generally consists in subjecting the penitent to various austerities. Fasting, prayers, alms, abstinence from such pleasures and things as we chiefly delight in, are the general conditions of penance. There are others more special in their character, as the repetition of a certain number of ave-marias, paternosters, and credos; the kneeling and salutation of the host a certain number of times; the giving one's self a certain number of stripes, and the wearing, next to the skin, a hair shirt, or a girdle made of horse hair.

The penances prescribed have varied at different times. During the earlier periods they were much more severe both in their infliction and the time of their continuance. The severity began to slacken by degrees. The time for the continuation of austerities was much shortened, and

very often the punishments inflicted on penitents were commuted into pecuniary mulcts.

Next after the penance, or if no penance is imposed, next after the confession comes

The absolution. This is done by the confessors recommending the penitent to divine mercy, begging God to remit his sins, and giving him the absolution in the name of Christ Jesus, and adding that he absolves him by Christ's authority, in the name of the Father, Son and Holy Ghost.

The absolution appeals to the hopes of the individual. But appeals are also made to his fears. These, independent of the penance, are most strongly appealed to by the excommunication, the interdict, the crusade, and the inquisition.

The first of these in order is the excommunication. Of this, there are three kinds: minor, major and anathema.

The minor is a mere spiritual infection, being incurred by those who have any correspondence with an excommunicated person. The parish priest is competent to absolve from this excommunication.

The major excommunication is made in writing against those who disobey the commands of the church, or who refuse to submit to certain points of discipline, or who infringe some immunities.

The anathema is fulminated by the pope against all heretics and apostates; against all such as unjustly seize upon the temporalities of the church; against all its enemies. The following is the mode of doing it. The pope goes up to the high altar accompanied by twelve cardinal priests bearing lighted tapers. He then sits down on the pontifical seat placed before the high altar, and thence thunders out his anathemas. The bells ring out a knell as for deceased persons, and every one cries with a loud voice

fiat, or so be it. The pope and cardinals, at the same time, throw their lighted candles on the ground, which are immediately trodden under foot. By this terrible anathema the subjects of it are declared separated from the sacred body of Christ as rotten members; cut off from all Christian society, excluded from the church both militant and triumphant; and delivered over to the devil and his angels.

The interdict, in its largest sense, is one of the mightiest engines of ecclesiastical power. It consists in the suspension of all church offices. There is a personal, local, and a mixed interdict, according as it relates to persons or places.

The laying a province or a nation under an interdict, presented the most solemn and imposing exhibition of ecclesiastical power. All the offices of religion, all the splendid forms of ceremonial worship, at once ceased. The newly arrived stranger, who had just come into the world, awaited in vain the baptismal seal. The pulpit was unoccupied, the confessional deserted, the house of worship closed. The returning sabbath brought no priest to the altar, no mass celebration, no vesper hymn. No gorgeous processions met the eye; no strains of music fell upon the ear.

The sacraments were all suspended. Marriage, with its mirth and hilarity, was a banished thing. The host, with all its associations, never appeared. There was no laying on of hands, no confirmation. The sin burdened soul in vain sought an opportunity to confess, do penance, and obtain absolution. The last offices of the church were denied to the dying, and the soul was compelled to take its final departure without priestly aid. Purgatory was constantly receiving new accessions, but no souls were prayed out of it, no funeral ceremonies solaced the heart of the mourner. As man's birth was ungreeted, so his

death was unheeded. The resting places of the dead were closed. The burying grounds being sanctified by the church, were sealed up, and all entrance forbidden. The bodies, whether of prince or serf, could never repose in holy ground. They must fight their way back to the elements in mere common earth. No holy water sprinkled their remains. No clods of earth, saturated with priestly blessings, fell upon their coffins. To the pious soul, for some there undoubtedly were, this earth must have appeared sin stricken and God deserted. We can hardly contemplate a scene like this, without conceding to the catholic faith and worship, a mission of mercy. Just in the same proportion in which the religious forms and ceremonies of the church had mingled with, and modified all life's realities and warmer sympathies, would be felt and most fearfully realized their sudden and terrible cessation.

The interdict, although previously existing, was the most frequently used by Gregory VII. The eleventh century was preeminently the century of interdicts. Adrian IV laid even Rome itself under an interdict to compel the senators to expel Arnold of Brescia, and his followers. Innocent III laid the kingdom of France under an interdict in 1200, and that of England in 1208.

The interdict, like the excommunication, must be in writing, with the causes assigned. It is not to be imposed until after three admonitions. The church enforces the interdict by excommunicating those who will not submit to it.

Interdicts gradually lost their force. They came to be regarded as inconsistent with the spirit of the time. When Paul V laid Venice under an interdict in 1606, the churches were not closed, nor even divine service interrupted, a minority only of the bishops acknowledging it.

Another method which the church, at one period of its history, occasionally resorted to for the purpose of enforcing obedience to its faith and doctrines was by the crusade. I do not mean here the Crusades that seemed to precipitate Europe upon Asia to wrest the holy city, Jerusalem, from the dominion of infidels; but those proclaimed against heretics, for the purpose either of compelling their return to the bosom of the church, or of accomplishing their destruction. The most remarkable of these was that got up against the Albigenses about the beginning of the thirteenth century. These people, so called from Albigeois, territory of Albi, occupied the south of France, and agreed together in opposing the dominion of the Roman hierarchy, and endeavoring to restore Christianity in its primitive simplicity.

The first attempt was made to convert them, and Innoc ent III dispatched thither several missionaries to try first the effect of preaching and disputation. As these failed of the desired effect, the pope resolved to employ weapons, harder tempered and more irresistible, and declaring these heretics to be Mahometans, because like them they were enemies to the church, he published against them a crusade. He proclaimed that all who either by their credit or money should contribute to the extirpation of heretics, should be granted indulgences as fully as if they actually fought in the army. A large army of the cross was raised in 1209, and placed under the command of Count Simon de Montfort, a man possessed of military talents, but cruel, ambitious and unprincipled. On the other side the Albigenses found an able protector in Raymond, Count of Toulouse, and in the Counts of Foix and Comminges.

This was the first war waged by the Roman church against heretics within her own dominions. One of its principal objects seemed to be, to deprive Count Raymond

of his possessions simply because of his toleration of the heretics. The malignant cruelty with which it was prosecuted cast a deep shade over the Roman clergy, and all who took any part in it. For twenty years the most beautiful portions of Provence and Upper Languedoc were drenched in human gore. The city of Beziers was taken by storm, and its inhabitants, numbering sixty thousand, without any distinction of creed, put to the sword. The town and city of Carcassone was treated in the same manner after they had obtained possession of its brave defender, the Count de Beziers, by an act of unparalleled treachery. Simon de Montfort finally perished in battle. The king of Arragon perished in like manner. The Count de Beziers died in prison, and Count Raymond died in 1222. At length, after hundreds of thousands had fallen on both sides, and the south of France had become nearly depopulated, these provinces were suffered to come into the possession of the king of France, in order that he might be bound more firmly to the interests of the pope, and consent to receive his inquisitors. Thus the crusade was to be followed up by the horrors of the inquisition, and the zeal of the Dominicans was to succeed that of the army of crusaders. Under the terrible pressure of both these the Albigenses disappeared about the middle of the thirteenth century, but fugitives might be found in Lombardy, and among the mountains of Piedmont, and their influence undoubtedly reached through the Waldenses to the times of the Wickliffites or Lollards, the Hussites, and the times of the reformation. The consequences of things can never very easily be foretold, especially those which are the results of persecution.

We now come to the last terrible instrument resorted to by the Roman church in order to force its belief and doctrines upon the minds of men, through the agency of fear, viz:

The inquisition, the very name of which calls up almost every form of horror.

This will best be considered under:

a. Its origin and introduction into the different kingdoms of Europe.

b. Its jurisdiction as to cases and persons.

c. Its organization and maxims.

d. Its methods of proceeding, processes, and executions.

e. Its history and its effects upon all minds subject to its jurisdiction.

a. Its origin and introduction into the different kingdoms of Europe. It was the heresy of the Albigenses, that first called into being the horrors of the inquisition. The crusade had fallen upon them with its crushing weight, and destroyed all outward manifestation of their faith. Yet although no outward sign was manifested, the idea that the remnants of them were converted to the catholic faith was so far removed from the province of reason that the entertainment of it by catholics themselves was utterly impossible. In order, therefore, to destroy every lingering trace of heresy, to put an end to all private, as the crusade had done to all public, profession of their doctrines, it occurred to the pope and his council to establish a standing remedy, viz: a tribunal, composed of persons whose sole business should be the detecting and punishing of heretics. This was the conception of Pope Innocent III, and it broke upon the world with the early dawn of the thirteenth century.

The pope was unwilling to intrûst the execution of this idea to bishops, or to any other than to monks of the newly instituted orders of St. Dominic and St. Francis. The power originally conferred upon these was far inferior to what they subsequently enjoyed. It was confined to laboring for the conversion of heretics, by preaching and

instruction; to admonishing princes and magistrates; to punishing all such capitally as should persist obstinately in their errors; to the obtaining information of the number and quality of heretics, of the care and diligence which the bishops and their officials used in searching after them, and of the zeal which Roman catholic princes should evince in their prosecution. All information of this character they transmitted to Rome, to be submitted to the pope, and from these informations and inquiries the name of inquisitor was derived.

Soon after, their authority was enlarged, and they were empowered to grant indulgences, to publish crusades, to excite the spirits of the people and of sovereign princes, to head the crusaders, and to lead them on to the extirpation of heretics.

There were two obstacles in the way of establishing the inquisition. The first was the opposition of the bishops, as it would deprive them of having cognizance of matters of heresy, over all which they had always claimed to exercise control. The second was the opposition of the civil authorities, who had always enjoyed the right of prosecuting and punishing heretics. Both would, therefore, naturally conspire to oppose the establishment of a tribunal that would withdraw so much from their own jurisdiction.

The first of these difficulties was obviated by providing that bishops, jointly with the inquisitors, should be judges over the heretics, taking care, however, that the chief authority should belong to the inquisitors. The second was disposed of by leaving to the civil authorities the power of disposing of the lower employments of the inquisition; of appointing an assistant to the inquisitors; and of allowing one-third part of the confiscated estates of the condemned to be applied to public uses.

Another difficulty also arose as to defraying the expenses of the inquisition; but the mode proposed to obviate this was to devolve upon the corporations of the places in which they were established their support, allowing them a part of the money that should arise from fines and confiscations. This proved in the end to be unsatisfactory, and it finally resulted in the inquisition looking to other means of support than to the people among whom it was established, thus making the inquisitors dependent entirely upon Rome for their support, and attaching them all the more firmly to the papal interest. All these objections being thus obviated, the introduction of the inquisition into various parts of Italy followed in quick succession.

After Italy, including Sicily and Sardinia, had received its full supply, the court of Rome attempted its establishment in Germany; but the spirit and temper of the Germans successfully resisted it. In the southern part of France they at first succeeded, the avowed object being the extirpation of the Albigenses. But the spirit of the French people would no more endure it than the German, and from some places it was banished by popular insurrections, while others were vacated by the inquisitors from want of employment.

The court of Rome finally fixed its eye upon Spain and Portugal, as offering the most numerous and strongest facilities for a permanent location. In the former, Ferdinand and Isabella had just united the kingdoms of Arragon and Castile under one sceptre, and conquered from the Moors the kingdom of Granada. The ostensible object of its introduction was to Christianize the Moors and Jews. The latter had their synagogues, forming a distinct class in the principal cities, and carrying on the commerce of the country. They were very numerous. The former were Mahometans.

Besides, there were considerations of state, that had their effect. Ferdinand and Isabella having come off triumphant over the Moors, and feeling themselves firmly established, were anxious to humble the nobles and render their sway more absolute. Hence politically they were led to favor the introduction of an institution having such sympathies with absolutism, and such a universal leveler. It was very gradual in its introduction, Spain not becoming wholly subject to the inquisition until A.D. 1484. The celebrated John de Torquemada, a Dominican, having labored for the establishment of the inquisition in Spain was rewarded by the first appointment of inquisitor general, which he held for fourteen years, having during that time, persecuted upwards of one hundred thousand persons, and condemned six thousand to the flames.

The introduction of the inquisition into Portugal was attended with some difficulty, but it was finally established in Lisbon, in 1557. So effectual did it become an institution in Spain and Portugal that it shared all their conquests, the former carrying it across the Atlantic to the new world, and the latter transporting it around the cape, and planting it in Goa, in the East Indies. Thus in the last half of the sixteenth century, and the forepart of the seventeenth, the inquisition reigned triumphant in Spain, Portugal, and the extensive possessions of both in America and the East Indies.

b. Its jurisdiction as to cases and persons.

There were six different cases, subject to the judgment of the inquisition. These were:

aa. Heresy, which comprehended under it all those who had either spoken, written, taught, or preached anything contrary to the scripture, the apostles' creed, the articles of faith, and the traditions of the church. They included all those who disapproved of any ceremony, usage or custom,

received either in the universal church, or in those particular churches where the inquisition was received. And even further, those who held or taught any principles contrary to those received at Rome respecting the sovereign and unlimited authority of the popes, their superiority over general councils, and their power over temporal princes; and also all those holding, teaching or writing anything in opposition to the decisions made by the pope on any subject whatever.

bb. Suspicion of heresy. This embraced all those who advanced any proposition offending those who heard it, and even those forbearing to impeach any one who advanced such. It included all who were present, although but once, at any sermon preached by a heretic, or any of their public exercises. No one could receive a heretic into his friendship, entertain him in his house, make him presents, or pay him a visit, without incurring the suspicion of heresy.

cc. Protection of heresy, embracing all those, who in any way, favor, defend, or give advice, or assistance to any one whom the holy office has begun to prosecute. This went so far as to oblige any person to impeach for heresy, even though it were a brother, father, husband or wife. It included all those who, without permission should speak, write to, or advise any one imprisoned in the inquisition, and all who, in any way, opposed the holy office, in any of its officers, processes or methods of proceeding. Even a mere business commercial correspondence could not be carried on with heretics without incurring a suspicion of heresy.

dd. The practice of the black art: witchcraft, sorcery, and enchantment; comprehending all magicians, wizards, conjurers and soothsayers.

ee. Blasphemy, embracing, however, only that kind of it which included within it some heretical tenet.

Another branch of its jurisdiction related to books. These, immediately on publication, underwent a rigorous examination, and the most trifling circumstance would insure their censure or condemnation.

There were three kinds of censure.[1] 1. Certain extracts were made which were condemned, leaving the book free as to other parts of it. 2. The whole book was condemned, but only until such time as it should be corrected. 3. The whole book was absolutely condemned to all intents and purposes.

A catalogue of all condemned books was published annually, containing a list of all such books as were in any way condemned or censured. This was hung up in the most public places of resort, and thereafter no person was allowed to have by him any proscribed books. The reading or having one such in his custody was sufficient to subject any one to the inquisition.

In regard to persons, the holy office made no distinction. It held consistently that all men were alike before God, and all alike responsible to the holy office. No official loftiness, no lowly station could exempt. At Rome it condemned cardinals to suffer,[2] although their persons were so sacred as to be beyond the reach of kings. In Spain, the cell in which the emperor Charles V died, was found hung round with papers, in his own handwriting, upon topics of justification and grace favoring the protestant doctrine. His will left but few pious legacies or foundations for masses.

The latter especially became obnoxious to the holy office. The archbishop of Toledo, the primate of Spain; Caculla, the emperor's chaplain; and Constantine Pontius, his confessor, were brought before the inquisitors for having

[1] *Picart*, II, 249. [2] *Idem*, 246.

had a hand in the emperor's will. These three, together with the will, were condemned to the flames. The first managed to escape by an appeal to Rome; the second was burnt alive, together with the pasteboard image of the third, who had died some days previously in prison. Philip III, king of Spain, at an auto-da-fe, or act of faith, heard two condemned heretics, on their way to the stake, praying and singing psalms. He remarked, "Surely those two men are very unhappy, to die for a thing of the truth whereof they are persuaded." A familiar reported these words to the inquisitors. The holy office was in immediate action. After long considering the subject it was finally decided to draw from the royal veins a porringer of blood, which should be burnt by the hands of the common hangman. This sentence was promptly executed in the presence of the great inquisitor and his officers.

Even the dead did not escape the judgment of this dread tribunal. Their bones were disinterred, and, together with the living, were burnt at their auto-da-fes.

c. Its organization and maxims.

The inquisitions of Italy were ever subordinate to that of Rome. The latter was composed of cardinals who were nominated by the pope. These sat as judges. There were also consulters, most of whom were doctors of the canon law; and also regulars or monks, who examined the books, tenets, opinions, and actions of all persons impeached before the tribunal.

There were also two secretaries, an attorney-general, and a prodigious number of inferior officers. All officers had great privileges, one of which was that they were amenable to no tribunal except the inquisition.

In Spain, there was a supreme council of the inquisition, consisting of the grand inquisitor, who was nominated by the king, and confirmed by the pope. The inquisitor

general had the nomination of all the officers of the inquisition through all the Spanish dominions, and was, therefore, one of the most considerable persons in the government.

The supreme council, besides the inquisitor general, consisted of five councillors of which one must be a Dominican friar. There was also an attorney-general, a secretary of the king's chamber, two secretaries of the council, a receiver, two relators, and two qualificators. Besides these, there was an army of familiars computed at over twenty thousand, who were scattered over Spain, and served as spies and informers. The rule here, as in Italy, rendered all officers of the inquisition responsible to no other tribunal than that of the holy office. Besides, they had other privileges, which were altogether so considerable, that the greatest nobleman in Spain deemed it a high honor to be officers of the inquisition.

As to the maxims of the inquisition, the following were some of them: A heretic must never be disputed with upon religious matters, especially in public.[1] That all who either conceal, or favor, a heretic, in what manner, or in what methods soever, ought to be excommunicated, and cannot be received into the number of penitents, without first passing through the hands of the inquisition. All such are to be suspected of heresy in the strongest manner. A heretic, although absolved by the pope, is still subject to the inquisition, and may be condemned to die. A heretic once condemned, must never be suffered to speak before the people. Although he retracts his former errors, yet he must not be pardoned. The inquisitors in examining the prisoner, must never interrogate him as though they were doubtful of his crime, but must always suppose his crime to be matter of fact, and examine him only with

[1] *Picart*, II, 243.

respect to the circumstances. In such examination, death must always be set before his eyes, nor must they hope, or ever attempt to convert him by scripture or by argument. A promise must be made in ambiguous terms, so that he may confess and yet suffer punishment. That the possessions of a heretic devolved by right on the inquisition. That death does not prevent a criminal from being subject to the inquisition. That he must be prosecuted after his death, and executed in effigy. That in matters of heresy and apostacy there is no pleading prescription. That no consideration, either of kindred, alliance, gratitude, though even for having saved a person's life, ought to prevent a man from impeaching a criminal who has become subject to the inquisition. That whoever has advanced any heretical tenets, though it were through ignorance, and without knowing them to be so, does nevertheless by that means become subject to the inquisition, because it is the duty of every good Christian to know whatever has been condemned by the church. That a person impeached, who owns that he formerly embraced some heretical principle, imagining it to be orthodox, ought nevertheless to be put to the torture, in order to squeeze out of him, whether his assertion be true. That it is better to put to death a hundred catholics of unblemished reputation, than to let one heretic escape, because by putting an innocent catholic to death, they only confer upon him the joys of paradise, whereas by suffering a heretic to escape, he might infect and destroy a great number of souls. Their maxim for the innocent condemned to suffer is, "Let no one say he has been unjustly condemned, or complain of the ecclesiastical judges, or of the judgment of the church; but in case he be unjustly condemned, let him rejoice that he suffers for the sake of justice."

d. Its methods of proceeding, processes, and executions.

There are four different methods by which crimes and criminals are brought under the cognizance of the holy office. 1. By public report. 2. By the deposition of witnesses. 3. By the discovery of familiars. 4. By the depositions of the criminals themselves, in the hope of meeting with less severe treatment than if informed against by others.

By whatever means the discovery is made, the criminal is thrice summoned to appear with the usual formalities. If he does not obey, he is excommunicated and severely fined. The longer a person summoned, delays appearing, the greater is his guilt, the very refusal to obey, being itself a crime.

All attempts to escape are generally unavailing. Immediately on its becoming known, all the inquisitions have immediate notice of it. They pursue him every way, and seldom fail in apprehending him. Once in the hands of the inquisition, he is cut off from all the rest of the world. No friend can visit, correspond with, or console him. He is abandoned to himself and the inquisition.

The inquisitor and his officers, after making a thorough search, in order either to discover something that may convict him, or some instrument with which he may destroy himself, next proceed to his house, where a very exact inventory is taken of his books, papers, effects, and everything they find in it.

The accused is immediately thrown into a dungeon, which is far under ground, arrived at by many turnings and windings, filthy, where no light of day ever enters. Here shut out from all intercourse with the world, he may remain for months, when his jailor acquaints him that he may desire to be admitted to audience.[1] This is done not

[1] *Picart*, II, 282.

by order of the judges, for it is a fixed rule in the holy office, that the prisoner must always petition for every thing.

Appearing before his judges, they appear profoundly ignorant of him, asking him who he is? what he wants? if he has anything to say? He either confesses, or denies that he is conscious of any guilt. A prisoner was never put to death the first time he was impeached to the inquisition, although the first sentence had the effect of stamping the whole family with infamy, and of disabling all such persons from enjoying any employments either in church or state.

After having been once in the hands of the inquisition he is ever after suspected. The familiars of the holy office are at his heels. Upon the least hint he is again taken into custody, and now he is probably lost, for the inquisition never grants a pardon twice.

After languishing some months in prison he has again extended to him the favor of asking to be admitted to audience. Being brought before the inquisitors he is earnestly pressed to confess his crime. If he denies it, he is remanded back to prison to give him time for reflection. After some time they oblige him to swear on the crucifix and the holy gospels, that he will speak the truth to all questions that shall be put to him. They then inquire into all the circumstances of his past life, and all about his ancestors, to ascertain whether some one of them may not have come under the censures of the inquisition.

He has as yet no knowledge of the crime with which he is charged, nor who are his accusers. If he still continues to deny the commission of any crime, his accusation is delivered to him, which contains a great number of pretended crimes, of the most enormous nature, along with those of which he is really accused. This is for the purpose of en-

trapping him, as he seldom fails of exclaiming against the horrible crimes laid to his charge, saying little in regard to those of minor importance, which they therefore take down as admitted. After this they nominate certain persons to him from whom he may select one as a counsellor, whom he is only permitted to consult in the presence of the inquisitors. He is still kept in ignorance of his accusers, all the proceedings against him being conducted by the attorney-general of the inquisition.

After exhausting sometimes years in audiences and remandings to his cell, his trial is finally brought on, when they give him for the first time copies of the depositions containing the charge made against him, but without the names of the witnesses and suppressing all such circumstances, relating to places and persons, as would be likely to give him any information concerning them. The following are the rules oberved in relation to witnesses: 1st. Their names are kept as a profound secret from the accused. 2d. They are not obliged to prove the truth of their depositions. 3d. They are seldom or never confronted. 4th. All witnesses are received, and accredited, however black their character or scandalous their lives. 5th. Informers are received as witnesses. 6th. Two witnesses by hearsay are equivalent to one who is both an ear and eye witness, and are sufficient to subject the accused to the torture.

After the trial, to clear up any doubt that might remain upon the minds of the judges, the accused was condemned to the torture. This was administered in a deep subterraneous cavern, called the place of torments. It was of three kinds, the rope, the water, and the fire. The awful severity of these torments generally succeeded in extorting from the accused whatever the inquisitors desired to know, not only as to the alleged offense, but also as to his aids, assistants, and accomplices.

After all the arts of ingenuity to obtain a confession were exhausted, and the accused was convicted upon the depositions or upon his own confessions, the sentence was pronounced,[1] which might be a condemnation to death, to perpetual imprisonment, to the galleys, to be whipped, or to some other form of punishment.

The execution of the sentence of the inquisition was called the auto-da-fe, act of faith. It was a religious ceremony, and most imposing in all its forms. At day-break the great bell of the cathedral pealed forth its solemn sound to summon the faithful to the dreadful spectacle. men of high rank, the grandees of Spain, were seen pressing forward to offer their services to the inquisition. The condemned appeared barefooted, clothed in the san-benito, the blessed vest of penitence, a sort of coarse, yellow tunic, with a cross on the breast and back, and painted over with devils. The procession was headed by the Dominicans bearing the banner of the inquisition. Then came the penitents who were condemned to minor punishments; next the cross; and behind walked the unfortunate wretches condemned to death. Along with these were borne the effigies of those who had fled, and the bones of the dead who had been condemned, appeared in black coffins, painted over with flames and hellish forms. Monks and priests closed the procession. It proceeded through the principal streets of the city to the church, where a sermon was preached, and the sentence pronounced. During this ceremony the convicts stood before a crucifix, holding in their hands an extinguished taper. Then, "as the church never pollutes herself with blood," a blow with the hand from a familiar, announced to each that the inquisition had no longer any power over them. They were

[1] *Picart*, II, 238.

abandoned to the secular arm, and a civil officer "who was affectionately charged to treat them kindly and mercifully," led them to the place of execution. There they asked in what faith they would die. Those who answered in the catholic were first strangled; the rest were burnt alive.

e. Its history, and effects upon all minds subject to its jurisdiction.

The inquisition presents a terrible history. In Spain more than two thousand were condemned to the flames the first year, and great numbers fled to the neighboring countries. The institution continued in existence, although much modified by the advancing spirit of the age, until Dec. 4, 1808, when it was abolished in Spain by Napoleon. It has been estimated that the number of its victims altogether amounted to three hundred and forty-one thousand and twenty-one, that of these, thirty-one thousand nine hundred and twelve were burnt, seventeen thousand six hundred and fifty-nine burnt in effigy, and two hundred and ninety-one thousand, four hundred and fifty-six subjected to severe penance. The inquisition has been abolished in Portugal. It exists still in Rome, but so modified as only to exercise jurisdiction over the clergy, and is not, therefore, dangerous to those who are not catholics.

The effects of the inquisition have been more peculiarly manifested in the Spanish peninsula. During the earlier periods the Spanish mind was free, high spirited, noble. But the inquisition came, and fell with a crushing weight upon all the energies of Spain. Throughout the entire land were scattered its hosts of familiars, who were everywhere observing, listening and reporting. These were in every city, in every neighborhood, in every social circle, almost in every family. Unseen, they kept a steady eye upon all human movements; unheard, their ear drank in all that man uttered, or woman whispered. A system of

espionage was adopted, that wormed itself into the unrestrained friendships of the social circle, into the very privacies of home, only to find materials to report to the inquisition. Men hardly dared to think, lest, in an unlucky moment, their thought should find an utterance; and woman trembled, lest the sound of her own heart's beating shall fall upon the ear of the inquisition. No wonder that all confidence was destroyed, all trust annihilated, deception legitimatized, and hypocrisy universally practiced. All the instincts of life drove men to violate their moral natures to escape the horrors of the inquisition. What motive was there for effort when in the making of it the heart might reveal its secrets, and all its productive fruits go to the inquisitors. We need not wonder at the want of enterprise, the indolence and inactivity that has so strongly marked the Spanish character. The weight of the inquisition was too heavy to bear, and Spain sank beneath it. The entire peninsula has exhibited a moral waste, where lifes' high and holy purposes have been unfulfilled. When we take into consideration the fears and horrors, and torments, and burning deaths that have cast their blight over the fair lands of Spain and Portugal, it may well be doubted whether human happiness might not have been promoted if the mingled waves of the Atlantic and the Mediterranean, had always bathed the southern base of the Pyrenees. The monsters of the deep would, at least, have escaped the horrors of the inquisition.

4. The history of the church, including the heresies evolved from its bosom. Having seen what were the doctrines, faith and forms of belief, of the catholic church; what its organization and ordinary observances; what its instrumentalities and extraordinary powers; we are now prepared to glance briefly at its history and the heresies evolved from its bosom.

The history of the Roman catholic church is intimately connected with the civilization of Europe. It will be important to notice at the outset, that two main facts lay at the foundation of this history, and have had an important influence in modifying its progress. The one is, that the ecclesiastical career, more especially from the fifth to the twelfth century, was open to all.[1] While in society and government, the principles of caste more or less prevailed, they were wholly rejected from the church. She constantly maintained the principle, that all men, whatever their origin, are equally privileged to enter her ranks, to fill her highest offices, to enjoy her proudest dignities. She drew her recruits from all ranks of society, the lower as well as the higher; regarding only merit and personal qualifications as a passport to her favors. By virtue of this fact, a stream of young and vigorous blood was ever flowing into her veins, constantly stimulating her to activity, and pushing her forward in the career of progress. This not only rendered her the most accessible, but also the most popular, and thus largely contributed to her advancement.

The other is that the church in all its history and development, and through all its diversities of time, place,[2] denomination, language and origin, has, nevertheless, preserved the same unity, the same unceasing identity with itself. While the Roman empire through its great diversities was falling to pieces, a religious unity arose out of its ruins, that with a steady pace has continued unto the present time. This principle has developed itself in her doctrines, in her modes of worship, in her policy. It has lain at the foundations of her faith, animated all her observances, hovered over all her works. Although this fact

[1] *Guizot*, 125. [2] *Idem*, II, 289.

has contributed largely to her success, and has enabled her to triumph amidst all the diversities by which she is surrounded, and through which she has passed, yet in the end, it will surely cause her to be left behind, an idea with its life extinguished, an institution belonging to a past age. Where all forms of faith, all modes of worship, all systems of policy, all observances and works are bound together by the firm bond of unity, that very bond consigns them to the same destiny, and by preventing each from putting forth any new interior development, or new adaptations to meet the constantly advancing spirit of the age, will ultimately shut out the united whole from the future and the present, and place it among the things that were. And thus it will be with the Romish church. In some future age, like the feudal system, it will belong only to the domain of history. This principle is inappliable to a pure faith, with such observances as are only its evidence. It applies only where the works and devices of man are inwrought into, and form a necessary part of the institution.

The unceasingly new energies thus infused into the church through the democratic element, and the power and influence it was enabled to wield through its unity in faith, worship, and purpose, rendered it the great conservative power of Christendom; gave vigor and energy to the Christians, and enabled them to act efficiently in the conversion of the barbarians. The church, thus invigorated, held on its course triumphantly through the feebleness and anarchy of feudalism and the dark ages. Had the doctrine of an open Bible, and the supremacy of individual judgment, been promulgated at the beginning of the sixth, instead of the sixteenth century, it is in the highest degree probable, that Christianity, weakened by divisions, enfeebled by jarring sects and hostile creeds, would have sunk

beneath her pagan or Mahometan enemies, and thus her light would have been forever extinguished. The lessons of history teach that God dispenses his highest gifts to man at precisely those periods in the progress of the race, when his advancing civilization enable him to receive and enjoy them. His wisdom and goodness are as fully displayed in what he withholds, as in what he bestows.

This unity, about which so many results cluster, together with the power and efficiency which have been its attendants, were essentially aided by two general facts:

First. The difficulty of testing religious ideas or projects by any fixed standard. We judge very much of temporal ideas and projects by their success or failure. But this test carried into religious matters had no availability. A temporal failure may even be claimed as a spiritual success; the hosts of the crusaders, prematurely cut off, might destroy the enterprise, but then, spiritually, so many new souls were thereby sent direct to paradise.

Second. The learning of the age was monopolized by the church. All the advantages bestowed by mental culture, and acquired by knowledge, belonged to churchmen. Hence although the knowledge then possessed, was far inferior to that of the present day, yet amid the darkness and superstitions of that age, it was perhaps more effective in giving influence and control than it is now.

The great temporal aim of the church was to acquire wealth and power, and to secure these she often drew upon her spiritual resources. In regard to the former, she was compelled to depend for the first three centuries,[1] upon the voluntary contributions of the faithful. Constantine gave her full power to acquire and hold all kinds of property. From that time her wealth was constantly increasing, until

[1] *Dew*, 377.

governments, especially that of England, were compelled to enact laws to prevent the further accumulation of real estate in the church. Hence the statutes of mortmain in England, which, however, were generally evaded by the ingenuity of churchmen.

A great accession took place at the conclusion of the tenth century,[1] so that by the twelfth it has been asserted that half the land in Europe was owned by the church. This immense accession of wealth came into the hands of the clergy, the monasteries and the popes. They were all corrupted by it. The pope became extremely avaricious, and began to plunder the churches. This was one of the causes that gave origin to the reformation. The attempts of the church or rather of the pope, to grasp at power, will be apparent by attending to the progress of historical development.

The first great contest in which the church was engaged was a struggle within her own bosom, the iconoclast controversy, the war of images. This was fully inaugurated when Leo the Isaurian ascended the throne of Constantinople. In the beginning of the eighth century the Christian church was charged with idolatry,[2] as there was scarcely a city in the east which had not some miraculous image as the palladium of its safety.

The iconoclasts were the opposers of images, and at the synod of Constantinople, in 754, three hundred and thirty-eight bishops pronounced a unanimous decree "that all visible symbols of Christ, except in the eucharist, were either blasphemous or heretical; that image worship was a corruption of Christianity, and a revival of paganism; that all such monuments of idolatry should be broken or erased, and that those who should refuse to give up the objects of

[1] *Dew*, 378. [2] *Taylor*, 392.

their private superstition, should be deemed guilty of disobedience to the authority of the church and of the emperor."

Although six successive emperors supported the cause of the iconoclasts, yet the image worshipers finally triumphed in the east. In the west it led the way to a train of events which finally resulted in clothing the pope with temporal power. Leo the Isaurian, attempted to abolish the worship of images in Italy. The Roman pontiff was Gregory II, who first led on the warfare against the iconoclasts. The Lombards were about embracing the religious pretext to expel the Greeks from Italy. Had the pope favored the Lombards, they would undoubtedly have been successful, and the Lombard empire, extending over all Italy, might have existed to the present day; and all the Guelph and Ghibelline factions, and all or most of the disastrous wars which have, for centuries, desolated Italy, might have been avoided.

But the pope was ambitious, and had as much, or greater fear of the Lombards as of the Greek emperor. He accordingly pursued a course which vested him with temporal power, but at the same time consigned over Italy, to the rancor of faction, and the devastations of an almost perpetual war.

Jealous of the success of the Lombards, the pontiff invoked the assistance of the Franks, and, supported by the power and arms of Pepin and Charlemagne, the popes were raised to the rank of temporal princes. The former took from the Lombards the exarchate of Ravenna, the only remnant of the Greek power in Italy, and conferred it upon the pope. When Charlemagne, the son and successor of Pepin, afterwards conquered the Lombard kingdom, he renewed and confirmed this gift to the pope. The ultimate right, or right of eminent domain, in the

territories thus bestowed, was probably in Charlemagne, and his successors. But when the Carlovingian dynasty was broken up, this right became annihilated, and the pope a temporal prince with no responsibility to a superior.

The establishment of the popedom as a temporal power, has been attended with vastly important results in European history. 1. It gave the pope a revenue. 2. He derived from it immense advantages in his contests for supremacy with the bishops and metropolitans. 3. It constituted him a power in Europe, placed him on an equality with other European powers, and opened up before him the extensive field of political intrigue. 4. It enabled him to bring his immense spiritual power into the political world, and by taking advantage both of the spiritual and temporal, to achieve, at one period, a frightful supremacy in European affairs. The effect has ever been most disastrous upon Italy. It has rendered it the home of domestic broils and contentions; made it the great theatre of war and battle-fields, upon which the great continental powers of Europe from Charlemagne to Napoleon, have disputed for supremacy. Had Italy, under the sway of the Lombard, or any other dominant power, been one compact government, the pope, remaining, as he was originally, the first bishop of the Christian world, the pen of history would have presented us an entirely different record from that which we now behold. The early division of that ill-fated country into a dozen little principalities, dukedoms, kingdoms, and republics; too weak to sustain themselves, and yet strong enough to be an object to others; the creation in its very centre, of the states of the church, with the pope as their temporal head, has just had the effect of throwing so many baits into European politics; of making it the chess-board of Europe, and of inviting her great continental powers to make there their

political moves; to send thither their armies, and to seek there their triumphs or defeats. Thus Milan, Venice, Naples, have been the source of interminable wars and contests, while the pope, as the great political broker, has ever been at his post, keeping a watchful eye upon all the movements, and taking special care that the balance of power shall always incline towards God and his church.

In the commencement of the ninth century, appeared what are now called the false decretals of Isidore. These purported to be rescripts or decrees of the early bishops of Rome. They appeared at a time when several elements in the catholic church were striving for supremacy. The bishops, the metropolitans and the pope, particularly the two last mentioned, were grasping for power. There was also a contest as to which should have the supremacy, the pope or a general council.

These decretals established the supremacy of the pope by denying the power of the metropolitans, and giving to the Roman see, in all causes, an appellate jurisdiction, and also by forbidding national councils to be holden without its consent. They made every bishop amenable directly to the pope. Every accused person might appeal to the sovereign pontiff. They rendered the sanction of the pope necessary to any and all changes among the bishops.

The bishops were generally found to favor these decretals, because they helped to overthrow the power of the metropolitans. But they failed to perceive that the metropolitans were only the first victims, and that after the annihilation of their power, they themselves would come next.

Upon these false decretals was built the great fabric of papal supremacy over the different national churches; a fabric which has maintained its vast colossal proportions long after its foundation had crumbled into ruins, and

ceased to wear the least semblance of truth, for no one, for the last two centuries, has pretended to deny that the imposture is too palpable for any but the most ignorant ages to credit.

The popes were not long in exercising their power after the appearance of these decretals. Nicholas I constituted himself the judge of bishops and kings. He deposed the archbishop of Ravenna, for asserting his independence, and would not permit his restoration until he acknowledged himself a vassal of the holy see. In A. D. 860, he even cited the king of Lorraine to appear before his tribunal.

But it was not with kings and emperors alone that the popes had to contend. They were also harassed by the turbulent feudal lords, who everywhere took advantage of the weakness of their sovereign to establish virtually their independence. They very often controlled the pontifical elections, and insulted, and sometimes imprisoned, and even murdered, the pontiffs. Two infamous prostitutes, by means of their influence with the profligate nobles, procured the throne of St. Peter for their paramours, and their illegitimate children;[1] and the disorders of the church finally attained such a height that the imperial power was once more raised above the papal, and pope John XII was deposed by the emperor Otho.

The power of the German empire now prevailed over that of the papacy. As former popes had grown great only beneath the shadow of the Frankish princes, Pepin and Charlemange, so now the same was to occur under that of the German Otho. Pope Leo VIII was elected to the papacy in the place of John, and he not only took an oath of obedience and fidelity to the emperor, but also issued a bull, ordaining that Otho and his successors should have a

[1] *Taylor*, 397.

right of appointing the popes, and investing bishops and archbishops; and that none should dare to consecrate a bishop without the permission of the emperor.[1] This was in fact a total subversion of the power of the papacy. On the death of an archbishop, bishop, or other high ecclesiastic, the ring and the staff, the badges of office, were sent to the emperor, to be conferred upon the man of his choice. As the emperor could thus appoint whoever he pleased to all high ecclesiastical offices within the empire, he soon came to confer great political, as well as ecclesiastical power upon his appointees; and thus we frequently find bishops taking the field at the head of their vassals.

This power was immensely important to the emperor. By placing a plebeian devoted to himself on the chair of St. Ambrose, at Milan, he was enabled to secure obedience from all northern Italy, and by nominating the archbishop of Bremen,[2] to exercise supreme spiritual power in the Scandinavian kingdoms, and over numerous Wendish tribes.

But the hierarchy were not disposed to acquiesce in this subversion of power. John XII returned, and was reinstated, but subsequently assassinated. Another was chosen, but the appearance of Otho reestablished Leo VIII, and quelled all opposition. Thus popery, as a political system, seemed utterly ruined, the pontiff still ruling the Roman states, but as a lieutenant rather than a prince, as a subject rather than a monarch. A number of popes follow each other in rapid succession, and so low had the papacy sunk, that it required a severe struggle to maintain itself in the government of the city of Rome.

The papacy seemed to be fast verging towards utter annihilation. It was still the acknowledged head of the

[1] *Taylor*, 398. [2] *History of Popes*, 1, 24, 25.

church, although the vices and scandalous lives led by the popes entitled it to very little respect. Very little of its temporal power remained. Under all these discouraging circumstances, the papacy came very near finding its grave in the beginning of the eleventh century. Had it done so, it would undoubtedly have been a calamity to man and to civilization. The disorganized state of Europe, then required some power for appeal and protection; a power with intelligence to guide its decisions, and sanctity to secure them respect. This could only be sought for in the revived papacy. Here alone were to be found the elements of a power separate from every other; inviting into it the great and the gifted of all nations and races of men; professing to embody the moral and the spiritual, and to stand in the place of God upon earth. If a power thus composed, thus gifted, impartial in its exercise, could not secure the respect of men, it is quite clear that nothing could. It might, therefore, be well deemed a necessity, and hence to be provided for in the order of providence.

That provision came in its appropriate time. The darkest hour always brings its man, fully adequate to all its exigencies. In the bosom of an obscurity, so very obscure that even the time and place are unknown, was born an infant, afterwards known successively as the monk of Cluny, Cardinal Hildebrand, and Pope Gregory VII. This was the man for his age. Perhaps no other could have been found adequate to its requirements. After attaining the cardinal's hat, he was mainly instrumental in the election of several popes, in whose brief administrations he was the presiding spirit, until on the death of Alexander II, A.D. 1073, he was raised to the papal chair under the name of Gregory VII.

He held in view two great objects; one to place the whole ecclesiastical power in the hands of the pope, and

the other to make the church entirely independent of the temporal power. His great ambition was to found a theocracy, in which the pope as the vicar of God, should be the sovereign ruler both in political and ecclesiastical matters. He deliberately employed all the enginery of the church to accomplish this bold idea.

In a council held at Rome in 1074 he caused to be renewed with great strictness the law of celibacy among the clergy, enjoining the married priests either to quit their wives, or renounce the sacerdotal order. His object in this was to sunder all the ties of human sympathy between clergy and people, to render the entire body dependent wholly upon the pope, and hence to lead to a consecration of all their efforts to advance the interests of the papacy.

Another decree which he also caused to be published at the same council was a prohibition, under pain of excommunication, of all sovereigns from exercising the rights of investiture. The object of this was to deprive all princes of the right of nominating, confirming, or deposing prelates, as well as of receiving their fealty and homage, and exacting military service. The link that connected temporal and spiritual institutions, was the investiture, and the sundering of that shook the constitution of the German empire to its very base. The effect of it was: that no ecclesiastical office could thereafter be granted by a temporal sovereign. The governments of the earth were thus shut out from all interference with the appointment of prelates. The emperors of Germany were more particularly affected by this decree. They had hitherto not only exercised the right of investiture in regard to bishops and other ecclesiastics, but also had nominated and confirmed the popes themselves. They had placed in the hands of ecclesiastics a large part of their domains, as those whom they appointed were creatures of their own.

In order to sever still more effectually the ecclesiastical from the temporal power, and bind it by still stronger bonds to the papacy, this pontiff in a council held at Rome in 1079, prescribed to the bishops a new oath which included not merely canonical obedience, but even fealty and homage, such as were vowed to sovereigns, compelling them to swear to aid and defend against the whole world the royal rights of St. Peter.

Another practice which he did not originate, but greatly systematized and enlarged was the sending out of legates into the different states and kingdoms of Christendom. The legate represented the pope, and was, therefore, armed with extensive powers. He felt everywhere the public pulse, and conveyed all necessary information to the pope. His great power was felt in all provincial councils and other proceedings of ecclesiastical bodies.

As supreme head of the church, he claimed a right of inspection over all kings and their governments.[1] He deemed himself authorized to address admonitions to them, as to the method of ruling their kingdoms, and to demand of them an account of their conduct. He even presumed to listen to the complaints of subjects against their princes, and claimed the right of being a judge or arbiter between them.

He even exerted his influence to engage all sovereigns, without distinction, to acknowledge themselves his vassals and tributaries. He prevailed upon several to do so, but William the Conqueror, of England, returned for answer, that he was not in a humor to perform homage which he had never promised, and which he was not aware had ever been performed by any of his predecessors.

It was not to be expected that these assumptions of power would be tamely submitted to by the sovereigns of Christen-

[1] *Revolution in Europe*, I, 174.

dom. Henry IV, emperor of Germany, was the first to rebel. But the pontiff in 1076 summoned him to Rome to answer to some accusations preferred against him by the Saxon nobles, and which had been referred to the pope. The emperor was full of indignation, and immediately convoked an assembly of bishops at Worms, by whom the pontiff was deposed, and the chair of St. Peter declared vacant. As soon as this news had traveled to Rome, the pontiff determined to set the enginery of the church in motion, and to see what virtue there was in it in a contest with temporal sovereigns. He accordingly launched upon the devoted head of Henry the severest thunders of the church, issuing a sentence of excommunication and deposition, and absolving his subjects from their oath of allegiance. Here was a direct issue between the temporal and ecclesiastical power, the result of which was likely to decide the supremacy of the one or the other.

The pope would probably not have ventured upon so bold a stroke in the case of any other sovereign. In Germany the head was weak, and the members strong. The bishops and clergy were more inclined to the pope than to the emperor in a direct contest between the two. In an assembly of the imperial states, the emperor could obtain no action in reference to the election of a new pope while he remained excommunicated. He must first submit himself to the judgment of the pope and obtain absolution. Thus he was compelled to cross the Alps in midwinter, do penance in an outer court of the castle of Canossa in a woolen shirt and barefooted for three successive days, and then, upon signing whatever terms the pontiff chose to prescribe, he obtained absolution. Thus the enginery of the church triumphed, and the principle seemed to be settled that surrendered the kingdoms of Christendom to the Roman pontiff.

So in another case, Boleslaus II, king of Poland, having killed Stanislaus, bishop of Cracow,[1] the pontiff deposed that prince, releasing all his subjects from their oath of fidelity, and prohibiting the Polish bishops henceforth to crown any king without the express consent of the pope. The present age will undoubtedly regard with wonder this upward march to supremacy on the part of the church. But it must be remembered that the eleventh, and even the three following centuries, could be termed little other than a barbarous age. The court at Rome was the only school where politics were studied, and the popes the only monarchs that put them in practice. An extravagant superstition, the inseparable companion of ignorance, held all Europe in subjection. The popes were reverenced with a veneration resembling that which belongs only to the deity; and the whole world trembled at the utterance of the single word, excommunication. Kings were not sufficiently powerful to oppose any successful resistance to the encroachments of Rome; their authority was curtailed and counteracted by that of their vassals, who seized with eagerness every occasion which the popes offered them, to aggrandize their own prerogatives at the expense of the sovereign authority.

The emperor of Germany did all in his power to oppose a barrier to this torrent of ecclesiastical despotism. After undergoing his penance and obtaining absolution, he again caused the pope to be deposed by the council of Brixen, and an anti-pope, Clement III, to be elected in 1080, whom he placed on the papal throne, consigning Gregory to a three years' imprisonment in the castle of St. Angelo. After some more successes and reverses, he finally died an exile in Salerno, in 1085, repeating "I have loved

[1] *Revolution in Europe*, 1, 178.

righteousness and hated iniquity, and therefore I die in exile."

But the war kindled between the church and the German empire died not with Gregory and Henry. It continued to agitate both Germany and Italy for a period of several centuries. It finally gave birth to the two factions of the Guelphs and the Ghibellines, the former imperial, and the latter papal, which, for a long course of time, so distracted Italy, that its intestine troubles and commotions totally banished peace and tranquillity from her entire territory.

The war of investitures was, however, put an end to by the concordat of Worms concluded in 1122 between Henry V and pope Calixtus II. By this concordat the emperor renounced the ceremony of the ring and the crosier, and, granting to the churches free liberty of election, he reserved only the privilege of sending commissioners to the elections, and giving to the newly elected prelates, after consecration, the investiture of the regalian rights, by means of the sceptre, instead of the ring and crosier. This was by a mutual concession, as by it the ties of vassalage which connected the bishops with the emperors were still preserved, contrary to the intentions of Gregory VII; while the emperors being obliged to approve of the persons whom the church should thereafter present, lost their chief influence in the elections, and were no longer entitled, as formerly, to grant or refuse investiture.

Although this terminated one source of controversy between the emperor and the pope, yet it by no means healed all the differences existing between them. The contests between the Guelphs and Ghibellines, which grew out of the general controversy were rather political than ecclesiastical, and created two great political factions

whose broils and tumults, embittered by the intensest rancor and hatred, extended to every Italian city, and, from generation to generation, shed their malign influence over the fairest portions of the Italian peninsula.

The secular princes having been thus deprived of their rights of nomination and confirmation, the privilege of electing bishops was restored to the clergy and congregation of each church, and to the chapters of convents, while their confirmation belonged to their immediate superiors; and collation to the other ecclesiastical benefices was reserved for the bishops and ordinaries.[1]

These regulations were all changed towards the end of the twelfth century. The canons of cathedral churches, authorized by the court of Rome, claimed to themselves the right of election to the exclusion of the clergy and people; while the popes, gradually interfering with elections and collations, found means to usurp the nomination and collation to almost all ecclesiastical benefices. This claim and exercise of power was based on the false decretals of Isadore, as, according to those decretals, all ecclesiastical jurisdiction emanates from the court of Rome, as a river flows from its source. Accordingly, it must be from the pope that archbishops and bishops hold that portion of authority with which they are endowed; and of which he does not divest himself, by the act of communicating it to them; but is rather entitled to cooperate with them in the exercise of that jurisdiction as often as he may judge proper.

This principle of a conjunct authority afforded to the popes a pretext to interfere in collation to benefices. Collation was essential to the jurisdiction of bishops, and hence the pope who concurred in the jurisdiction, must

[1] *Revolutions in Europe*, I, 187.

also be held to concur in the privileges derived from it, viz: induction or collation to benefices.

From the right of concurrence, still another consequence was drawn by Innocent III, viz: the right of prevention. This right was first exercised in reference to benefices which became vacant by their incumbents dying at Rome, and in remote dioceses by means of legates, which were dispersed over Christendom.

From the right of prevention were derived the provisional mandates, and the reversionary grants or bulls, letters granting promise of church livings before they became vacant. At first the popes addressed to bishops letters of recommendation for benefices. To these the bishops occasionally refused compliance. The popes next changed them into orders or mandates, and appointed commissioners to enforce their execution. Then appeared mandates for benefices, whose incumbents were still living.

Lastly came reservations, general and special; the general relating to those benefices which became vacant by the incumbents dying at the court of Rome. By these various means the popes seized upon the nomination to episcopal dignities, and it naturally followed that to them belonged the confirmation of all prelates, without distinction. The ancient common right which vested the confirmation of every prelate in his immediate superior, was totally annihilated, and the Romish see was at length acknowledged over the whole western world, as the only source of all jurisdiction, and all ecclesiastical power. This required a century and a half fully to accomplish, but in the end it became complete, and has ever since remained undisputed.

There were other developments of papal power and policy at, and shortly subsequent, to the Gregorian era. Gregory VII was the first projector of the Crusades. He addressed circular letters to all the sovereigns of Europe,

inviting them to make a general crusade against the Turks. Another means resorted to for the advancement of the papal authority was the multiplication of religious orders, the monks, and all the mendicant orders heretofore referred to.

Several of the successors of Gregory VII were weak and inefficient, being generally old men, which accounts for the great rapidity of succession in the popedom. But the mantle of Gregory, a little more than a century after his death, fell upon Innocent III, who was elected pope in 1198, being then only thirty-seven years of age. He was equally ambitious, and fertile in resources, and even surpassed him in the boldness of his plans, and the success of his enterprises. He announced himself as the successor of St. Peter, set up by God to govern, not only the church, but the whole world. "As God," says he, "has placed two great luminaries in the firmament, the one to rule the day, and the other to give light by night, so has he established two grand powers, the pontifical, and the royal; and as the moon receives her light from the sun, so does royalty borrow its splendor from the papal authority."

His action was in accordance with this high announcement. He died in 1216, continuing pope but eighteen years; but to compensate for its brevity, during that time he reigned over Europe. Of irreproachable private life himself, he enforced purity of morals among the clergy. He announced himself as arbiter of differences and conservator of peace throughout Christendom. Soon after his accession to the chair, and the first year of the thirteenth century, he thundered forth an excommunication against Philip Augustus, king of France, because he had repudiated his wife, Ingelburgh, and laid the kingdom under an interdict. Philip was compelled to submit. John of England refused to confirm the election of Stephen

Langton, as archbishop of Canterbury, and Innocent laid all England under an interdict, formally deposed the king, and invited the king of France to take possession of England.

John surrendered at discretion, resigned his territories to Rome, and received them back as a papal fief, and after all that, was compelled to pay large sums of money toob - tain absolution. This pontiff originated and set on foot two crusades against the Turks, established at the fourth Lateran and twelfth general council the doctrines of transubstantiation and auricular confession; organized the horrible crusade against the Albigenses, and established the inquisition. Thus the beginning of the thirteenth century saw the power of the papacy advance to a higher point than it had ever yet attained. But it had touched the highest point of its greatness. Its declension, however, was gradual. Although outwardly manifesting strength it was secretly undermining, and losing its strong hold upon public opinion. The clergy were rendered sullen by demands of money, invasions of the right of patronage, and unreasonable partiality to the mendicant orders. Even these orders had begun to declaim against the corruption of the papal court. The laity universally looked upon both the head and members of the hierarchy with jealousy and dislike. So great had the change, although unperceived, become, that it only required a pontiff, not imbued with the spirit of the age, to put again in force the old enginery of the church, to be rendered painfully aware of the progress that had been made. Such a pontiff appeared in the person of Boniface VIII, at about the point of junction between the thirteenth and fourteenth centuries.

The claims of Boniface ascended even higher than those of any of his predecessors. He regarded the temporal

power as derived only from the spiritual; declaring that God had given to St. Peter and his successors, two swords, one spiritual, and the other temporal;[1] the first to be exclusively wielded by the church, the other by the secular princes of the earth, but for the service of religion, and according to the will of the pontiff; that the secular power, therefore, depended on the spiritual, and was to be judged by it; but that God alone was competent to judge the spiritual.

An admiral possessing such views of the strength and power of his vessel would be very likely to strain its tackle in his management. Getting into a quarrel with Philip the Fair, king of France, he issued against him his bull, but was astonished to find that it met with little consideration. He next proceeded to put forth an extreme power, and in a council convened at Rome in 1302, he laid all France under an interdict. This had never before failed in bringing to the most refractory. But the states and clergy of France rallied around their king, and Boniface had not only the mortification of finding that his thunder was unheeded, but that he himself was made a prisoner, and shortly after died in A.D. 1303. The omnipotence of the pope was thus ended. It was ascertained that there were other coordinate powers in the world.

The contests between the French king and Gallican church on the one hand, and the papacy on the other, resulting in the triumph of the former, gave origin to French ascendancy in the selection of the pope and in the councils of the Vatican, and finally resulted in transferring the seat of popery from Rome to Avignon in the south of France, where it remained from 1305 to 1376 a little over seventy years. This has been compared to the Babylonish

[1] *Leekie, Balance of Power*, 156.

captivity, the period of time so entirely corresponding. In the meantime Rome was given up to domestic broils and factions. Two great houses, the Colonna, identifying itself with the Ghibellines, and the Ursini with the Guelphs, rendered Rome the constant scene of disorder, tumult, and robbery. During this period, from 1347 to 1354, appeared Rienzi, the last of the tribunes, who succeeded temporarily in restoring order, and suppressing violence and bloodshed. In 1376, Gregory XI retransferred the seat of the pontificate back to Rome, and marched with great pomp and ceremony to the imperial city.

The unsettled state of the seat of the papacy (the chair of St. Peter at Avignon being still warm from its recent occupant), together with conflicting views and interests in the college of cardinals, led to the great schism in the church which commencing in 1378, continued until 1429, a little over half a century. Two popes were elected, Urban VI, who remained at Rome, and Clement VII, who mounted the recently vacated chair of St. Peter at Avignon. The two divided the papal world pretty fairly between them. To the former adhered Italy, the empire, England, and the northern nations. The latter retained France, Spain, Scotland and Sicily.

The two pontiffs, and their successors, for half a century were fairly pitted against each other. Each thus fully acknowledged as pontiff, was found thundering out his awful anathemas against the other, each preaching crusades for their mutual destruction. All the possible machinery of the church were thus put in motion by each against the other. The truly faithful everywhere were greatly puzzled to determine which was the real successor of St. Peter.

Under such circumstances the papal world would naturally look to a great council, and, accordingly, during the con-

tinuance of the schism, the council of Constance, the second great general council for the reformation of the church, and one of the most numerous assemblies of Christendom, met together in 1414, and continued its session until 1418. It was this council that issued the famous decree declaring the superiority of councils over the papal chair.

In 1429, the schism was ended, and from 1431 to 1448 we find in session the third great general council, the council of Basle, for the reformation of the church. This council abolished annates, reservations, and other abuses of papal authority.

This was the age of councils, and the great cry that went up both from councils and people was for reform. Some in the very bosom of the church bore witness to her abominations, and to the necessity of a reformation both in doctrine and morals. The public sale of church preferments, of indulgences, and pardons for sin, were the scandal of all Christendom.

There was also another vice termed nepotism, enriching the families, more particularly the nephews or illegitimate children of the pontiffs, that seems to have reached its culminating point under Alexander VI, about the end of the fifteenth century. The profligacy, lust, cruelty, and avarice of Alexander and his son Cæsar Borgia, have no parallel in history. Having concerted together to poison nine newly created cardinals, in order to seize upon their wealth, they by mistake drank themselves of the fatal cup. The young and vigorous constitution of Cæsar survived the draft, but the organism of the pope, not partaking of his infallibility, withered and died under its influence.

In just about a century from the close of the council of Basle, viz: in 1545, assembles the last great general council, the council of Trent. This council had several sessions at different times and in different places. It convened after

the commencement of the reformation, and one of its objects was, if possible, to harmonize the whole Christian world. It had, however, entirely different results. It anathematized most of the Lutheran doctrines, declared the apocrypha of equal authority to the other scriptures, and confirmed many of the abuses which had crept into the church. It was finally dissolved in 1563. Its decrees were received in Germany, Poland, and Italy, but not in Hungary or France, and only partially in Spain and Portugal. Instead of reuniting the Christian world, its decrees have ever proved an insuperable line of demarkation between catholics and protestants.

The political days of the papacy were now ended. The church of Rome was no longer the director of nations. The brave old times of Gregory VII and Innocent III had disappeared forever. The terrible machinery of the church, the awful thunders of the Vatican, the anathema, excommunication, and interdict, before which nations had quailed and monarchs trembled, if heard at all, were regarded as little more than the babblings of a gray haired old man, whose age had outlived his wisdom, and whose remembrances of the past had rendered him regardless of the present.

About a century after the council of Trent, when, in 1648, the treaty of Westphalia was about being ratified, settling upon a permanent basis the political relations of the European states, the papacy raised its feeble voice by way of protest, but with not the slightest effect. Confined to their own temporal states, they saw their political influence vanish gradually,[1] and their moral and religious character was greatly impaired by the weakness of this declining position. In every country, the clergy, although

[1] *De Vericour*, 416.

still possessing great riches, was bowed down under the monarchical influence. After the sixteenth century the history of the church of Rome ceased to be intimately associated with the great social arts and movements, and became rather the history of powerless pretensions, of Christian propagation and theological controversies.

The great fear of the church has ever been the breaking out of heresy. The assumption of its own complete infallibility must necessarily render it intolerant as to all doctrines not embraced within its own faith. It has therefore never known but two methods of proceeding with heretics, viz: either to convert them to the true faith, or if that proved impossible, to condemn their doctrines, and destroy all living traces of the heretics themselves.

In the early centuries the heresies which the church had to contend with were ideas derived either from the philosophy of the ancients, or the poetical or religious notions of the eastern world. The third century introduced the gnostics who were the pietists of that and the next succeeding century. These were a sect of philosophers who pretended they were the only men who had a true knowledge of the Christian religion. They formed for themselves a system of theology, agreeable to the philosophy of Pythagoras and Plato, to which they accommodated their interpretations of the scripture. They held that all natures, intelligible, intellectual, and material, are derived by successive emanations from the infinite fountain of deity. These emanations they called acons. These doctrines were derived from the oriental philosophy. They disappeared during the fifth century, reappearing in some later systems of philosophy.

Even the celebrated Origen wished to apply to Christianity some of the eastern vagaries. He held that all beings are fallen angels who are in expiation, and that a

day must come, when, through the sacrifice of Jesus Christ, all the angels will be redeemed, and the demons themselves purified. This, during the following ages, became the subject of warm controversies, and was finally condemned by the church.

The introduction of the Christian religion gave a new impulse to intellectual activity, and caused a great movement in ideas. Hence the various systems and germs of heresies that so soon made their appearance. Among the most important of all these was the Manicheans, which spread with great rapidity, and towards the end of the third century had gained an extensive footing in the east and part of the west.

This was a sect of Persian origin, maintaining that there are two supreme principles, the one good, the other evil, which produce all the happiness and calamities of the world. The first principle, or light, they held to be the author of all good; the second, or darkness, the author of all evil.

Another early heresy was that of the Montanists, the followers of the heresiarch Montanus, a Phrygian by birth, who pretended he was inspired by the Holy Spirit, and instructed in several points not revealed to the apostles. His sect sprang up in the second century.

But the heresies introduced from without have never proved so dangerous or severely afflictive to the church, as those engendered within its own bosom, attacking the Christian dogma in its vitality.

The commencement of the fourth century ushered in the Arian heresy, a heresy which has, at different times, reappeared even down to the present day. This heresy consisted in affirming that the Logos, or Son of God, was a dependent and spontaneous production, created from nothing by the will of the Father. That the Son was not

of infinite duration, but that there had been a time which preceded the generation of the Logos. That on this only begotten Son the Almighty Father had transferred his spirit and his glory, although he shone only with a reflected light. This was the first outcropping of the unitarian principle.

The contest created in the church was tremendous. The principle at stake was Christ's divinity. Let Arianism triumph, and Jesus Christ was no more than a great philosopher, his morality a human opinion, and his dogmas vain promises.

A council-general of all Christian bishops convened at Nice in 325 to discuss the tenets of Arius, the first Christian emperor, Constantine, being present. The Nicene council pronounced a solemn anathema against Arius and his adherents, who were also banished by the civil power.

But Arianism although condemned was not extinguished. It afterwards attained to great triumphs in the east, while the west continued orthodox. So successful did it remain in the east that another great council was convoked in 381 at Constantinople, at which, a second time, it was strongly condemned and anathematized.

In the commencement of the third century occurred the schism of the Donatists, so called from Donatus. They held that theirs was the only pure church, and that baptism and ordination, unless by their church, were invalid. This schism has a bloody baptism, originating a civil war which during thirteen years ravaged the whole African province.

In the commencement of the fifth century occurred the Pelagian heresy, originated by Pelagius, an English monk of great learning and purity of character. It consisted in denying original sin; and in restricting divine grace so as to confine it merely to the influences of divine revelation. He made conscience the great regulator of man in refer-

ence to good and evil, admitted only the laws of the moral world, and asserted the sufficiency of human nature alone, if accompanied by great energy of will, to attain all the Christian virtues and graces. His great opponent was St. Augustine. His doctrines were condemned by the council of Orange in 529.

Towards the middle of the fifth century the church was agitated by the heresies of Nestorius and Eutyches. The former was patriarch of Constantinople. These heresies referred to the incarnation of Christ. The doctrine maintained by Nestorius was that Christ was a man, holy and perfect, but not a God; that the Logos, the spirit of God, only lived in him, and that there was no real union between God and man. This was, in fact, a reproduction of the Arian heresy. A council convoked at Ephesus in 431 condemned this heresy, and deposed and exiled Nestorius. In his exile he founded the Nestorian bishopric which exists in the east at the present day.

The heresy of Eutyches was in the opposite extreme. He maintained that the substance and body of Christ had completely disappeared in the essence of the Logos,[1] that his human nature was absorbed by his divine nature. This heresy greatly troubled the church. A council was convoked at Constantinople in 449 which condemned it. But another council assembled at Ephesus in 451, which reversed the condemnation and sustained the heresy. This not being satisfactory, another council was convoked the same year and assembled at Chalcedon, in which all the former decisions were annulled, and both the doctrines of Nestorius and Eutyches were annihilated by the clear, decisive, and imperative decisions of the council on the divine and human nature of Jesus Christ.

[1] *De Vericour*, 46.

A long period now occurs without any heresy that caused much agitation. The ancient philosophies, Grecian and oriental, had accomplished all that was possible in perverting the Christian religion by leading it away into different heresies, and thus destroying its divine influence. But these had all been condemned, and, for all practical purposes, had ceased. The philosophies themselves had passed away from western Europe. The barbaric wave had rolled over Rome and western Europe. All activity and power of thought in speculative directions were limited to the church. As this had become a unit, it was hardly to be expected that any heresies would show themselves. They did not, for a number of centuries, until the abuses of the church and its gross superstitions compelled the human mind to revolt, and thus gave rise to a different kind of heresy from that we have been considering.

In the last half of the twelfth century arose the sect of the Waldenses, so called from Peter Waldo, a merchant of Lyons. They spread over the valley of Piedmont. They circulated the sacred writings, and were the early harbingers of the reformation. They were condemned in several councils, as the most incorrigible heretics. After being excommunicated, a general crusade was set on foot against them and the Albigenses, and they were dispersed into different countries, as into Arragon, Savoy, Languedoc, Provence, Dauphiny, Calabria, and Bohemia, by which means their doctrines became more widely disseminated.

In the valleys of western Piedmont they succeeded in founding a church which has continued unto the present time.

In 1370 flourished Wickliffe, the father of the English reformers, who translated the Bible, opposed the supremacy of the pope, his indulgences, dispensations, relics and saints, as well as the doctrine of transubstantiation and purgatory.

His writings, about half a century later, finding their way into Bohemia, awoke John Huss, who originated the first great movement in Germany for the emancipation of the church. He opposed many church abuses and in 1412 burnt a papistical letter of indulgence. The council of Constance, obtaining possession of him through treachery, were guilty of the disgraceful act of burning him at the stake in 1415. Jerome of Prague, another heretic of the same kind, underwent a similar fate soon after. Just a century later commenced the grand heretical movement of the reformation under Martin Luther.

A little more than a century later still, viz: about 1640, arose the Jansenian controversy. It was occasioned by the lax morality of the Jesuits, their worldly intrigues, ambition, and arrogance. Jansenius, the leader of the Jansenists, maintained that inward grace is the only agency that moves the heart of man. That this grace, irresistible when it approaches, is invincible when fixed. That man does inevitably, although voluntarily, good or evil, as he may be influenced by grace or cupidity; and the will is necessarily led by whichever is the strongest; the two tendencies being like the scales of a balance, the one not being able to ascend without the other descending.

These, in the eyes of the Jesuits, were fearful heresies. Volumes upon volumes were written by way of attack and defense. At length the Jesuits triumphed, the doctrine being condemned by authority of the pope, and its adherents everywhere persecuted.

This closes the long line of hereseis, and leaves but little remaining to be said relative to the catholic religion.

Let us, in conclusion, briefly attend to the following question. In view of what essentially constitutes the catholic religion, its forms of faith, its modes of worship, its ordinary and extraordinary observances, its agents and

instrumentalities, its principles of belief and action, its history thus far, what is the destiny that awaits it in the future? Is it of perpetual duration, or is it among those earthly institutions, that work out their history, perform their mission, and then pass away;

Let the judgment of history be appealed to. In its light alone can the revelations of the future be made intelligible.

The Roman church is planted and sustained upon the strength of three principles, three great pillars that support the splendid edifice. These are unity, despotism, and infallibility. They have, altogether, one virtue and one vice. Their virtue is, consistency with each other. They cohere together, and each lends mutually to the others all the aid and support of which it is capable. Their vice is, that when pushed out into their legitimate results, when carried into their consequences, they must in the end, terminate every institution into which they enter.

Even the single principle of unity, as we have before seen, although possessing elements of strength for a limited period, yet in the end will accomplish the destruction of that into which it enters.

One special result flows from each of the other principles.

From the despotic is derived its sympathy and union with despotisms. The throne and the altar appear as inseparable companions. They lean upon each other, and are mutually sustaining. When Napoleon Bonaparte erected the imperial throne amidst the disorderly fragments of French democracy, his first act was to invite the return of the papacy, replace the altar, and thus secure despotism in the state by firmly allying it with despotism in opinion. Let the despotisms of Austria, France and Spain be deprived of the aid derived from the altar, and they might well tremble for their safety.

From the infallible is derived the startling conclusion that to men and their acts belongs this peculiar attribute. Unless the pope can be infallible he cannot be the successor of St. Peter. Unless the priest can be infallible, he cannot represent the church. The rigorous logic by which the principle of infallibility is made to run through all the church officials, although consistent, is yet subversive of all moral distinctions. Who believes that a being, vicious, perverted, stained with crime, and moral pollution, is nevertheless infallible? Reason, common sense, the convictions of men are all in opposition. It lends to unity and despotism a powerful support; and if men, their opinions and acts, could be pure and perfect, would insure perpetuity. But when attached to a fallen nature, and linked to sin, vice and iniquity, its downward tendency is irresistible.

There are three general results into which each one of these three principles more or less extensively enters.

First. The supremacy, the control, the ultimate decision, in all matters of faith, belief, and practice, is lodged in the church, and is developed and exercised through its teachings, doctrines and traditions. This originates from its despotism, preserves its unity, and derives its moral force from its infallibility. But it deprives it of the divine, and renders it a mere human institution. The moment a difference of opinion on any point of faith or practice arises among men, an appeal must lie to some higher power to settle it. With the protestant it is to an open Bible, to the word of God; with the papist, to the teachings and traditions of the church. This is just the difference, and it must inevitably lead to the perpetuity of the one, and the termination of the other.

Second. A second result is, that the church, and everything connected with it, is linked inseparably with the

past, and can never admit the idea of progress. It lives in its early traditions, in its elder doctrines and teachings. All these it holds to be infallible, and as such exacts from all men the profoundest homage. The human mind is shut up to these traditions, doctrines and teachings. All its demands for light, and knowledge and truth, liberty and progress, are disregarded. It is bound to the past by chains, the links of which have been riveted by centuries. It is tied to forms of faith, and modes of worship, and customs and observances that have been stereotyped into the ages. Even the introduction of a new religious dogma is attended with imminent hazard. That of the immaculate conception is nothing more than the concession of the pope to the demand for progress; but it remains to be seen whether even that will not overthrow the papacy itself.

Let the moral wall of law which surrounds the hereditary dominions of the pope be once removed; let the light of the present pour into that dark domain; let the demands of the human mind be satisfied; let the activities of life enter and the hum of business be heard in the field and workshop; let the schoolmaster be abroad, and the schoolhouse grace the banks of the Tiber, and the shores of the Albano; let the snort of the iron horse and the click of the telegraph lift up their voice from the defiles of the Apeninnes; and the days of popery are ended, the voice of a thousand years is hushed, the music of centuries ceases, and the decaying embers of a worn out faith are blown to a returnless distance.

Third. All human beings wherever born, or however nurtured, have, sooner or later, their questionings in reference to the future, their problems to be solved regarding life, and death, and destiny. The faith in which they have been reared is invoked to answer and to solve. This leads

naturally, almost necessarily, to an investigation of their faith, and its claims for acceptance. And how can the catholic religion, with its dead forms of worship, its unmeaning mummeries, satisfy the demands of a living soul, just awakened to a sense of its fearful responsibilities? In the palmy days of the papacy the confessor to the queen of Spain rebuked the opposition of a nobleman by saying, "You should respect the man who every day has your queen at his feet and your God in his hands." What kind of respect can the human soul reasonably render to a God who is capable of being handled by a man who can make a boast of it? No wonder that where the catholic faith prevails, all religious feeling dies out from the hearts of men. Infidelity, deism, atheism even, offers avenues of escape, and almost anything or nothing is deemed preferable to accepting a religion, all whose forms and observances they contemn and despise. The infidel movement which originated with Voltaire, and which in the last quarter of the eighteenth century swept every priest out of France, and created a nation of atheists, was only a terrible protest against the mummeries of the papacy. It is true the power of the first Napoleon brought back those mummeries, and that of the second still retains them; but the human mind cannot always be kept beneath the despotism of opinion. The protest that may yet go up from the close of the nineteenth century, may be fearfully startling in all its revelations. But whether the ultimate downfall of this system will occur in consequence of the conversion of men to a higher and a purer faith; or whether the human heart, corrupted by its influences, and sickened by its mummeries, shall effect its escape through the gateway of infidelity and atheism, are among those problems of the future which God will solve in such time and manner as his infinite wisdom shall direct.

The Greek Church.

IV. The Greek Church.

The part enacted by the Greek church upon the theatre of history has been comparatively trifling. It has never been of the same proselyting and belligerent character as the Roman Catholic. For the first eight centuries the Greek and Roman or Latin church were alike in doctrine, and also in the acknowledgment of supremacy of the Roman pontiff.

The Latin is regarded as the parent church. In the middle of the ninth century occurred the separation of the eastern, or Greek, from the western, or Latin. The first subject of controversy was the point whether the Holy Ghost proceeds from the Father and the Son, the Latin affirming, and the Greek denying it. Photius, the patriarch of Jerusalem, was excommunicated by pope Nicholas, while in an œcumenical council convened by the former, a sentence of excommunication and deposition was pronounced against the latter. Various attempts were afterwards made to heal the breach thus made, some of them being partially successful; but the separation ultimately became so great that no attempt at restoration could hope to succeed.

The differences in doctrine between the Greek and Roman church are comparatively trifling. The doctrine of the Greek church in relation to purgatory is vague and indefinite. They deny the supremacy of the pope, and that the Holy Ghost proceeds from the Father and the Son, holding that it proceeds from the Father alone. They show less respect or veneration for the eucharist, neglect the observance of several saints' days, and reject the religious use of graven images and statues, although they admit of pictures in their churches. They reject all the decrees of

general councils held in the catholic church after the sixth. They hold auricular confession to be only a positive injunction of the church, and not a divine precept. They approve the marriage of priests, provided it is done before entering into holy orders. There are also some other minor points of difference, but in all other essential respects the two creeds agree. Although the priests are permitted to be married men, yet the patriarch and bishops are always single. In both the Greek and Latin the mediation of saints as mediators is enjoined; but in the former as mediator with the father subordinate to Christ.

There is in both a beaten track of prescribed ceremonial engagements; but there is this broad distinction between the individual members of the Greek and Roman churches, that whilst the Roman devotee is inclined to slight the form, and to look for salvation to the work and office of a priest, the communicant of the Greek church attaches a spiritual significance to the form, and holding to this form tenaciously, regards religion and the obtaining of salvation, within the bounds of the church, as an individual matter.

Again, the two communions differ in the character of the sacerdotal rule which obtains over each. The Greek patriarch and the Roman pope hold to each other but a slight analogy. Both, it is true, are alike in claiming a spiritual authority; but they greatly differ in the fact that the authority of the pope is supported by material power, and vindicated by force of numbers, while that of the patriarch is derived from individual acquiescence. The great point of difference seems to be that the Greek church is a community of individuals bound together rather by the mystic value imparted to symbolic forms, and looking for truth within the gospel as proclaimed to them, while the Roman is an organization, a hierarchy,

that must fall to pieces as soon as some human key-stone of political power is withdrawn. The bondage of the one is a moral bondage, that of the other a political. The one therefore can admit the operation of new moral forces without destroying its structure; but the introduction of any such into the other may endanger its political integrity. The one, therefore, has less the elements of present strength, than of future continuance; the other is stronger in the present, but of less probable duration.

There is also a broad distinction between the individual members of the Greek and Roman churches. Whilst the Roman devotee is inclined to slight the form, and to look for salvation to the work and office of a priest, the communicant of the Greek church attaches a spiritual significance to the form, and holding to this form tenaciously, regards religion and the obtaining of salvation, within the bounds of the church, as an individual matter.

Both churches are alike in being fettered by state alliance and secularized by endowments; but the difference consists in this, that the Roman pontiff possesses, in the states of the church, temporal power, thus rendering church and state identical, the same head governing in two capacities, while the patriarchs in the Greek church are shorn of political power; but are, nevertheless, connected with the state in their appointment, and to some extent, in the exercise of their spiritual powers. Again, the Roman church is a unit, centralizing all power in the pope; the Greek church has four heads or patriarchs, besides another equivalent to one in the Russian organization.

Of these four patriarchs, the highest dignity is, by courtesy, assigned to Constantinople. He is acknowledged throughout Greece, in the islands of the Archipelago, and over all Asia Minor except two of the most easterly provinces bordering upon Syria. Wallachia and Moldavia,

are also under his authority. He is styled the thirteenth apostle, œcumenical patriarch, and sometimes archbishop of New Rome. The right of electing him is vested in the twelve bishops who reside nearest the capital. But the right of confirming that election,[1] which is essential to enable him to exercise his spiritual functions, belongs only to the Turkish emperor.

This confirmation by the emperor is purchased by the patriarch and often at a very severe rate. As high as fifty and sixty thousand crowns have been paid, besides the ministers of state often exact other enormous fees. If he fails in making payment he is deposed.

His revenues are precarious, and are, to a great extent, derived from sales of vacant bishoprics and other benefices, and also from annual assessments upon each bishopric, benefice, living, and convent, within his jurisdiction. Every priest in Constantinople pays annually a crown. Besides he derives revenues from particular patrimonies.

The bishops exact the utmost from those persons whom they admit into holy orders, and the priests relieve their necessities by making sales of the blessed sacraments to the people.

The second patriarch is that of Jerusalem, who derives a large revenue from his profits by consecrated fires. He supervises Palestine and Arabia.

A third patriarch makes his seat at Antioch and holds sway over Syria. He is the poorest of all the patriarchs.

A fourth plants himself at Alexandria, and supervises Egypt, and the deserts of Lybia and Ethiopia. He is very powerful in respect to ecclesiastical government. He assumes the grand title of judge of the whole world.

[1] *Burder*, 124.

Besides these, there is what is equivalent to a fifth patriarch in Russia. The Christian religion was introduced into Russia about the end of the tenth century, chiefly through its connection with Greece. The patriarch of Constantinople, for a long time, enjoyed the privilege of a spiritual supremacy over Russia, which he governed by a metropolitan. This state of things continued until the beginning of the eighteenth century, when Peter the Great ascended the Russian throne. He very soon perceived that the dignity of patriarch approached too near that of the sovereigns, and was also burdensome to the people. He accordingly suppressed it in 1721, declaring himself the head of the national church, following in this respect the example of Henry VIII of England. The immediate exercise of the functions of this high and holy office were devolved upon a council assembled at St. Petersburg, which was called the holy synod, and one of the archbishops, the most distinguished for integrity and prudence, was appointed its president. This, therefore, makes substantially the fifth patriarch in the Greek church. Thus, the pope of Rome and the emperor of Russia may be regarded as the heads of the western and eastern churches, and they agree in this, that each seeks to claim and render available every element of value that subsists in these communions respectively, to his own political and material aims.

The executive functions of a patriarch consist in calling his metropolitans and bishops together; in receiving and deciding appeals; in conferring holy orders; in determining controversies; and in enforcing discipline by ecclesiastical censures.

A monastic life is held in great veneration in the Greek church. All the orders of monks owe their origin to St. Basil, who was the sole founder of the monastic state. Those of the grand and angelical habit are persons of

worth and distinction, endeavoring to lead more righteous lives than others. Those of the lesser habit are inferior persons who, before taking up the habit, deposit a certain sum of money for a cell or small apartment, and other accommodations, belonging to the convent. They are supplied with bread and wine the same as the others, but in every other respect provide for themselves. Each one is thus at liberty to pursue his own particular affairs.

There is also a third order, the anchorites, who are desirous of passing their lives in solitude and retirement. This they accomplish by purchasing a small cell in a convent with a little contiguous ground, sufficient to maintain them, attending the convent only on solemn festivals. Others rent small vineyards situate near their cells, out of which they support themselves, while others retire from the convent, living at a distance from it, on a stated allowance sent them monthly or semimonthly.

There are also nuns, who form themselves into communities. They are confined in convents, and conform to the rule of St. Basil. They are not inferior to the monks in all devotional exercises. Their leisure hours are spent in various kinds of needle work.

The Greek church has its fasts, as well as the Latin, which are far more severe, strict abstinence being practiced from all flesh, fish, and even butter and cheese, existence being sustained upon fruits and herbs.

Mass is celebrated in the Greek church in a round of ceremonies, somewhat similar to those of the catholic mass.

The divine mysteries are celebrated behind an elevated barrier. No eye perceives the ceremonies of the priest as he ministers at the altar. His voice only is heard. He calls out at intervals for the assistance of the prayers of the faithful, and thus indicates the progress of the sacrifice. When accom-

plished, the great gate of the sanctuary is thrown open as if by an invisible hand, and the priest advancing to the open portal, displays the emblems of the sacrament. The priest is magnificently robed, his vestments being enriched by gold and precious stones. The church of the east, unlike that of the west, does not, at the close of its religious ceremonies, flame upon its people a multitude of lights. But all that meets the eye is grand and imposing.

The grand duke of Russia, Vladimir I, at a very early period, sent out a commission to examine the different Christian rites, in different countries, in order to fix his choice. After having passed in review the religious ceremonies of the Bulgarians, and of the Germans, the commissioners went to Constantinople to examine those of the Greek church. They witnessed these rites as performed by the patriarch of Constantinople, in all their splendor; and on returning, made this report: "We are not able to express by words the sublimity of what our eyes have seen. These rites surpass those of all other countries. We had only hoped to meet them in the heavens." This report determined his choice, and with it the adoption of the Greek as the national church of Russia.

In the Greek, as in the Roman church, there is a beaten track of prescribed ceremonial engagements; but the worship of the former demands little exercise on the part of the faithful. They are mainly passive throughout its performance. But it requires them to come often together, and at all hours. The night is often made to add to the august character of the ceremonies, thus lending its assistance to the idea of the infinite.

They have some remarkably superstitious ceremonies. One is the following: When they entertain any resentment[1]

[1] *Burder*, 131.

against a particular person, in order to gratify their revenge, they take an exact measure of his height and the circumference of his body. This measure they carry to one of the workmen who is employed in laying the foundation of an edifice, who for a small gratuity, buries it under one of the first stones. They flatter themselves, that their enemy will die soon after, or languish and fall away by degrees, just in the same proportion as this secret instrument of their revenge decays and perishes.

The Greek church is far more tolerant of other religious sects than the Roman. In 1581, during the reign of the czar, John Vasilievitz, Pope Gregory XIII proposed to that prince to banish the Lutheran clergy from Russia; but the answer was, that in that country all nations have a free exercise of their religions.[1]

The Russian church receives the doctrines of the Greek church, allowing no statues or graven images, but admitting pictures and invocation of saints. The Russian, like the Greek, bows down before the host and adores it. Whether his condition be high or low, he has his own titular saint, to whom he offers up his morning and evening prayers, and whom he consults on all occasions of a doubtful or hazardous nature. The invocation of saints constitutes no inconsiderable part of the religious worship of the Russians, and many of their pictures, particularly of St. Nicholas, adorn the walls of their churches. There are also among the Russians a number of ceremonies and superstitious customs.

Of the Russian priests there are two grand divisions, monks and parochial clergy. Of the latter, there are the superior and the inferior, the former branching out into metropolitans, archbishops and bishops. The superior

[1] *Burder*, 147.

clergy were absolute until the time of Peter the Great. His great aim was to permit but one absolute power in the state, the imperial. By a ukase he placed the superior clergy under his control, thus securing to himself the schools of the lower clergy, and the hordes of people amidst whom they had erected the cross. Henceforth religion became identified with royalty. The priest is expected to preach loyalty to the emperor; and the more he knows of theology, the more to exalt the prerogatives of the czar.

Thus although the Greek church has many unmeaning forms and ceremonies, much ignorance, and many superstitions, yet it is on the whole an improvement upon the Roman. The Roman bond of union consists in a vast external physical organization; a mighty hierarchy, in which all the parts mutually support each other. At whatever point this organization is broken down, all that is vital disappears.

The Greek faith is readily resolvable into individual elements, and, when trodden down by Mahometan power, it finds a retreat in the hearts of its individual members. There is nothing within the Greek church to prevent the entertainment of the true faith. Its vital principles, in verbal form, have been preserved, professed and perpetuated. There is a number constantly increasing, who, under all these rituals and forms, approximate in hope, and enjoy unity of spirit, while they hold in their consciousness, firm and unshaken, the cardinal truths taught by the apostles. It is, therefore, not without hope, that we leave the domains of the patriarchs, to revisit the regions of central and western Europe, there to witness the birth and progress of a new faith, whose altar fires are never to be extinguished, but only to burn purer and brighter as their mingled flames ascend to the great source of light and of love.

Protestantism.

V. Protestantism. Its origin, history, kinds of faith and effects.

Protestantism was the outcrop of the reformation, the great event of the sixteenth century. It was the form ultimately assumed by those elements of commotion, that shook states, kingdoms, and peoples, to their very centre.

An event, pregnant with such vast results, could not be expected to come uncaused. God is in history, and the greater the event, the more clearly and satisfactorily are discernible the causes that led to its occurrence. The Romish church had long been preparing for the outburst of this grand heresy. The great schism in the church which occurred at the latter part of the fourteenth century, weakened its power. It gave occasion to the assembling of councils, to make efforts at reconciliation, and this again tended to exalt the power of the council and degrade that of the papacy. The transfer of the chair of St. Peter to Avignon, the seventy years' Babylonish captivity, the French influence to which the popes were all that while subject, diminished the respect of other nations for the head of the church.

The character of the popes, for some time previous to the reformation, tended to hasten it. Paul II sold benefices to the highest bidder. So also did Sextus IV. Innocent VIII was still worse, his treasurer being accustomed to say, "God does not wish the death of a sinner; let him pay for his sins and live."[1] But Alexander VI was the greatest monster of iniquity. He was the father of the Borgias, and has been charged with the crime of incest with his own daughter. Julius II was the warrior pope,

[1] *Dew*, 447.

energetic, ambitious, constantly involving his dominions in war, and, by mixing in the strifes and rivalries of Europe, he lost much of the respect and reverence of Christendom. Then came Leo X, a son of Lorenzo de Medicis, with princely tastes, surrounding the papal throne with pomp and luxury. Addicted to the chase; to the pleasures of the table; to card-playing and betting; to prodigality; to every species of high, and many of low, enjoyment.

The great body of the clergy became immoral. Discipline was relaxed. Disorders and abuses penetrated even to the altar. The enforcement of celibacy covered the church with scandal. Monks, and nuns even, became profligate in the extreme.[1] The former were called the Pharisees of the age, and nunneries the execrable temples of Venus. The clergy became luxurious, ambitious, insolent. Pardons for offenses were obtained with the greatest facility. The pecuniary composition was borrowed from the early codes of law in Europe, by which a deacon guilty of murder was absolved for twenty crowns, a bishop for three hundred livres, and any clergyman violating his vow of chastity, one hundred.

Another circumstance that hastened the reformation was the enormous exactions of the pope. While the popes were at Avignon, small revenues, if any, were drawn from their temporal dominions in Italy. It required nearly or quite all to keep the states of the church in subjection. The papal court, having become luxurious and profligate, was compelled to resort to many devices to draw money from Christendom.

One of these was the proclamation of jubilees, first every one hundred, then every fifty, and then every thirty-three years; and subsequently more frequently, at which thou-

[1] *Dew*, 448.

sands of pilgrims flocked to Rome for pardon of sins, and bringing also their offerings into the papal treasury. So profitable were these jubilees that pope Boniface IX permitted other towns, as Cologne and Magdeburg, to hold them, he sharing with them the profits.

Annates, or first fruits, originated from presents which, in early ages, a bishop, at his consecration, or a priest at his ordination, paid to the officiating prelate, and they gradually became rated at a year's income. When the pope usurped metropolitical powers, that of ordination, and with it the first fruits fell into his hands. The first fruits of smaller benefices were first left to bishops and archbishops until Clement V, and John XXII reserved all for the pope. Sometimes no appointment would be made to the vacant benefice, all the revenues being taken by the pope. A tax of tenths and first fruits was frequently laid on Christendom for special purposes, as for crusades, or other pious objects. Peter's pence, king John's census of one thousand marks per annum, and annates, or first fruits, were levied upon the English, and the centum gravaminia, upon the Germans.[1]

By these, and other ingenious methods, vast sums of money were drawn from all parts of Christendom to Rome, causing everywhere complaints on the part of princes and people. Ecclesiastical property was burthened, the head began to plunder the members, and disaffection began to spread through the church itself.

All these abuses called loudly for reform. The grand schism in the church having created the necessity for great general councils, these, once assembled, not only claimed power above the popes, even to the extent of deposing them, but also that of investigating grievances in the

[1] *Dow*, 450.

church, and of instituting plans of reform. But the efforts of the councils all signally failed. Not only were the popes opposed to all reform, but the more dissolute clergy, fearing the effects of reformation, also united with them in upholding existing abuses. Add to these difficulties, the œcumenical councils themselves were too large, too heterogeneous, and had come together from too many countries to be effective as a deliberative body, or in the establishment of the necessary reforms. Thus the church stood little chance of correcting itself the abuses that had crept into its bosom.

What the church failed to accomplish was undertaken by nations. In the fourteenth century, what was termed the pragmatic sanction, was made a law of France. This deprived the popes of the annates, and suppressed many abuses. This law was soon afterwards introduced into Germany by the diet of Mayence. But in 1448, in consequence of a treaty with Nicholas V, the diet gave it up, and in 1516, the French king, Francis I, substituted for it a concordat agreed upon between him and Leo X. Thus governments failed in accomplishing the desired reforms. But there was still another power clamorous not only for reform of abuses, but also for light and knowledge of God and his word, and that was the people. This was manifested in the very opening of the thirteenth century in the outburst of the Waldenses and the Albigenses, and the cruel fate which they encountered. Again, about the middle of the fourteenth, another attempt was made by John Wickliffe in England, but this also was premature, and his followers, the Lollards, were finally suppressed. Once more, about the commencement of the fifteenth century, a fire was lit up in Bohemia by John Huss and Jerome, who were summoned before the council of Constance, and repaired thither with the safe conduct of the emperor of Germany. But that was

violated, and, being condemned by the council, they were burnt at the stake. But their doctrines had taken strong hold of the popular mind in Bohemia, and so intense were its workings that a bloody civil war was the result, in which the emperor triumphed; but it was the triumph of brute force, the moral effect still remained.

These were all precursors of the reformation; all pointing to it as the grand necessity of the times.

But there was still another general fact exerting an important, not to say, controlling influence; and that was the general awakening of the human mind; the influx of new ideas; the originating of new and bold inquiries; the search after truths in all departments, before unknown; all of which occurred about the beginning of the sixteenth century. A number of facts to which I have before called attention marked this out as a new era, the era of progress. The human mind felt restive under restraint; it became sensitive to the trammels of authority; it demanded its right to free investigation, and to the free exercise of its own judgment. This latter the Roman church could never concede. Once destroy the omnipotence of authority, and the church could be the Roman church no longer. Take from its teachings the attribute of infallibility, and its fall would be inevitable.

Amid so many general causes, it only required an immediate one to produce an explosion. That was presented in the sale of indulgences. The church imposed penances upon offenders, which were considered as satisfactions for offenses. The remission of these penances constituted the indulgence.

The theory upon which this reposed is not a little curious. The church held that the death of Christ constituted a fund of merit amply sufficient to save the whole human race. That there might be no doubt on this sub-

ject, a bull of Clement VI, asserts that one drop of his blood on Mount Calvary was sufficient. Besides the good works wrought by the saints, were much more than sufficient for their own salvation; and taking the infinite merits of Christ, and superadding theretoall those excesses in the good works of the saints, beyond what was necessary to secure their own salvation, an immense inexhaustible fund is created which can be drawn upon to make good the deficiencies of sinners, whose evil deeds far outweigh their good, thus in the end equalizing both. This treasure thus stowed away, is accessible to the keys of St. Peter, and his successors, the popes. Their drafts are ever promptly honored, and hence, any man, however much he may be a monster of iniquity, is always able, for ready money, to appropriate to himself, through the agency of the pope, such portion of that superabundant merit as may be necessary to meet the exigency of his case and effect a complete restoration.

Plenary indulgences were introduced at the time of the Crusades. They finally came to be given to all those who gave money for accomplishing any pious work enjoined by the pope.

The pretense of Leo X for the sale of indulgences was the building of St. Peter's Church at Rome. To raise money for this purpose, one Tetzel was sent into Germany to sell indulgences. The following is the form of the indulgence granted: "May our Lord Jesus Christ have mercy upon thee, and absolve thee by the merits of his most holy passion. And I, by his authority, and of his blessed apostles, Peter and Paul, and of the most holy pope,[1] granted and committed to me in these parts, do absolve thee from all ecclesiastical censures, in whatever

[1] *Dew*, 488.

manner they have been incurred, and then from all thy sins, transgressions and excesses, how enormous soever they may be, even from such as are reserved for the cognizance of the holy see; and as far as the keys of the holy church extend, I remit to you all punishments which you deserve in purgatory on their account, and I restore you to the holy sacraments of the church, to the unity of the faithful, and to that innocence and purity which you possessed at baptism; so that when you die the gates of punishment shall be shut, and the gates of the paradise of delight shall be opened; and if you shall not die at present, this grace shall remain in full force, when you are at the point of death. In the name of the Father and of the Son and of the Holy Ghost."

In the sale of these indulgences Tetzel showed great indiscretion. He boasted of having saved more souls from hell than St. Peter had converted; that the cross erected by indulgences was as efficacious as that of Christ; that the purchase of indulgence would expiate the most horrible sin. Yes, for twelve-pence, he would exclaim, you may redeem the soul of your father out of purgatory, and are you so ungrateful as not to rescue him from torment? The very moment your money tinkles in the chest, your father's soul mounts up from purgatory. With such harangues as these he made a perfect mountebank exhibition, and created loathing and disgust in the minds of all sensible, rational men.

The reformation has three historic records, each of which is separate, distinct, and peculiar in the facts that compose it. These are, to each other, successive in the order of time in which they are developed.

The first of these is the spiritual record—the history of the reformation as traced out in the minds of the reform-

ers. No event, or series of events, occurs, without having a spiritual history. They are first mental conceptions, and in coming to be such, they have a history and a development. This record presents an embodiment of all the mind suffers and achieves in its pursuit after truth. It is a record of thoughts, and convictions, and doubts. It has its bright hopes and depressing fears. It has its triumphs of success, its saddening hours of failure. Had Luther left his own complete autobiography, it would have been a bequest worthy the acceptance of all the coming ages.

The second is the moral record. This also details mental conflicts, but not those occurring in the same mind. It is the conflicts between different minds that make up this record. When the first crude, and shadowy conceptisns of the reformers had, through the action of their own minds, acquired strength and completeness, the next thing in the order of time, was to urge them upon other minds; to advocate them in public, and through the press; to refute objections; and in spite of subtlety of argument, and the force of authority, to effect a permanent lodgment of them in the minds of others. This also has a history replete with interest.

The third is the political record. This assumes that the two previous histories have been successful. The great thoughts that have been born and matured in one mind, have found their way into other minds. They have become inwrought into the social fabric. A nation has received them, and they lie at the foundation of its social and moral life. In all the developments of the people composing that nation they have their part assigned them. Thus they may become the mainspring of a nation's action, and entering the arena of political history, contribute their aid in working out the great problems which are reserved for nations alone to solve.

This happens to be peculiarly the fact with the reformation. Its political history commenced with the celebrated league at Smalcald in 1530, headed by the elector of Saxony, and landgrave of Hesse. Henceforth, for more than a whole century, the principles proclaimed by the reformers lay at the foundation of all political movements. They swayed the counsels of cabinets; they fought on terrible battle-fields. Europe continued tc exhibit a constant struggle between the catholic and protestant religions, until the final settlement of its affairs by the peace of Westphalia in 1648.

Of these three records, it is principally the moral one to which we must confine our attention. The world owes the reformation mainly to five individuals, who prosecuted the great work with unfaltering step through their entire lives. These were Martin Luther, born in 1483; Ulric Zwingle, born in 1484; Philip Melancthon, born in 1497; John Knox, born in 1505; and John Calvin, born in 1509.

Of these five, however, Luther and Melancthon historically constitute but one individual. Never were two so precisely adapted to each other; the faults and deficiencies of the one being corrected and supplied by the other; and never, in the history of the world, was such a union necessary. The firm resolve, energy of will, force of character, perseverance through all obstacles that characterized the one, found an essential aid in the mildness, deep research, great learning, high classical attainments, calm reasoning, and vast intellectuality of the other. Of the other three, the labors of John Knox were principally confined to Scotland, of John Calvin to Geneva, and of Ulric Zwingle to Zurich. It is not a little remarkable, that these great men were not only men of the people, but were eminently qualified to be such by having come directly from them. Luther was the son of a poor miner of Mansfield in Ger-

many; Melancthon of the keeper of an armory in the palatinate of the Rhine; Zwingle of the bailiff of Toggenburg in Switzerland; and Calvin of a cooper of Noyon, in Picardy, a province of France.

Once more, although the services rendered to the reformation by Zwingle, Calvin and Knox, especially by the two first mentioned, were truly invaluable; yet the great battle, on the part of the reformation, was really fought by Luther and Melancthon, and principally by the former assisted by the latter. So far, therefore, as its moral record is concerned, the two last mentioned are almost the only ones that appear prominently in it.

Martin Luther, although born of poor parents, received nevertheless a good education commencing at the schools of Magdeburg and Eisenach, and completing it at the university of Erfurt. He afterwards entered an Augustinian monastery at Erfurt, where he endeavored to win heaven by the practice of austerities and performance of good works. Deriving from these no assurances of progress, his attention became directed to a Latin Bible, and the writings of St. Augustine, through which he finally reached and laid hold of the doctrine of justification by faith alone. Just at this period came along Tetzel, the pedler of indulgences. Luther having been in the meantime appointed by the elector of Saxony a professor in the new university at Wittemberg, Tetzel came to every gate of the city crying up his holy wares for sale. The heart of Luther, just fresh from the conviction that salvation is by grace alone, and that not of ourselves, but the gift of God, burnt with indignation as he beheld this utter desecration of sacred things. On the eve of All-saints in 1517, he nailed to the gates of the cathedral of Wittemberg ninety-five theses or propositions, in which he denounced the traffic in indulgences, and treated the doctrine of

absolution as a power usurped by the pope. He denied its value, and maintained that the divine favor would only be granted on the condition of repentance and faith.

This was bold doctrine. If true, the power of the keys was annihilated. The drafts made by the pope upon the inexhaustible residuary merit fund, could be no longer honored. No man could longer purchase the power to sin. The German mind was electrified, and the papal edifice shook to its foundation.

But the point attacked was, fortunately, exceedingly vulnerable. In the church itself great numbers denied the power to sell indulgences. The mountebank Tetzel by his brazen assurance, and offensive manner, had outraged common sense and common reason. Had the bugle blast of Luther been blown upon a different key, he might have met the fate of Huss and Jerome. But he struck a chord to which governments and people made a favorable response. He unloosed and set afloat two kinds of enquiry: the one religious, relating to the ground of justification; the other political, relating to the ruinous extortions of Rome.

The elector, Frederick the Wise, well knowing the corruption of the church, and vexed at the vast sums drawn from his subjects, secretly favored the reformer. The pope, Leo X, cared little about spiritual matters, and as Tetzel was a Dominican and Luther an Augustinian, he characterized the whole as a squabble among the friars.

The thesse, however, spreading rapidly through Germany, began to operate on the popular mind. The pope at last summoned Luther to Rome, to submit his doctrines to the inquisitor general Silvestro Prierias, but through the intercession of the elector, it was arranged to have the examination at Augsburg, Cardinal Cajetan, a Dominican, being sent thither to meet Luther. But the conference amounted to nothing; neither the argument nor command

of the cardinal having any effect. Another effort was made by sending Miltitz, a Saxon noble, who succeeded in obtaining from Luther a promise to be silent if the opposite party would; but the opposite party would not, for while this controversy was pending, Dr. Eck, of the university of Ingolstadt, challenged the professors of Wittemberg to a public discussion on grace and free will. This came off at Leipsic at a hall in the royal palace before the noble and learned of Saxony. This was in June, 1519, Luther being then thirty-six years of age. He is described at that time as being of the middle size, and so thin as to be mere skin and bone. His features bore strong traces of the storms that had passed over his soul, and of the courage with which he was prepared to encounter those which yet awaited him. His whole aspect evinced profound thought, joyousness of temper, and confidence in the future.

This discussion forms a memorable era in the history of the reformation. From it were evolved two great ideas, constituting the central points around which all sects and parties among the protestants have always rallied. One of these was, that the scriptures are the only ultimate grounds of authority in religion, and the other, that the interpretation of these belongs exclusively to the individual judgment, and that for the exercise of that judgment, according to conscience, the individual is alone responsible. These, and the doctrines of justification by faith, were the great central truths of the reformation.

The denial of the supremacy of the Roman church in matters of faith was now rendered perfectly apparent. Luther was thus brought in direct conflict with the pope, and the whole church hierarchy. He was standing too, almost alone. Carlstadt was fanatical; Melancthon, inexperienced; Staupitz, old and feeble. But he was armed with the power of truth, and he knew it. He presented in

the one hand an open Bible, and in the other, the reason and the conscience. His power with the people was irresistible. He was himself the son of toil and penury, his father a miner, his grandfather a peasant. The German mind, far better than any other, unless it be the English, was fitted to appreciate his doctrines, calm, reasoning, reflective; the burning thoughts of Luther came to it as a new revelation. Light broke into its dark recesses; its silent depths were stirred; and the sense of its own freedom, of the supremacy of God's word, of the power of conscience, fell upon all men with terrible energy, sundering the chains of centuries, and bringing man and God into fearful proximity.

But with Rome the time had now come for action. The heresy of Luther stood out in bold proportions. The pope suddenly awoke to the sense that he was the successor of St. Peter, and occupied his chair. The thunders of the Gregories and the Innocents were his, and he could hurl them at his pleasure. What was the simple monk of Wittemberg in the presence of a power possessing such tremendous instrumentalities? A papal bull is issued, excommunicating Luther, and condemning his writings as heretical and damnable. He was now cut off from among the faithful. The only church on earth had ejected from her bosom her degenerate son. But he might still return. The avenue was not yet closed. The church will receive back her repentant, erring children, upon recanting their errors.

The bull reached Wittemberg early in December, 1520. On the tenth of that month a long procession of professors and students of the university, with Luther at their head, were seen wending their way to the gates of the castle of Wittemberg. There a bonfire was kindled, and the bull of excommunication, together with the canon law, were burnt to ashes. This act was decisive. It made the

breach irreparable. It was throwing away the scabbard. It left the conditions of hostility complete.

But this was comparatively a private act. The man of the reformation, the embodiment of its doctrines, was yet to appear on a loftier stage. An imperial diet is convened at Worms, and Charles V, the newly elected emperor, summons Luther to appear before the diet, and gives him a safe conduct for his protection.

On the 17th of April, 1521, the very day of his arrival, before the collected dignitaries of the German empire, spiritual and temporal, with the greatest monarch in Europe at their head, appears a man in the garb of a monk, lean and pale from care, fatigue, and sickness. Weary watching, and a long journey, had exhausted his physical frame; but he was the embodiment of the reformation; the prayers of a people had gone up with him; the fires of a new faith were burning in his soul. Before the most august assembly in the world, the man reared in the cloister, remote from courts and cabinets, appeared without a trace of embarrassment, and pronounced his defense. He declared his total inability to retract unless convinced by the testimony of the Bible, or by clear and convincing arguments; for he neither believed in popes nor councils, since it was manifest they were often deceived, and contradicted each other.

The enemies of the reformation made a mighty mistake when they got its great champion before the diet. The longer they could have kept the monk in his cloister, the more secure they would have been. The more elevated the theatre upon which truth is proclaimed, the sooner, and the wider, does it become disseminated. The moment Luther retired from the diet, the cause of the reformation was certain of ultimate success. The diet composed of princes, might and did condemn his doctrines, but new

minds had heard new truths, and a new impulse was everywhere given to their dissemination.

Three days after the emperor published the decree of Worms, proscribing Luther and all his adherents, and ordering all magistrates to hand over the culpable to justice, that their estates might be confiscated and themselves burned.

In the meantime, Luther had disappeared. While on his journey home, through the management of his friend, the elector of Saxony, he was taken during the night from the carriage, and carried by winding ways to the castle of Wartburg; where, for nearly a year under the disguise of a knight, he occupied himself in literary labor, and more especially in the translation of the scriptures into the German language. This was a great and a necessary work. It transferred the word of God from the library of the prince to the cottage of the peasant; and thus may well claim to stand in the foremost rank; among the mighty instrumentalities that have urged forward the reformation.

But the reformation now met with a new difficulty, and all the more dangerous because proceeding from itself. Liberty always tends to degenerate into license. Remove from the mind the restraint of power and authority, and it will often rush into the wildest extremes of unregulated action. The reformation was, in one sense, the revolt of the human mind from the trammels of authority. No wonder its rebound should be strong and even fearful, upon the removal of the pressure.

It commenced at Wittemberg and with the colleagues of Luther in the university. Dr. Carlstadt, who opened the celebrated discussion at Leipsic, now, in the absence of Luther undertook to carry the reforming system to great lengths. He desired to abolish all priestly garments,

all fasts and holy days, all pictures in the churches, all emblematical ceremonies, to close all places of public amusements, discourage or destroy all institutions of learning, abolish all religious communities, and even divide their possessions among the poor.

The promulgation of these new ideas drew Luther from his retirement. Suddenly he reappeared in Wittemberg. Carlstadt left Wittemberg and went to Strasburg, and although the power and influence of Luther were sufficient at Wittemberg, and in most other places, to confine the outbursts of the reformation within their normal limits, yet the seed once sown must produce its fanatical crop. The views of Carlstadt found advocates. Some pretended to special divine illumination. One fanatical outgrowth was the sect of anabaptists which arose in Munster, first under John de Mattheison, then John of Leyden, who commissioned twelve princes as representatives of the twelve tribes of Israel to mount the thrones of Europe; practiced polygamy; made Munster, which he called the New Jerusalem, a type of the old, by encouraging every vice and enormity; and sent out missionaries to preach his fanatical doctrines, which spread with great rapidity, through northern Germany and the Netherlands.

Another outcrop, in part religious, but more political, and far more terrible in its consequences as regards human life, was the insurrection which in 1524, arose in the Black Forest, near the sources of the Danube, and spreading through Suabia to the Rhine, resulted in the peasant's war which swept away 50,000 human beings. All these fanatical exhibitions were charged upon the reformation. In addition to all these, there was a schism among the reformers themselves, particularly between the followers of Luther and Zwingle on the subject of the eucharist, which will be noticed hereafter.

But along with these disadvantages, should be noticed some circumstances which were favorable to the reformation after the edict of Worms. One was the necessary absence of the emperor from Germany for several years in consequence of troubles in Spain, and war with France. Another was the constitution of the Germanic empire itself, which was exceedingly favorable. The emperor was compelled to leave a regency to govern in his place without any definite directions as to the mode of executing the decree.

This resulted in its falling into the hands of the different princes, many of whom were favorably inclined to the reformation. So great were the difficulties in the way of its execution that it was finally agreed in the diet at Spires in 1526, that each prince should be left to regulate religious matters in such manner as to be able to give an account to God and the emperor, until the call of a general council.

The result of all which was that the decree remained unexecuted, while the doctrines of the reformation, aided by the German Bible, were making continual progress.

So rapid were the advances made, that the catholic princes, both temporal and spiritual, became alarmed. At a diet convened at Spires in 1529 they procured the passage of a resolution, decreeing that no farther innovations should be made in religion, that the new doctrines should be no further disseminated, and that no impediment should be interposed to the celebration of the mass. This decree, if enforced, condemned the reformation to a fatal pause. It was against this decree that many of the princes and imperial towns entered their solemn protest, whence is derived the term protestant.

The following spring, that of 1530, brings us to the diet of Augsburg. This was a most brilliant assemblage of princes, the emperor giving to it his own personal attend-

ance. It was here that the protesting estates presented their confession ever afterwards known as the confession of Augsburg. This was written by Melancthon, on the basis of the articles of Torgau which had been prepared by Luther. It was comprised in twenty-eight articles, of which twenty-one pertained to the faith of the protestants, the remaining seven recounting the errors and abuses of Rome. It was subscribed by the elector of Saxony, the marquis of Brandenburg, the duke of Lunenburg, the landgrave of Hesse, the prince of Anhalt, and the deputies of the imperial cities Nuremburg and Reutlingen.

The catholics having the ascendancy at the diet condemned the confession of Augsburg. Orders were given against its publication, but it soon appeared in every language in Europe, producing great effect upon the popular mind. The protestant princes withdrew from the diet, and formed with each other the celebrated league of Smalcald, at the head of which was the elector of Saxony, and the landgrave of Hesse.

Although actual hostilities did not commence until some years subsequent, yet with the formation of this league terminates the moral history of the reformation. It was then handed over to the political element, and thenceforth, instead of preaching and discussion, wars and negotiations were the instruments by which the new faith was propagated and defended. Henceforth it becomes a part of general history, and is found in that connection.

The kinds of faith developed by the reformation may be reasonably expected to be very numerous. Previously but one faith held sway in all parts of civilized Europe, except that part which acknowledged the dominion of the Greek church. The reformation was the insurrection of the human mind against the dogmas of this faith, and the forms, observances, and practices which had grown up

under it. When its iron grasp was relaxed, and its terrible pressure removed, the human mind, left free, might naturally be expected to shoot out into many new forms of faith and belief. The great principles which lay at the foundation of the reformation, viz: that the standard was the Bible; the interpreter, human reason; and the tribunal of decision, individual judgment, would naturally lead to this. Still, if we except the fanatical outgrowths, which had but an ephemeral existence, the number are not very numerous.

Of these, the first may well be termed the Lutheran. This system of faith is embodied in that important document the confession of Augsburg. From the time this confession was read at the diet of Augsburg to this day, no material change has been introduced into the doctrines or discipline of this church, although the method of illustrating, enforcing and defending them has undergone changes, and some of the doctrines warmly maintained by Luther have been abandoned by his followers.

In the confession of Augsburg are stated in seven of its articles, the seven capital errors which occasioned their separation from the church of Rome. These were communion in one kind, forced celibacy of the clergy, private masses, auricular confession, legendary traditions, monastic vows, and the excessive power of the church.

The Lutherans deny to good works any efficacy in effecting salvation. They acknowledge, generally, the universality of the atonement, holding that Christ died for all who were partakers of Adam's transgression, but that those only who should believe in him, and continue in that belief through life, should be saved. The foreknowledge of God of this continuing faith is made the basis, or foundation, of the election or predestination of the faithful. Election and justification with them are one and the same

thing. Justification being caused by an abiding faith, God's foreknowledge of that faith is equivalent to election.

In regard to free will, the Lutherans deny its power before the sinner's conversion. They maintain that none are converted except by the prevailing efficacy of grace alone.

The Lutherans acknowledge but two sacraments: baptism, and the Lord's supper. In regard to the latter, the doctrines of Luther were somewhat peculiar, and his strict adherence to them in opposition to Zwingle and the Swiss reformers, threw some obstacles in the way of the onward progress of the reformation. He denied transubstantiation, the mass, the elevation and adoration of the host, the ceremonies, and all that external worship which the church of Rome observes with respect to the body and blood of Jesus Christ. But he, nevertheless, did not, and could not, give up the doctrine of the real presence of the body of Christ in the eucharist. He relinquished the doctrine of the continually repeated miracle, but substituted, in its place, a universal miracle, wrought once for all. He rejected transubstantiation, but adopted consubstantiation; that is, that the elements are real bread and wine, and at the same time that the real flesh and blood of Christ became united with them; in much the same manner as in hot iron there is at the same time iron and also heat.

The Lutherans reject all adoration of saints and relics, and all invocation of saints. They condemn all acts of penance, all solemn vows, pilgrimages, macerations, mortifications, or other modes of human expiation. They reject all lent observances, monastic vows, convents, and celibacy of the clergy.

The first point at which the reformers became divided in opinion was in regard to the eucharist. Carlstadt at

Wittemburg, and Zwingle in Zurich, entertained views on that subject in conflict with those of Luther. With the first, these views were so mingled with others of a very decidedly radical character, that the influence of the great reformer prevented their obtaining any extensive currency in Germany.

But the Swiss reformer was of a different character. Ulric Zwingle was no fanatic. Emphatically one of, and from the people; poor, but well educated; one year younger than Luther; his mind had inhaled the spirit of freedom with his mountain atmosphere. The first revolt of his mind was against the scholastic system of the middle ages. Being ordained in 1506, and settled in Zurich in 1518, he was led to the entertainment of a new faith by an attentive study of the scriptures, and not by the preaching of Luther. His movement seems to have been an independent one, and but for Luther's priority in attracting attention, might have made him the hero of the reformation. He saw, as clearly as Luther, the corruptions of the church, and preached with equal zeal against indulgences and papal usurpations. His preaching was plain, practical and simple, his great aim being the reformation of morals. He also did, what Luther, fortunately, did not do, took a great interest in the political relations of his country. He emancipated Zurich from the episcopal government of Constance, and introduced many salutary reformations into the externals of the church. He inspired the citizens with much of that positive spirit of protestantism, which afterwards characterized Calvin and the puritans. He was a more radical reformer than Luther, and less bound down to old forms and observances. On the subject of the eucharist, he swung clear, both of the catholic doctrines, and those of Luther. He contended that the expression in scripture is metaphorical, and that bread in sacrament is

neither Christ's flesh, according to the catholic doctrine, nor united with that flesh, according to Luther, but a mere emblem. A discussion of this interesting subject was proposed, and ultimately effected; the two German champions, Luther and Melancthon, appearing on one side, and the two Swiss, Zwinglé and Œcolampadius on the other. The result, however, only confirmed each party in his own views, and widened the breach between them. The practical settlement of this question by the great Christian public has been in accordance with the Swiss reformers.

Another school, or church, in which the doctrines of the reformation took a form which has been widely disseminated, and commanded, to a large extent, the belief of men, was the Calvinistic, at the head of which was John Calvin; He was a Frenchman, born in 1509, and became a professor of divinity in 1536. His vast labors were performed at Geneva in Switzerland. The name of Calvinist was at first applied to those who embraced the doctrine not only, but also the church government and discipline established at Geneva; afterwards to all those who embraced Calvin's leading views of the gospel as distinguished from the Arminians. In this latter acceptation, the Calvanistic doctrines are embraced by a multiplicity of religious sects at the present day.

The celebrated five points of Calvinism are:

First. Predestination. They maintain that God hath chosen unto eternal glory a certain number of the fallen race of Adam in Christ, before the foundation of the world, according to his immutable purpose, and of his free grace and love, without the least foresight of faith, good works, or any conditions performed by the creature; and that he was pleased to pass by, and ordain to dishonor and wrath, the rest of mankind, for their sins, to vindicate his justice.

Second. Particular redemption. They maintain, that, though the death of Christ be a most perfect sacrifice, and satisfaction for sins, of infinite value, and abundantly sufficient to expiate the sins of the whole world, and though on this ground the gospel is to be preached to all mankind indiscriminately; yet it was the will of God that Christ, by the blood of the cross, should efficaciously redeem all those, and those only, who, from eternity, were elected to salvation, and given to him by the Father.

Third. Total depravity. They affirm that mankind are totally depraved, in consequence of the fall of the first man, the sin of whom, as their public head, involved the corruption of all his posterity; and that this corruption extends over the whole soul, and renders it unable to turn to God, or do anything truly good, and exposes it to his righteous displeasure, both in this world, and that which is to come.

Fourth. Effectual calling. They maintain that all whom God hath predestinated unto life, he is pleased in his appointed time, effectually to call by his word and spirit out of that state of sin and death in which they are by nature, to grace and salvation by Jesus Christ. That when men are converted, it is not to be ascribed to themselves, as though by their own free will, they made themselves to differ, but merely to him who delivers them from the power of darkness, and translates them into the kingdom of his dear Son, and whose regenerating influence is certain and efficacious.

Fifth. The certain perseverance of the saints. They maintain that those whom God has effectually called and sanctified by his spirit, shall never finally fall from a state of grace. They admit that true believers may fall partially and would fall totally and finally, unless it were for the mercy and faithfulness of God, who keepeth the feet of his

saints; that he who bestoweth the grace of perseverance, bestoweth it by means of reading and hearing the word of meditations, exhortations, threatenings, and promises; but that none of these things imply the possibility of a believer falling from a state of justification.

These are the five points of Calvinism, and all must concede that they have, at least, the merit of consistency. A rigorous logic runs through them all; indeed Calvin may not inaptly be termed the logician of the reformation.

The strict Calvinist rejects all ceremonies, and all subordination in the conduct of ecclesiastical affairs. In regard to the sacrament of the Lord's supper, they hold, that for the better maintenance and support of that spiritual life, which is peculiar to the saints, God has sent them down from heaven the bread of life, that is to say, his son Jesus Christ, who keeps up and maintains the spiritual life of his peculiar people, being eaten by them, that is to say, administered and received with faith and understanding.

The Calvinistic churches were governed immediately by consistories the ministers being the presidents. They had also classes, or conferences, to settle and adjust such matters as the consistories had left undecided. All these were subject to synods provincial and national, who exercised a general superintendence.

The rigid doctrines of Calvin could not be expected to escape question and contest. Their great opponent was Arminius, who was born in Oudewater, in Holland, in 1560. He made public proclamation of his doctrines in 1581, and died in 1609. After the synod of Dort, held in 1618, the Arminian doctrines made great progress among the reformed in various parts of the continent. These doctrines modified the five points of Calvinism in the following manner:

First. In reference to the first they maintained, that God, from all eternity, determined to bestow salvation on those whom he foresaw would persevere unto the end, in their faith in Jesus Christ, and to inflict everlasting punishment on those who should continue in their unbelief, and resist to the end his divine assistance; so that election was conditional, and reprobation, in like manner, the result of foreseen infidelity and persevering wickedness.

Second. On the second point they taught, that Jesus Christ by his sufferings and death, made an atonement for the sins of all mankind in general, and of every individual in particular; that, however, none but those who believe in him, can be partakers of their divine benefit.

Third. On the third point they held, that true faith cannot proceed from the exercise of our natural faculties and powers, nor from the force and operation of free will; since man, in consequence of his natural corruption, is incapable either of thinking or doing anything good; and that therefore, it is necessary to his conversion and salvation, that he be regenerated, and renewed by the operation of the Holy Ghost, which is the gift of God through Jesus Christ.

Fourth. On the fourth point they believe that divine grace or the energy of the Holy Ghost, begins and perfects everything that can be called good in man, and consequently all good works are to be attributed to God alone; that, nevertheless, this grace is offered to all, and does not force men to act against their inclinations, but may be resisted and rendered ineffectual by the perverse will of the impenitent sinner.

Fifth. On the fifth point they hold that God gives to the truly faithful, who are regenerated by his grace, the means of preserving themselves in this state; and that the regenerate may lose true justifying faith, fall from a state of grace and die in their sins.

The substance of the Arminian doctrine seems to be, that God sent his son into the world to die for the sins, not of the elect only, but of the whole world; that no mortal is rendered finally unhappy by an eternal and invincible decree, but that the misery of those who perish arises from themselves; and that, in this present imperfect state, believers, if not peculiarly vigilant, may through the force of temptation, and the influence of Satan, fall from grace, and sink into final perdition.

It only remains to glance at one other form of faith, and we shall then have passed in rapid review all those original doctrines which have been appropriated and constitute substantially the foundation of the different Christian sects of modern times. I refer to the Episcopalian faith, or the church of England.

This faith has a different history from the others. No great reformer arose in England to proclaim a new faith. The only one deserving that name was king Henry VIII, and when compared with the great reformers of Germany and Switzerland, his character would hardly bear a strict examination.

The change first made in England was little more than political. Henry VIII, who had been dignified by his holiness with the title of defender of the faith as a reward for a book he had written on the seven sacraments against the attacks of Luther, becoming afterwards offended with the pope, because of his refusal to sanction his divorce from his queen, shook off his authority, and declared himself to be head of the church. This was afterwards sanctioned by the nation. And yet there was at first but little real change. Many features of the Roman church both in regard to doctrine and rites were retained. The reign of Mary brought with it a return of the papacy. It was under the long and highly important administration of her successor, Elizabeth,

that the church of England became fully established in its doctrines, government and rites.

The doctrines, or forms of faith, of the church are principally contained in what are termed the thirty-nine articles. These reject the Romish doctrines of purgatory, worship of images and relics, invocation of saints, celibacy of the clergy, and the offering of masses. They receive the doctrine of the triune god, and adopt the scriptures as the only standard of faith. They admit the doctrine of original sin, and deny all power and efficacy to attain salvation to the unregenerate will. They attribute man's justification to the grace of God through Jesus Christ, to be attained only by faith and not by works; but they hold that good works follow the exercise of a living faith and are the evidence of its possession. They reject all the sacraments but two, baptism and the Lord's supper, holding the former to be a sign of regeneration, or new birth; and the latter a sacrament of redemption. They reject the doctrine of transubstantiation, maintaining that the body of Christ is given, taken, and eaten in the supper, only after an heavenly and spiritual manner, the mean whereby the body of Christ is received and eaten in the supper, is faith. They hold to a general atonement, that the offering on the cross was to make satisfaction for all the sins of the whole world, both original and actual. They admit the possibility of falling from grace into sin, after baptism and receiving the Holy Ghost, and of repenting and returning.

In regard to the rigid calvinistic doctrine of predestination, irresistible grace, and the final perseverance of the saints, there is much controversy among the English divines. This controversy has mainly grown out of the construction to be put upon the seventeenth article which reads as follows:

"Predestination to life is the everlasting purpose of God, whereby, before the foundations of the world were laid, he hath constantly decreed by his counsel, secret to us, to deliver from curse and damnation those whom he hath chosen in Christ, out of mankind, and to bring them by Christ to everlasting salvation, as vessels made to honor. Therefore, they which be endued with so excellent a benefit of God, be called, according to God's purpose, by his spirit working in due season: They through grace obey the calling: They be justified freely: They be made sons of God by adoption: They be made like the image of his only begotten son, Jesus Christ: They walk religiously in good works: And, at length, by God's mercy, they attain to everlasting felicity.

"As the godly consideration of predestination, and our election in Christ, is full of sweet, pleasant, and unspeakable comfort to godly persons, and such as feel in themselves the working of the spirit of Christ, mortifying the works of the flesh, and their earthly members, and drawing up their mind to high and heavenly things; as well because it doth greatly establish and confirm their faith of eternal salvation to be enjoyed through Christ, as because it doth fervently kindle their love towards God; So, for curious and carnal persons, lacking the spirit of Christ, to have continually before their eyes the sentence of God's predestination, is a most dangerous downfall whereby the devil doth thrust them either into desperation, or into wretchlessness of most unclean living, no less perilous than desperation."

The articles hold the visible church of Christ to be a congregation of faithful men, in which the pure word of God is preached, and the sacraments duly administered.

The church of England is episcopal in its constitution.

There are three different kinds of church government. These are:

First. The episcopalian, or government of bishops.

Second. The presbyterian, or government of presbyters, classes, or sessions.

Third. The congregational, or government of congregations.

Soon after the reformation, a controversy commenced between the episcopalians and the presbyterians in regard to church government. The churches formed by Luther and his associates, were upon the episcopalian principle; those formed by Calvin, upon the presbyterian. He rejected the government of bishops as one of the corruptions of popery.

The controversy between the two has been carried on with far greater vigor in England than on the continent. It has there been strenuously maintained by one party, that the episcopal order is essential to the constitution of the church; while by the other, the presbyterians and independents, it has been regarded as a pernicious encroachment on the rights of men, for which there is no authority in scripture. The alliance that has ever existed there between the established church and the government, has given it a means of support which has insured its continuance.

The church of England, like that of Rome, is a hierarchy, at the head of which are two archbishops, those of Canterbury and York, the former being styled the primate of all England, and the latter only primate of England. The king is still the acknowledged head of the church. When a bishopric becomes vacant, the dean and chapter choose another upon the nomination of the king. Both the archbishops and bishops, with two exceptions, have seats in the house of lords, and are styled the spiritual lords.

The next order of the clergy below the bishop and his council, are ranked the archdeacons, their office being to reform abuses, and to induct into benefices. The most numerous and laborious order of the clergy are the deacons, curates, vicars and rectors.

The convocation of the clergy is a kind of parliament, in which the archbishops and bishops are the upper house, the lower being composed of the inferior clergy. They meet upon the concerns of the church, tithes, raising taxes, ecclesiastical laws, which must afterwards be approved by the king and parliament. They hold also national synods, which keep an exact correspondence, in their deliberations, and make no absolute definition, but with a unanimous consent.

The effects of the reformation, the seeds sown by the reformers, and the harvests produced, are certainly deserving of consideration. At the time this great movement had its commencement, the philosophy of Aristotle, so changed, mystified and corrupted by the schoolmen as to constitute altogether the scholastic philosophy, reigned in the schools; while a theology that resolved everything into the church and its teachings; that annihilated reason and the will at the foot of the altar, and awarded heaven to him whose good works and performances of penance in this world deserved it, reigned in the church. Under the severe pressure of both these, human thought and volition lay prostrate, and human reason was clogged and fettered.

Against both these, the reformation uttered its terrible protest. It asserted the rights of the human mind to think, to reason, to determine for itself. It presented the conscience as its guide, and the Bible as its rule, standard, and authoritative mandate. It unsealed the fountains of man's spiritual nature, and evoked from their silent

depths, a living faith. While, therefore, it demolished the dogmas of the church, it was also among the most effective agents that burst the fetters of the schools. One part of its great mission was to emancipate the human mind, to substitute the dictates of the pure reason in the place of the mandates of authority. It was hardly possible to assert and achieve freedom in spiritual matters, without, at the same time, awakening an ardent desire to secure in other things the same freedom.

The reformation was essentially a popular movement. The sympathies of absolute rulers were with the established church. But they felt the oppressive weight under which their subjects labored, in having drawn from them large sums of money for the support of church establishments already possessed of enormous wealth. There is little doubt but that property considerations had their influence in accelerating the movements of the reformation. The convents, monasteries, and other church establishments were, many of them, centres of enormous wealth. These presented baits often too tempting to the avarice of rulers. A general dissolution of the monasteries took place in England under Henry VIII from 1534 to 1539. But great caution in proceeding was generally practiced on the part of the reforming governments.

The first step was the abolition of the mass, and of all such ceremonies as were not designed to be retained. In the year 1522 the duke of Deuxponts led the way in abolishing the ancient ceremonies,[1] and his example was soon followed, on the part of the disciples of Luther, successively in Saxony, Hesse, Brandenburg, Brunswick, many imperial cities, and the kingdoms of Denmark and Sweden, while the followers of Zwingle made similiar changes in

[1] *Hallam, Literature*, I, 274.

several cantons of Switzerland. The conflict between the two parties in Germany was less severe than might have been expected. The abolition of the ancient forms was usually accompanied by an expulsion of the monks and nuns from their convents, and sometimes by an alienation of ecclesiastical revenues to the purposes of the state.[1] But this was not universal in Germany, nor was it countenanced by Luther. "I cannot," says Mr. Hallam, "see any just reason to charge the protestant princes of the empire with having been influenced generally by such a motive. In Sweden, however, the proceedings of Gustavus Vasa, who confiscated all ecclesiastical estates, subject only to what he might deem a sufficient maintenance for the possessors, have very much the appearance of arbitrary spoliation." The same remark would also probably apply to England.

But whatever disposition was made of church accumulations of property, the people were undoubtedly everywhere relieved of oppressive burdens by the spread of the reformation. That, therefore, was one of the economical effects which followed in its train.

Another effect, also, of an economical nature grew out of the spirit engendered by the reformation, as also out of the changes introduced by it, and that was the greater amount of prosperity enjoyed by the reformed countries. In catholic countries there were several drawbacks experienced; such as a great number of holidays which withdrew communities from labor. Then the oppression that visited the people in various forms, and the exactions that were practiced, which were the more severe in proportion to the diminished ability to bear them. All these together left small motive in the great body of the people to strive

[1] *Hallam, Literature*, I, 275.

for accumulation of property. All these causes operated to depress the condition of the laboring population. Men were born, grew to maturity, labored and died as their fathers had done; following the same circle of habits from the cradle to the grave. No new ideas, discoveries, improvements, or inventions, interrupted the solitude of their minds, or broke in upon their ordinary course of action. Their repose was as undisturbed as that of the ocean in a calm, or the desert in a lull of the atmosphere. It is true there had been new ideas, discoveries and inventions, but they had not yet reached them, so as to change essentially their condition. The explosive force of gunpowder had hurled the projectile on its errand of death; the movable types of Guttenberg and Faust were just entering upon their mighty mission; and the mariner's compass had guided the frail vessel to the western and the eastern world, before Luther nailed his ninety-five theses to the gates of the church of Wittemberg. Although, therefore, the foundations were laid for great revolutions in mind, in industry, and the arts of life, yet the laboring poor, the peasants of the European continent, were yet plodding on their life journey, unmindful that the signs of the times indicated the opening of a brighter era. With vast multitudes, therefore, there exists the highest probability, that the first voice that broke the silence of centuries, was that of Luther, and the first printed page that met their astonished eye, his German Bible. With all such the reformation furnished the first element, the first incentive to progress.

There seems little doubt that the exercise of a strong faith required by the doctrines of Luther was productive of great results not only in religion, but also in every active pursuit. It made an unaccustomed demand upon man's spiritual nature. It awoke a new feeling, and kindled a new life in man's interior being. It was a new power to be

developed, a new energy to be unloosed and set at work among the moral forces of the world.

One of its results was unfortunate. When a new principle is first developed, the great tendency is to rely on it alone, to the partial or total neglect of others that should accompany and act with it. The object or aim of this constitution of things undoubtedly is that all the interior forces which are embraced within it may be successively brought out and fully developed, which is only possible when it is presented singly on the field of action.

Luther originally planted justification and salvation upon faith alone. Penances and works had fully developed themselves in the Roman church. The scheme of Luther did not embrace them. His original views were decidedly antinomian in their tendency. He undoubtedly supposed that faith would be evidenced by its appropriate works; but he seemed forgetful of two possible classes of persons, viz: the one self-deceived in regard to the genuine nature of their faith, and the other practicing a deception on others. The first would lead to a real, the second to a feigned fanaticism.

Thus it was with the doctrine of Luther. The first outcrop of fanaticism was in the teaching of Carlstadt, his colleague in the university. Then came the pretenders to special divine illumination, Thomas Munzer and his followers. Next the anabaptists, with all their strange developments under John de Mattheison, and John of Leyden. Finally the peasant war, that swept some fifty thousand human beings to a premature grave.

These were terrible lessons, but they were precisely such as God works out on the theatre of history. He writes them so deeply, and in such characters, as that the coming ages cannot fail to heed them. Luther himself subsequently permitted his early doctrine upon justification to

be so far modified,[1] or mitigated in expression, that it ceased to give apparent countenance to immorality. His followers made some additional changes.

But while we lament this fanatical outcrop, we should remember that the reformation movement was rendered more intelligible, and, in all probability, far more successful, by presenting in the outset, that clear, distinct, well defined issue with the church of Rome. Another thing, we should not forget the thousands and tens of thousands, in whom this faith was a living, vitalizing, ever renewing principle, energizing every faculty of the soul, and laying its hand upon the unseen world with a grasp so strong and full of power, that death, unable to remove, left it there.

Nor should we be unmindful that such a faith will render itself known and felt in the actings and doings of this world. Witness the faith of the Waldenses, of the English puritans, of the American pilgrims. Everywhere a true and pure faith has elevated, sustained and strengthened, amid all life's toils, vicissitudes and triumphs.

One result in which these principles tell with powerful effect, is witnessed in the vast difference in the economical condition of those following the catholic and protestant faith. Observe the deplorable state of agriculture in the beautiful provinces of southern Italy, Naples, Spain and Portugal and even in France, and its highly flourishing condition amid the cold and unfertile fields of Scotland, England and Holland. In Germany and Switzerland, where the traveler is constantly passing from catholic to protestant districts, this contrast strikes with immense force.[2] Side by side he sees the mud cottage covered with

[1] *Hallam, Literature*, I, 276. [2] *Dew*, 457.

thatch, fields badly kept, and a rude and wretched peasantry; along with neat houses, well cultivated fields, and a people enjoying the advantages of civilized life. Place Ireland alongside of England, and the contrast would be so great as to be painful.

The effects produced by the reformation in the political relations of the European governments and peoples were great and lasting. There were two classes of these effects; the one relating to the changes effected between different governments and nationalities; the other to those wrought between the people and their rulers.

In regard to the former, the sympathies of absolute, despotic governments have been with the Roman church. Their maxims and essential principles have been the same. They have ever, therefore, been found fitting allies of each other. But with free governments, the sympathies have been with the reformation. The freedom of thought which it proclaimed, the liberty of forming individual judgments, harmonized admirably with the free spirit that pervaded democratic or republican institutions. Spain and Austria have been Roman catholic, England and Switzerland protestant.

So far as regards the other class of effects, it is obvious that the prevalence of the spirit and principles of the reformation, among any people, must tend necessarily to enlarge and liberalize their minds, and thus gradually lead to the introduction among them of free and liberal institutions. This, however, is the work of time, and is of slow, but sure accomplishment. It has been manifested in the political history of Holland, and the united provinces of England, of some of the German states and of Switzerland.

But aside from these more general effects, there were others more immediate. The reformation infused new life into peoples and governments of Europe. A universal

and deep interest agitated all nations and developed their powers. The heads as well as the arms of men were exercised. New thoughts and feelings, new impulses and desires, new sentiments and passions thrilled through the heads and hearts of men. Elements, hitherto unknown, had entered the political arena. Terrible and long protracted wars, bloody sieges, and awfully sanguinary battle-fields, were to attest the energy of their action. The contest between Spain and the Netherlands, and the thirty years war in Germany have no parallel in European history.

The effects produced by the reformation in morals were very important. It was in the moral element that its necessity was first felt. The open and flagitious immoralities of the Romish church, not merely practiced by its officials, but also sanctioned by its doctrines in the sale of indulgences, were the first that excited to a revolt from its dominion. The most rigid reformers held to the practice of a high and a stern morality. This not only produced its legitimate effects among all those who embraced the protestant faith, but exerted also a salutary influence upon the Roman catholics. Acting in the presence of an opposing religion which had carried its reformation into all the moralh abits of life, they also felt the necessity of reform. They could not go on without encountering the withering rebuke of all that is high, and pure, and holy, in mans' moral nature. A change in their moral habits, was, therefore, effected in them,[1] but observation, and a careful collection of statistics have well established the fact that immorality and crime are far more frequent in catholic than in protestant countries.

Another effect wrought by the reformation, as has been before incidentally remarked, was in the intellectual nature

[1] *Dew*, 457.

of man; that nature which comprises intelligence, the thinking principle, and all the purely intellectual processes. Into all the workings of this powerful nature was introduced a new and vastly important element, the element of freedom.

In the catholic religion, the teachings of the church, the decrees of councils, and the decrees and bulls of popes, were received as binding upon the human intellect, and of unquestioned authority. No reasoning could go beyond them; no right existed to question their infallibility. There they stood, as effectually limiting and circumscribing all the exercise of intellectual power, as do the massive walls of a prison all the bodily efforts of the hapless prisoner. The reformation came, and claimed that nothing was infallible but the word of God; that in all religious reasoning that alone should be received as authority, and that all church teachings and all decrees and bulls could possess no force or power except as given them by that word. The Roman church said submit yourselves to authority without examination; the reformation said examine and submit yourselves only to conviction. The Romish church said, "All that we require of you can be summed up in one word, *crede*, believe." The reformation answered: "and all that we require of you can be summed up in one word likewise, *proba*, prove." Prove that your traditions, decretals, and bulls are authorized by scripture. Thus the human mind swung out from the authority of the church, under the teachings of Luther and the reformers; and about half a century later from that of Aristotle and the schools, under the teachings of Bacon. How far the latter may have been dependent upon the former; or whether the relation of cause and effect existed between them, can never, perhaps, be fully ascertained. Certain it is, however, that the development of intellect, in every possible direction, dates from the opening of the sixteenth century.

Since then we have witnessed the more effective prosecution of the industrial arts. All the fields of nature have been explored; the depths of science sounded; the material elements, whose mission seemed only one of destruction, have been transformed into instruments of human progress. The innumerable discoveries and inventions that have surrounded life with so many new enjoyments, and added so many new comforts and pleasures to existence, have all been since that period. It is not, therefore, unreasonable to suppose, that the first efficient cause of all these mighty effects is to be found in the doctrines proclaimed by the reformers.

We cannot, perhaps, better conclude this subject, than by making an inquiry of the same nature as that made at the close of the Roman catholic religion. What is the destiny of the protestant faith in the future? Is that also to find a final determination, or are the terms everlasting, perpetual, eternal, found written upon its forehead?

The solution of this last question must depend upon the answer we render to a previous one. What are we to understand by the protestant faith? What is there distinctive about it? Are we to receive the doctrines of Luther, or Zwingle, or Calvin, or neither, as embodying the protestant faith? We are compelled to go behind all these before we can reach the real principle of the reformation. That principle was first proclaimed by Luther in the Leipsic discussion, viz: that the scriptures are the only ultimate grounds of authority in religion, and that as to their meaning and interpretation, every man is to be guided by his own judgment, formed according to the best lights he can obtain, and in obedience to the dictates of his own conscience. This great primal principle underlies every form of faith, doctrine, and belief in the protestant world. And this is a principle that can never die.

All doctrines, creeds, or particular forms of faith and practice in so far as their essentials are derived from the word of God, are of perpetual duration; but in so far as they are derived from the working of the human mind, they are fallible, imperfect, and like all other works of men, may ultimately perish. Men may outlive forms of faith as they do forms of government, but the principle that all doctrines and creeds, and religious belief and practice, must derive their power and authority from scripture alone, is just as true now as it was in the days of Luther, and will be as true a thousand centuries hence as at the present hour. Although, therefore, special creeds and religious doctrines may not be of perpetual duration, yet the essential principle upon which their life and vitality depends is as ever-during as God's word, as eternal as his providence.

CHAPTER II.

EUROPE—ITS GOVERNMENT.

Government is founded on the idea of the just. Its embodiment is the state. It culminates in law. It is the first element we have arrived at in European development that has for its direct object the sustaining among men of the social fabric. Industry sought merely the supply of man's solitary physical wants. Religion aimed higher. It sought to supply man's spiritual wants, but they were nevertheless solitary. Government seeks to lay the foundation of that order, without which society could never exist.

And upon what shall this foundation rest? Upon simple justice, which is a practical conformity to equal laws, and to principles of rectitude, in the dealings of men with each other. "Justice," says Burke, "is the great standing policy of civil society, and any eminent departure from it, under any circumstances, lies under the suspicion of being no policy at all." By another it has been beautifully described as having feet of wool, and wherever it enters, whether the hovel or the palace, so noiseless is its tread, and so light its footfall that no ear can hear it; but where it lays its hand it is with a grasp of iron, with a gripe of destiny, from which God only can release.

Man, alone, of all earth's numerous tenantry, can entertain the idea of justice, and the reason is, because it is embraced within the elements of his moral nature. It is in virtue of this nature alone that ideas of right, duty, obligation, obedience and law, possess any significance or even have any meaning.

There are two different powers or forces, that are everywhere acting in the affairs of men. The one is mere brute physical force, depending entirely upon the amount of energy that can be exerted, and the quantum of power and might that can be summoned into action. It knows no other limitation than expenditure and exhaustion.

The other is the moral, which is force tempered by justice, and limited by right. It is the force of law.

The onward and upward progress of the race at different periods has depended upon the fact whether these forces have acted in union or antagonism with each other. The general tendency is antagonistic, and hence the necessity of law to curb and restrain the injurious exercise of physical force. In what is sometimes termed a state of nature, characterized by the absence of law, the will of the strongest prevails, and right always gives place to might. In such a state, society, if it existed at all, would be found in the most savage and barbarous condition imaginable.

But the law comes invested with its moral power, and clothed with its sanctions. It protects rights by redressing wrongs, and everywhere enforces order, and thus lays the foundation of the social fabric.

But law must have a lawgiver, and that lawgiver must not only possess the power to institute, ordain, enact the law, but also to enforce obedience to it. Hence the necessity of government, and its embodiment, the state.

Government represents society organized and armed for its own protection. Its theory is, that its members yield up a portion of their natural rights as a consideration for being protected both in the enjoyment of those which remain, and also of the civil and social rights which are derived from society itself.

A government not imposed, and therefore subordinate, embodying, as it does, the organized forces of society, con-

tains and exercises the sovereignty which is essential to every independent state. All states possessing and exercising the sovereign power, stand, in that respect, on an equality with each other. States may be very unequal in the extent of their resources, in their physical force, in their moral power, and the political influence they exert in the family of nations, that are nevertheless in regard to sovereignty, on a perfect level with each other.

This sovereignty is put forth and exercised in the performance of all those acts and things which the state does in its national capacity, in its individual character, as a legal entity, as a moral person. Among these are the regulations of the mint, the coining of money; the making of peace and war; the levying and collecting of taxes, and the disposing of the revenue; the regulation of commerce and of all those relations between itself and other independent states; the originating, proclaiming and executing laws for the proper government of the community.

The principal test by which the exercise of a power can be known to be sovereign, is its irresponsibility. All sovereign power is irresponsible in its exercise, because there is no higher power to which it can be made accountable. It is true the great moral laws of God exist and must influence all human action, but this they do in the same manner with all human laws, that is, by bringing along with them and dispensing their own punishment in case of violation.

The important inquiry in every independent state, therefore, is, where does the sovereign power reside, and how, or through what means is it exercised? wherever we find it we find the government, and in the means by which it is exercised, the form under which the government exists.

Governments are either pure or mixed, national or federal, direct or representative. There are but few in-

stances of pure, national, direct governments; but some of them are of occasional occurrence, and should be understood in order to comprehend the mixed.

The pure governments are three in number, monarchy, aristocracy, and democracy. In the first, the sovereign power resides in a king or monarch; in the second, in a body of nobles; and in the third, in the people collectively. Each one of these is liable to run into abuses peculiar to itself. Thus monarchy may run into despotism; aristocracy, into oligarchy, or the absolute dominion of a few; and democracy into anarchy. A mixed government is where the peculiar principles of these three, or at least of two of them, are combined together. A national government is that which is exercised over individual men; a federal, over individual states. A direct, is where the power is exercised either by the sovereign, or by some one or more standing in his, or its place, and acting by his or its delegation; a representative, where the power is confided to a representative body, who exercise it according to their own discretion, but subject to a moral accountability to those whom they represent.

The great problem in all good government is, so to dispose of the sovereign power in reference to its ostensible displays, its cheapness, and the checks and balances that guard it, as that it can be only exercised in such a way as to allow the largest amount of individual freedom consistent with the securing to each the perfect right to life, limb, reputation and property.

In the element of government Europe is immensely instructive. It illustrates almost every possible form of it of which we can entertain an idea. We find examples of the pure and the mixed forms, the national and federal, the direct and representative. No one can better prepare himself for the performance of the statesman's duties than

by attentively studying the element of government as exhibited in the history of European civilization.

There are three principal sources from which the governments of Europe are derived. These are: 1. The despotisms of the east. 2. The municipal system of the Romans, which remained after the downfall of the empire. 3. The manners and customs of the barbarian hordes that first overthrew the empire and then occupied its provinces; or more strictly the new social arrangements rendered necessary by such overthrow and occupancy.

From the first of these sources are derived the governments of Turkey and Russia. These are both comparatively recent in their introduction into Europe. That of the Turk was inaugurated on the downfall of the Greek empire by the taking of Constantinople in 1453.

The Koran, the foundation of all Turkish law, pronounces the absolute power of the sovereign, and the duty of passive submission to his will. The sultan or grand seignior is regarded as the descendant and representative of Mahomet himself, and hence is the supreme head of the church as well as the state. The Koran reserves privileges and power to Mahomet alone, whom it exempts from all laws.

It is here, as in all eastern despotisms, the fundamental maxim of the government, as also the constant rule in practice, that all the power and authority proceeds from the prince, and that rank, as well as power, comes entirely from him. The Koran holds all men to be absolutely equal, excludes every notion of a nobility, destroys all respect for hereditary distinctions,[1] and regards every one of the people as absolutely on the same level with his fellow subjects, except so far as he may happen at the moment to

[1] *Brougham*, I, 115.

enjoy the sovereign's favor. The sultan alone is the supreme and absolute ruler, and there exists no one but himself who can be said to possess any real power. He issues his edicts which have the force of laws. He commands the whole naval and military power of the country.[1] With few exceptions the whole nation is subject to his absolute will and caprice, and there is no one who does not derive from him all the weight and authority he possesses in any employment, or in any station.

It must not, however, be supposed that there are no checks to the exercise of this absolute power, or that every act of the government results from the direct volition of the sultan. There are two checks to this exercise of authority. The first results from the religion of the nation. As this constitutes the foundation upon which his own power reposes, he could not, with safety to himself, interfere with the religious belief, or forms of worship. The influence which this gives the priests, and exercises over the people, interposes a salutary check to the unrestrained power of the sultan.

Another salutary restraint is found in the customs of the country. These have been of long continuance, and thus become, in a manner, necessary to the people. Although these present no constitutional check to the power of the sultan, still both from policy and prudence, he feels bound to respect them, and thus they are enabled actually to exert a restraining influence.

There are also certain privileged bodies which practically put a check upon the power of the sultan.[2] These are: 1. The ulema, a body composed of students for the magistracy and the priesthood. The opinion of this body has great weight with the people. 2. The descendants of the

[1] *Brougham*, I, 102. [2] *Idem*, 104.

prophet Mahomet, who form a considerable body possessing great influence throughout the empire. They are exempt from taxation, and also enjoy the privilege of having a court of their own, the nakib, in which alone they can be tried. 3. The mufti, or head of the ulemas, who is exempt both from having his property confiscated, and also from capital punishment. But he owes his promotion to the office entirely to the sultan, and continues to hold it during his pleasure.

Few acts of the government have their direct origin in the will of the sultan. The public affairs are mainly transacted through the divan or council, which consists of the grand vizier, the mufti, the ministers of the foreign, the home, the marine, and the artillery departments, with certain bashaws and other functionaries. These ordinarily meet five times a week for the transaction of public business. This body possesses judicial functions, sitting as a court of appeals from bashaws of provinces, and other persons who act as judges. It also deliberates upon all questions of policy, and all petitions of individuals. All its sessions are held in the presence or hearing of the sultan.[1] All its members are appointed by him alone, and a majority admitted by, and all substantially removable at, his pleasure. They are all selected from the hasoda, or school in the seraglio, in which young slaves of both sexes, brought thither from various parts of the empire, are trained from their infancy. The girls are destined for the harem, and the boys for the service of the state, that is, of the sultan. They are trained by the eunuchs in habits of the most servile submission, and slavish devotion to the sultan. It is pretty obvious, therefore, that considering the class from which they are taken,

, I, 115–16.

their system of training, the manner of deliberating in the divan, and the tenure of office, the sultan's will, if he have any, will be very likely to prevail in all public matters.

As, however, the sultan is much averse to business and employment, passing most of his time in inactivity, his practice is to delegate his power to ministers and various officials, who are created and removed by him, and thus are absolutely dependent on his pleasure or caprice. His prime minister is called the grand vizier; the minister for foreign affairs, the reis effendi; the governors of provinces bashaws or pashas; the admiral, the capitan pasha; the judges, cadis. These all act in the sultan's name, and obey implicitly whatever orders he gives them.

The distant provinces can be governed by the sultan only through his governors or bashaws. Each one of these unites all the sovereign's prerogatives in his own person, standing in the place of the sultan, and exercising his power. These are often guilty of intolerable exactions, and by so doing they are the better able to purchase indemnity from punishment. The sultan has also a direct interest in these, for he legally succeeds as heir to all persons in his service, and one of his largest revenues arises from this source.

The punishment administered is of the most summary character. A complaint is made against a foreign bashaw. His conduct is investigated at Constantinople, and his punishment decided upon. An officer of inferior rank is selected who carries with him a bowstring,[1] and the order of the sultan in writing, sealed with the imperial signet, dipped into black ink, and signed with the sultan's cipher or toghra. The bashaw, if he deems himself sufficiently powerful, causes the messenger to be killed, and sets the sultan at defiance. If not, on receiving the messenger's

[1] *Brougham*, I, 106.

communication, he kisses the sealed paper and the bow-string, bares his neck, and allows the man to strangle him, his body being either privately buried, or thrown to the dogs to be devoured.

The revenues of the sultan are very little derived from general taxation. A burden bearing equally upon all classes is avoided from fear of a general rebellion. He prefers rather partial levies, as in the capital and one or two great ports; or trusting to crown lands, which by partial seizures and forfeitures can be extended at pleasure;[1] or resort is had to the plunder of individuals and particular districts; and, above all, to bashaws or governors, who have been allowed to scourge and impoverish the people, making the sultan a large sharer in their unjust gains, by which they often purchase impunity for their exactions, with a license to continue them.

But notwithstanding these depressing circumstances that weigh upon the government of Turkey, placing it so strongly in contrast with most other European governments, this is the only Mahometan state where the codification of the laws and statutes of the Koran has been seriously attempted.[2] Turkey is in the possession of a religious, civil, and military code, which defines the duties of the subject towards the sovereign. As early as 1470, Mohammed II intrusted the formation of a code to Mollah Koshrew, and under the reign of Suleyman I, it was completed, and supperadded to it were explanations from the writings of the most celebrated Mohammedan divines. There is also a collection of all the fetwas, or decisions pronounced by the different muftis, which are very valuable as they greatly facilitate the application of the laws in the courts of the empire.

[1] *Brougham*, I, 108. [2] *Idem*, 111.

The question may occur here as to the utility or propriety of laws where the expressed will of the sultan is the supreme law. And in answering it must be conceded that the sultan has the power of abrogating all laws that are not based upon religion. But it must be also conceded that laws, reduced to a known system, produce an effect both upon the people and the rulers. While the former are accustomed to comply with the fixed rules, and to expect their enforcement, the latter become averse to change, or to breaking in upon them in ordinary circumstances. Thus their observance is secured.

The Turkish empire, under the government just briefly detailed, has maintained its foothold in Europe four hundred and four years. At first, for nearly a century, under a succession of warlike sultans, it threatened the subversion of southern and central Europe, and more than once Vienna has trembled before the onward march of the crescent. But during the last century its power has been greatly on the wane. The old Turconians who came from Tartary, and founded the Turkish empire, were a race of nomades. They were strong, almost irresistible, while they retained their roving habits; but becoming a settled people, and exposed to civilizing influences, has gone far towards changing their character. Their original vigor, as well as that of their institutions, has very much died out; and the present continuance and position of Turkey in the family of nations, is owing probably fully as much to her weakness as her strength. The balance of power in European governments, and its continued preservation, is the main principle upon which she stands and which secures her continuance.

Leaving the south-eastern part of Europe and moving to the north-eastern part, we find another imported des-

potism from the east sitting enthroned in the palace of the Russian czar.

The government of Russia has exhibited several changes. When Ruric, about the middle of the ninth century (862) established at Novogorod the foundations of the Russian empire,[1] his government was rather feudal than despotic. He was a Scandinavian prince. At the beginning of the eleventh century Jaroslaw, the son of Vladimir, promulgated a code of laws much upon the model of those of the Germanic nations. They punished crimes not capitally, but by fines only, graduated according to the rank of the parties and the offense. The code recognized three conditions of people: 1. The boyars or tins, answering to the Saxon Thane, and implying landed estate rather than political power. 2. All other freemen. 3. Slaves.

Subsequently occurs the Tartar inundation. In the early part of the thirteenth century, the golden horde swept over the country from the Caucasus almost to the Baltic, spreading everywhere desolation, and reducing the whole country to a state of abject submission. For more than two entire centuries this horde held dominion, and it is to this great fact, the conquest of Russia by the Tartars, and the long dominion they held over it, that the ultimate consolidation of the empire, and the establishment of its despotic government must be attributed. Under the domination of this horde the mild code of Jaroslaw had disappeared,[2] and in its place were substituted degrading corporal punishments, such as branding, the knout, mutilation, and death. The people were reduced to great misery, the petty princes had been robbed of their states, and the nobles were enfeebled by mutual animosities, and by the encroachments made upon them by their own superior,

[1] *Brougham*, I, 197. [2] *Idem*, 198.

and the great khan, the common enemy. Treachery, intrigue, and the sword, had all been busy, and, on the final expulsion of the Tartar horde, all ranks of society seemed only desirous of a form of government which should secure them repose, whatever might be the sacrifice of individual freedom.

Under this state of things Ivan III, a descendant of Ruric, when, in the last quarter of the fifteenth century, he had thrown off the Tartar yoke, and subdued the republic of Novogorod, assumed the title of autocrat, which means self-empowered or self-authorized monarch, and adopted, as the emblem of his authority, the double eagle of the emperors of Constantinople. All classes of people appeared entirely willing to submit to his despotism, although some attempts were subsequently made by the princes and the clergy to limit the royal authority.

In the forepart of the seventeenth century, when the family of Ruric became extinct, some revolutionary movements, and attempts to change, in some respects, the character of the government occurred;[1] but when in 1613, the family of Romanoff was raised to the throne, a charter of settlement, signed by a number of persons, supposed to represent all ranks of the nation, laid it down that the prerogative of the sovereign was, by the ancient laws, absolute.

This, however, seems not to have been entirely acquiesced in, as encroachments were afterwards made by the boyars, who were the most powerful officers of the crown. Their authority, and even rank, however, were not hereditary, as all depended on the nomination of the autocrat. Yet when young or weak princes occupied the throne they obtained great ascendancy, establishing from their body a kind of

[1] *Brougham*, I, 200.

council or ministry, called the court of boyars. They came even to assume, at least in name, a power of legislation jointly with the czar, the ancient Muscovite name of the autocrat or emperor. The decrees were headed "By command of the czar, and with the approbation of the boyars."

The origin of the boyars is buried in obscurity, but they came not only to monopolize the great offices of state, but also the government of provinces, exercising, at various times, substantial authority, and creating an aristocracy of considerable influence in the state.

But in the very beginning of the eighteenth century, 1701, Peter I, generally known as Peter the Great, abolished the dignity, and wholly abrogated the political power of the boyars. He substituted, in their place, a senate of his own appointment, and wholly dependent upon him, ordering all decrees to be made in the name of the emperor and autocrat. He fully established in himself the ancient despotism of the crown, which has ever since continued in its full vigor.

The order of succession to the crown may be termed hereditary, some one of the royal family being entitled to succeed, and yet no certain rule or principle of selection seems to have been followed. The eldest son of the deceased autocrat, or daughter, where there are no sons, or the eldest brother and eldest sister, where there is a failure of children,[1] may be considered as the legitimate heirs to the crown. Peter the Great took the title of emperor and autocrat of all the Russias, and in 1722, published a law, abolishing hereditary right, and declaring the power of every sovereign to choose his successor, and yet died himself three years afterwards without making any nomination. The result of the whole has been quite a variety in

[1] *Brougham*, I, 201.

succession of Russian autocrats, but this has not varied the form or character of the government.

The entire authority of the Russian government is vested in the emperor, and is only exercised by others when delegated. The councils, cabinet, and colleges, including the senate, are all only the mere instruments of the imperial will.[1]

The principal authority is exercised through the grand council of the empire, which is presided over either by the monarch, or by a member specially appointed. This is divided into four departments,[2] viz:

1. The legislative.
2. The military, which also comprises the navy.
3. That of civil and ecclesiastical affairs.
4. The financial.

Each one of these has a secretary of state. These departments may deliberate separately, but when together, they are called the general assembly of the council. The affairs decided by the majority of votes are submitted to the emperor for his approbation. The commission of petitions, and imperial chancery are attached to the council of the empire.

The senate was established by an ukase of Peter the Great in 1711, and its organization was determined by the ukases of 1772, and 1802. This body is: 1. The supreme tribunal for all judicial cases. 2. Is presided over by the emperor in person. 3. Possesses authority limited only by that of the monarch. 4. Can proclaim ukases which are binding, but the emperor can prevent their execution. 5. Must have presented to it every imperial ukase, except such as may require secrecy. 6. Every member is bound to represent to his colleagues every

[1] *Brougham*, 1, 208. [2] *Idem*, 253.

injury to the state and breach of the law which may come to his knowledge.

The senate is divided into eight different departments, and embraces the superintendence of the general affairs of the country, and the administration of justice both civil and criminal. Each department has a number of governments or provinces, from whose courts it hears appeals.

The administration of the country is conducted by the ministries; 1st. Of the imperial household. 2d. Of foreign affairs. 3d. Of interior affairs, or home department. 4th. Of war. 5th. Of marine. 6th. Of national education. 7th. Of finances. 8th. Of justice. 9th. The board of control of the empire. 10th. Post department. 11th. The general direction of the land and water communication.

In the different provinces the governor conducts all their affairs except the judicial, the vice governor presiding at the head of the financial.[1] The judicial tribunals are composed of members elected by the nobles.

There are four orders or grades of people in Russia, viz: the clergy, the nobility,[2] the merchants and burghers, and the peasants.

The clergy is composed of the monastic or regular, and the secular; the former enjoying all the higher church preferments. The children of the clergy generally follow the vocation of their parents.

The nobility are divided into two classes: hereditary and personal; the first embracing all those who have inherited their rank; the second, those who have acquired a rank by their services. These last enjoy the privileges of the order without the power of transmitting them to their children. The titled nobility or princes, counts and barons, have no privilege beyond those of the other nobles.

[1] *Brougham*, I, 255. [2] *Idem*, 248.

The nobility constitute the privileged, and the ruling class in Russia. A noble is subjected only to the judgment of his peers, and a sentence against him before it can be executed, is required to be examined by the senate and confirmed by the emperor.[1] He is exempted from corporal punishment, and cannot be prosecuted for a crime after the lapse of ten years. The nobles are the almost exclusive landholders of the country, and own all the mineral productions found on their estates. Those only who enjoy a rank in the military or civil service are entitled to vote.

The policy of the Russian sovereigns has always been to level all distinctions among the subjects,[2] so far as the existence of a titular nobility will allow. The rank of noble amounts to little more than the state of freeman, as contradistinguished from that of the vassal or serf who belongs to the owner of the land. There are persons of higher title, as princes and nobles, who are descended from a long line of noble ancestors. But in regard to all privileges, those who have nobility by virtue of military rank, are entirely on the same footing with the most eminent nobles of the empire. The general rule is that birth and titles give no precedence over military rank, and that without office, and more especially military office and rank, no title to precedence or estimation exists, and hence all persons, even in civil stations, are endowed with titular rank in the army, in order to give them that which alone is deemed real and effectual precedence. A nobility so constituted is wholly the creature of the crown.

The merchants and burghers are also divided into several classes[3]. There are the honorary citizens, who enjoy exemption from the capitation tax, military conscription, and

[1] *Brougham*, I, 248–9. [2] *Idem*, 208. [3] *Idem*, 250.

corporal punishment, and have the right of being elected to municipal offices.

The merchants are divided into three classes or guilds, the distinguishing mark being the amount of tax paid by each.

The peasants constitute the lowest class, and enjoy no personal privileges. They are subjected to a capitation tax, and also to military conscription. They are divided into crown peasants, those of the appanage estates, serfs of land owners, and free cultivators of the soil, the latter being few in number.

The crown peasants live on the crown estates, pay a capitation tax and also a rent for their grounds, elect some of their authorities, and may pass into the class of burghers and merchants.

The condition of the peasants of the appanage estates differs very little from that of the crown peasants.

The serfs of land owners are slaves. They cannot even contract marriage without the permission of the master. The master may inflict on them any punishment, except that of killing, starvation, or maiming. There is a material difference between the predial and domestic serf. The former cannot be sold without the ground to which he is attached, while the latter may be disposed of like any other chattel. They cannot, however, be sold at fairs, or by auction, or as substitutes for recruits.

A serf, however, is not so far a chattel but that he may become, in some sense, the owner of property.[1] There are instances of their possessing great wealth and even owning a number of serfs. But they can only own them in the name of the master, and they are themselves liable to be seized together with their possessions, to satisfy the creditors of their owners.

[1] *Brougham*, I, 253.

It results from an attentive examination of the Russian form of government that, although somewhat complicated in its machinery, yet the real source of all power is in the emperor or autocrat. All authority which he does not directly exercise he delegates to others. He is himself the fountain or source of all power and authority. But independent of the restraining influence exerted by religion, and by the established order of things, there is an additional check upon the absolute exercise of power by the sovereign, which is felt to a much smaller extent in Turkey, and not at all in the despotisms of the east. This is found in the fact that the autocrat of all the Russias is a power in Europe, and as a European prince, his conduct and actions must be subjected to the test of public opinion which must pass upon them, the same as upon those of other European governments.

In this public opinion is centered an immense moral force, which no prince or potentate can, with impunity, set at defiance. The voice of the civilized world speaks through it, and that voice, no one claiming to be civilized, can utterly disregard. And this will continue to increase in power as civilization advances, and thus a stronger and more effectual check upon the unlimited exercise of an unregulated despotic will, will go on increasing and strengthening as the world grows older and wiser.

The second source from which the governments of Europe are derived, is the municipal system of the Romans, which remained after the downfall of the empire.

By municipia is meant the towns which were admitted to all the rights of Roman citizenship.[1] The effect of creating a municipium, was that municipal rights, interests

[1] *Guizot, History of Representative Government*, 181.

and offices in that town were separated from those which were political. The former remained with the town, and were exercised by the inhabitants. The latter were transferred to Rome, and could be exercised only within its walls. Among these latter was the right of making peace or war, of passing laws, of levying taxes, and administering justice, all which properly belonged to the sovereignty. Among the former was the regulation of religious worship; the administration of the town's property and revenues; all police regulations, and everything relating to public health, weights and measures, and markets. All these merely local affairs were managed either by magistrates appointed by the inhabitants, or by the curia of the town or college of decurions, that is, of all the inhabitants who possessed a fixed, landed income. Thus in Rome was concentrated all political power, everything belonging to the sovereignty, which was exercised by Roman citizens, whether residing in Rome,[1] or in the municipal towns; while each town or municipium, isolated and distinct, regulated its own affairs, without any intervention of the central power, through an assembly of its own inhabitants into which were admitted all those who possessed a certain income.

But when the political power at Rome passed from the citizen to the emperor, and those Roman citizens residing in the municipia lost their importance in Rome, they turned their attention more to the affairs of their own city, and the municipal system consequently assumed a greater degree of importance. Aside from political rights and guaranties, this system became the depository in which all the rights and securities of the citizen were contained.

[1] *Guizot, History of Representative Government*, 184.

But the central power exercised at Rome through the emperor, in its largeness and waste of expenditure, found its general revenues insufficient, and began to oppress the municipia. Becoming itself overburdened, it cast a portion of its load upon the towns. Whenever the regular revenues of a town were insufficient to meet its expenditure,[1] the curia, or body of wealthy citizens, the decurions, were bound to make up themselves the deficiency.

Hence the position of decurions became burdensome. There was a tendency to leave it, and exemption from curial functions became a matter of privilege granted by the emperor. This decreased the number, and of course augmented the burdens of those who remained. To preserve this number a series of laws were passed rendering the decurions hereditary, depriving them of the free disposal of their property, and pursuing them wherever they attempted to take refuge in order to restore them to the curiæ, from whence they desired to escape. Thus what were at first considered as rights and privileges became transformed into charges sometimes onerous in the extreme.

At the commencement of the fifth century the subjects of the empire were divided into three classes: 1. The privileged classes. 2. The curials. 3. The common people.[2]

The first included senators, officers of the palace, the clergy, the soldiers and cohortal militia.

The second all the citizens inhabiting towns, whether natives or settlers, who possessed a certain landed income, and did not belong by any title to the privileged class.

The third, all those whose almost absolute want of property excluded them from a place among the curials.

[1] *Guizot, History of Representative Government*, 188. [2] *Idem*, 193.

They composed the great mass of the inhabitants of the towns.

The first class was very numerous and unequally distributed, but the privilege most esteemed and common to all consisted in exemption from municipal functions and offices. This privilege was not only personal but hereditary.

The second was the early privileged, but subsequently oppressed class. Its members became such by origin or appointment.[1] Every child of a curial became one by birth. Every inhabitant who acquired a landed property of more than twenty-five acres, might be compelled to enter the curia. No one could by his own voluntary act leave it. By passing through every curial gradation, one might become a member of the privileged class, but the children born to him while a curial, remained curials.

The principal functions and charges imposed upon the curials, we have already noticed. Their compensating advantages were few in number. They were generally exempt from torture, and from certain afflictive and dishonoring punishments, such as being burned alive, working in the mines, etc., and decurions who had become indigent, were supported at the expense of the municipium.

As despotism progressed in the empire the imperial power continued more and more to interfere in the affairs of the municipia, and to limit the independence of the curiæ. The consequence was the decay of the municipal system, which at last became so evident that in order to procure for it some degree of security and independence a new magistracy was created, that of the defensor, whose duty it was to defend the people against the oppression

[1] *Guizot, History of Representative Government*, 195.

and injustice of the imperial officers and their agents. This officer very soon came to surpass all the other municipal magistrates in importance and influence.

A new element had come in under the empire. A religious society had been gradually forming and developing, until the emperor Constantine becoming a convert to Christianity, that became the religion of the empire. The clergy became privileged. The emperors deprived the communes of a portion of their property and gave it to the churches, and the municipal magistrates of a portion of their authority and gave it to the bishops. Hence these latter acquired great legal influence in the municipia.

Thus the ancient municipal system, so far as regarded its original organization became ruined,[1] and this was effected by the ruin and dispersion of the curials. In them was embraced the middle class in the empire, that which is of such vast importance in all governments. It was the destruction of this middle class that was attended with such serious consequences. It was from this cause that in the fifth century there was so much uncultivated land and so many towns almost deserted, or inhabited only by a famished and spiritless population.

One great distinguishing feature, attended with very pregnant consequences, must here be noticed, as marking the difference between the ancient Roman and modern European governments, and that consists in the centralization which prevailed in the former, and the want of it which characterized the latter.

From the commencement of Roman history to its termination, the seven hilled city retained within herself all political influence and power. The Roman world was always governed by those who possessed the power of

[1] *Guizot, History of Representative Government*, 200.

exercising political rights within the walls of the capital. This was in no respect derived from the municipia, and yet so long as citizens in the municipal towns and cities shared in the exercise of these rights, the municipal system felt the beneficial result, as it afforded a kind of guaranty for its continuance. The Roman people had but one head, and when that was stricken political life ceased to exist.

The nations of modern Europe have started and come up under the guidance of different principles. It was localization, not centralization, that furnished the principles of their growth and development. It was in towns, and by means of local, municipal arrangements, that the mass of the inhabitants, the middle class, of such vast importance in European history, has been formed.

The history of European politics was long the history of a terrible struggle between these two principles. This struggle was really one between the middle classes and those who sought to enslave them. It gave origin to the parliaments and states-general of more modern periods, and to other and more indirect means, all resorted to for the purpose of raising the burghers to political life. This effort to unite the two, to render the exercise of centralized power consistent with municipal liberty, signally failed among almost all the nations of Europe, perhaps we may say in quite all except England.

The two countries where the Roman laws, manners, customs, and maxims of government exerted the greatest influence during the earliest periods of modern European history, were the peninsulas of Italy and Spain. Two causes conduced to this result. The one was that in those countries, the institutions of Rome were the most firmly established; and the other, that of all the peoples of the old Teutonic stock, the Goths, preserved in the smallest degree, their primitive institutions and manners.

The two wings of the great Gothic body were the Ostrogoths and Visigoths. The former established themselves early in Italy, and there allowed Roman habits to prevail amongst them, even permitting their kings, according to the Roman custom, to arrogate to themselves, the plenitude of imperial power.[1] Among them were found very few traces of the existence of the old national assemblies, and of the participation of the people in the affairs of the state.

The other, or Visigothic wing, which settled down in Spain, is still more worthy of consideration in consequence of the code of laws, which it bequeathed as a legacy to the Spanish nation. One, and perhaps the most marked, difference in political organization, was in the Visigothic substitution of councils for national assemblies.[2] The Anglo-Saxons had their *witten agencot;* the Lombards their assembly at Pavia, *circumstante immensa multitudine;* and the Franks their *Champs de Mars*, and *Champs de Mai*, and their *placita generalia.*

In the place of these, we find among the Visigoths of Spain the councils of Toledo. These were composed principally of ecclesiastics, only a few laymen occasionally entering into them. They were mere councils, and their acts were mostly of an ecclesiastical nature, and had reference to the affairs of the clergy.

The king convoked these councils at his pleasure. When convened, they could hardly be considered as an independent political assembly. They were generally found in alliance with the royal power, seldom, if ever, in opposition. They occupied, but did not supply the place of the old Germanic assemblies. They did not possess the force. The measures recommended were generally wise in

[1] *Guizot's History of Representative Government*, 236. [2] *Idem*, 229.

their inception, but they lacked the power to guaranty them. Power was here exercised under a more absolute form. Roman maxims were allowed to prevail over Germanic traditions. The councils of Toledo modified and enlightened despotism, but affixed no limits to its power.

There was also another species of council formed around the king, consisting of the grandees of his court, and the principal functionaries of the government, called the officium palatinum. This council frequently interfered in the legislation, in the government and elevation of kings. But this could not be regarded as a political institution, or as offering any means of exercising control or interposing resistance.

Those composing this council were attached to the king by donations of land and offices. They formed a kind of aristocracy to be consulted on public affairs. Usurpations and revolutions in power usually originated in this council. The Visigothic sovereigns found in the bishops a powerful counterpoise to the nobles and grandees composing this council, and often succeeded by setting one in opposition to the other.

Among the Visigoths in Spain, the king was elective. This principle is supposed to have been adopted by reason of the factions and contests common among the claimants for the crown. The election was made by the bishops and grandees assembled in council at Toledo. Notwithstanding this, however, the succession of the Visigothic kings was little other than a successive series of violent usurpations.

But that which is of the most importance to attend to, is the legislation, the code of laws of the Visigoths. This was extraordinary in its character, and unlike other barbarian codes,[1] has remained in force, in great part,

[1] *Guizot, History of Representative Government*, 215.

until modern times. This primitive legislation has exerted a prodigious influence upon all subsequent Spanish history.

This code is embraced in what is known as the forum judicum, which includes the laws made by the kings alone, or by them in conjunction with the officium palatinum; those made in the national councils of Toledo; those copied from previous collections; and those which were mostly borrowed from the Roman laws. From all these sources the forum judicum was finally collected, revised, and arranged at the sixteenth council of Toledo, by order of King Egica.

Other barbarian codes were enacted by, and enforced only among barbarians, but this was the general law of the kingdom, ruling the vanquished as well as the victors, the Spanish Romans as well as the Goths. It was not like other codes, a system of personal laws, based on the origin of individuals, but of real laws, exercising supremacy over all.

Again, this code differed from others of barbarian origin in this, that its authors sought to do more than merely ordain and prohibit.[1] They went further, and decreed principles; converting into law what they deemed philosophical truths.

Again, the authors of this code seemed to have recognized that the source of the legitimacy of all law is not in the will of the law-maker, but in the conformity of the laws themselves to truth, reason, and justice. The early apprehension of this great truth affords one of the evidences that ecclesiastical influence was controlling in the enactments, and probably furnishes one of the reasons why the laws continued so long in operation.

[1] *Guizot, History of Representative Government*, 217.

In civil matters this code adopted much from the Roman law. In criminal, it adapted punishments to crimes according to moral and philosophical notions. In other barbarian codes, the injury alone appears to constitute the crime, the punishment being limited to that material reparation which results from a pecuniary composition. This code went to the moral element, regarding not the injury but the intent to injure, as the true measure of the crime. It did not, like other barbarian codes, establish a tariff of values to be paid by the manslayer upon his taking the lives of different orders of men. The only distinction made in this respect was that between the freeman and the slave.

The great defect in this code was in the want of guaranties to enforce its provisions. There were no independent forces capable of procuring or insuring the maintenance of these principles.[1] Hence the code of the Visigoths, though more enlightened, more just, more humane, and more complete than the laws of the Franks or Lombards, yet left despotism at greater liberty, and almost entirely disarmed freedom.

This code, therefore, although in many of its provisions wise and philosophic, yet nowhere reveals the existence of free people. It contains even fewer germs of liberty than the rudest of barbarian laws. Of the three coexisting and conflicting systems early prevailing among most of the German peoples, viz: institutions of liberty, institutions of territorial patronage, giving birth to feudalism, and monarchical institutions,[2] the last named were those developed by the Visigoths of Spain. This will be obvious by referring to the test of pure monarchy and of free institutions, which is found in their different guaranties. The former gives as the only guaranty for the good conduct of the

[1] *Guizot, History of Representative Government*, 225. [2] *Idem*, 237.

depositaries of power, the surveillance and authority of superior depositaries placed in the same position,[1] and invested with the same functions, while the true guaranties of the latter reside only in the concurrence of collateral and independent powers which mutually control and limit each other. Of this latter species of guaranty, the forum judicum affords no trace.

What would have been the result had this early Visigothic civilization, thus strongly developed in the element of government, been suffered to pursue its course to the present time uninterruptedly, it is hardly possible to tell. But such was not its destiny. After two centuries of domination came the Arab, and broke up the councils of Toledo, crushed the predominance of the clergy, and drove the Visigothic conquerors into the mountains of the Asturias. Here, scattered and wandering, those who did not submit, returned towards the life which their ancestors had led in the forests of Germany. All the new circumstances under which they were placed, strongly favored this,[2] and Roman institutions, Roman maxims, the laws and ideas received through the clergy, almost entirely composed of Romans, ceased to exercise a controlling influence.

The return of the Visigoths, the companions of Pelagius, to the primitive manners, customs, and habits of the Teutonic stock, reinvested them with the same aggressive powers which they originally possessed in the German forests, and thus enabled them to resume offensive operations against the Arabs, and, by degrees, to effect the reconquest of Spain. In the doing of that, they brought back with them those political and judicial customs, usages, and practices, which they had thus partially regained.

[1] *Guizot, History of Representative Government*, 240. [2] *Idem*, 253, 254.

They could not have effected the reconquest without invoking those free institutions which alone can give vitality and supply strength in times of danger and misfortune. The Visigothic institutions, Romanized as they were, had become exhausted of whatever vitality they ever possessed; and hence, to regain their lost dominion, a resort to the sternness of barbarian manners, to the energy of irregular liberty, and to the participation of the people in public affairs, was necessary.

The reconquest having been ultimately effected through centuries of effort, the institutions established in the peninsula were new institutions, and were the result much more of the new position of the Goths, than the legacy of the ancient Visigoths. Thus the Spanish Goths, from this period of time, enter upon a course more analogous to that pursued by other modern nations of the same origin.

But although the peculiar institutions of government, the councils of Toledo, and the officium palatinum never reappeared upon the reconquest, yet the forum judicum, the Visigothic code, still continued in force, having all along been the law of those Goths who had submitted to the yoke of the Moors. This, therefore, was a highly valuable legacy, and one which has had much influence upon Spanish civilization.

Thus much for the municipal system of the Romans, and the decaying forms of their governmental element. We shall be compelled hereafter, occasionally, to recur to that system and those forms, as they really constituted the matrix into which were thrown those seeds of barbarian origin and growth, from which were ultimately derived the governmental institutions of Europe. We now pass to the third source of modern European governments, and this is found:

Third. In the manners and customs of the barbarian hordes that first overthrew the empire and then occupied its provinces; or more strictly in the new social arrangements which were rendered necessary by such overthrow and occupancy.

This inquiry leads us into the civic forms of German life as developed in the forests of Germany at the period of its outburst into the Roman dominions. But these differ in no very assignable degree from those which are observable in many tribes or races of men, of the same degree of civilization, which, at the present time, or quite recently, were to be found wandering over the North American continent, or are still existing in the interior of Africa, and north of Asia. Barbarous life in all countries has the same phases, the same great general characteristics.

We are, however, to distinguish clearly between the German tribe or horde in its settled state in Germany, and the warrior band that emanated from it, and started on its various adventures. The condition of the first was residentary. It occupied a certain amount of territory, which it cultivated by means of laborers, and slaves. Free institutions were in a form in which they are the more generally met with in the infancy of nations. Each head of a family was established upon his domain in the midst of his people. Each horde or tribe was small, and had its own assembly, consisting of its proprietors or heads of families. To this assembly all important matters were brought for decision. Justice was dispensed under the direction of the aged, and even a kind of public policy might arise between the confederate hordes.

The warrior band was quite differently constituted. There was the principle of patronage and military subordination, elements which were entirely wanting in the tribe or horde. There was also a principle of freedom

not to be found in the tribe. The birth of the German was not free, and by that he became a member of his tribe. But in his choice was the element of freedom, and by that he became a member of his warrior band. His chief and his companions were the objects of his choice. As he was free to unite with his band, so he was equally free to leave it. The contributions he rendered were strength and courage, and these were the most essential for the objects had in view. The equal of his companions, he was in no other respect the inferior of his chief than the necessities of subordination required.

The next question that arises regards the destination of these warrior bands, and the facts connected with their settlement in the Roman provinces.

Rome decayed at her centre, but expired in detail in her extremities. When her great political heart beat feebly at Rome, its pulsations in her remote provinces became fainter and fainter until they entirely ceased. The forces of the empire were gradually withdrawn from Britain, Gaul and Spain, leaving no organized military power to repel the barbarians. Their inrush and settlement followed.

This constitutes the first epoch in European history. It was marked by a cessation of the wandering life among the barbarians, and a change to a settled state. The first kind of industry to which they devoted themselves was the agricultural. The civic institutions they introduced were naturally those of the tribe, or tribes, for they were very similar, from which they had parted. Thus we will again find the sovereignty relating to all the general affairs of the tribe, residing in the assemblies of the proprietary chiefs of the families,[1] while all that which passed in the interior of such domain belonged to the chief of the family

[1] *Guizot*, III, 368-9.

himself. In the first we recognize the elements of a political, in the second of a domestic sovereignty.

The latter had a double origin and character. The first was wholly referred to the ties and habits of the family, and thus far, therefore, was a mere transplanting of the German tribe. The source, as also the character impressed upon the second, was that of conquest, force; the forcible wresting from others, the distribution and occupation of territory. This element was entirely new. Thus we have the three great origins of sovereignty. 1. The associations among equals, and among freemen, presenting the source and origin of political sovereignty. 2. The primitive, natural association, that of the family, whence we derive the sole and patriarchal sovereignty. 3. The compulsory association, the result of conquest, whence we derive the element of despotic sovereignty.

It is here, however, to be observed, that in the new territorial establishment, in what were previously the Roman provinces, that element in the organization of the tribe which related purely to the family, and was identified by the possession of common sentiments, traditions and ties of parentage,[1] possessed by no means the same force as it did in the forests of Germany. The element chiefly prevailing was that of conquest, force.

Another fact is also worthy of notice. The German tribe was generally established upon a contracted territory.[2] With a view to security, they confined and narrowed themselves, surrounding themselves, where it was possible, with deserts. The sovereignty of the general assembly was rendered easy, as the chiefs of families lived near one another.

But upon settlement after the conquest, the state of things was essentially changed. An immense territory

[1] *Guizot*, III, 374. [2] *Idem*, 370.

was thrown open. Broad lands of great fertility invited to the occupancy. The consequence was dispersion over large territories. The chiefs were led to occupy vast domains. They were too far from each other to meet often and deliberate. Hence, the general assembly seldom convened, and the political power exercised through it gradually declined. The chiefs became more and more isolated. Their houses became castles. Little villages formed themselves around them, no longer peopled with freemen, who were their equals, but with laborers, who were attached to their lands.

Another social fact should here also be adverted to. The chiefs, in their settlements, did not choose to be solitary. Their mode of life was idle, and that could ill endure isolation. Besides, the sources of barbaric pleasure, the gaming, chase, and banqueting, were all social in their character. Hence, many of the warriors who had followed them, still continued to live around them, to be fed at their tables, to be their associates, without possessing individually, any property. This might, also, in the then state of things, have been rendered necessary; for, had they dispersed themselves over a large territory, and attended solely to their agricultural or other industrial pursuits, their safety, in the midst of the original population, might have been endangered. This was secured by their remaining together in groups, and continuing in those exercises that would keep alive the martial spirit.

But although the principles that lay at the foundation of the warrior band were thus, in some degree, perpetuated, yet they could not always continue. They were twofold: 1. The voluntary association of the warriors to lead a wandering life. 2. Their equality with each other. Of these, the first ended upon a settlement. The second gradually died out. By the settlement, and its neces-

sary results, everything bearing upon equality became changed. The chiefs, having territorial possessions, and cultivators of them, became rich. The associate warriors, or, very many of them, having no property, or means of acquiring any, became poor. Hence the introduction into the social and civil condition of the barbarians of a new element, that of wealth. This had played but a small part among the original German tribes. Its introduction not only brought along with it inequality between the chiefs and their associate warriors, but also, as we shall hereafter see, a new principle into the governmental element.

It is true the associate warriors did not all become poor, but this did not destroy the principle of inequality.[1] The chiefs having extensive domains, parceled portions of them out among their associates, who went to reside upon them. These became miniature chiefs. They also had their associates, their companions, having neither property nor industry. The same inequality soon came to exist between them.

With these general remarks upon the condition of the German tribes on their settlement in the Roman provinces, we are prepared to take a wider survey of the then state of things. We must keep alive to the fact that many of these provinces were thickly peopled when the barbaric wave rolled into them. Southern Gaul, Spain, and Italy, were full of large cities in which all the arts of civilized life were highly cultivated. In them resided, for the most part, people of great wealth who were the owners of territorial possessions which were worked by slaves. In these cities, although the hum of industry was not heard then as now, yet the arts of life were then carried forward, and the various modes and means of luxury were there studied,

[1] *Guizot*, II, 179.

and industriously pursued. Here were found the decaying municipal institutions of the empire. These were still alive, but the principle of vitality in them was weak, and still decaying.

The other Roman power, the great central one, that of the emperors, was broken to pieces, and entirely gone. Here then was the sudden withdrawal, the absence of a mighty power. The space formerly filled by it was found empty. The power, the titles, upon which the barbarians had but just looked with astonishment and awe, had vanished. The immense machine of government, so centralized that it could send its energies from centre to circumference, had there suddenly stopped its working. There existed naturally the strongest tendency in the great barbarian chieftains, those that led armies to victory and founded kingdoms and principalities, to occupy the space thus left vacant. Clovis, Chilperic, Clotaire, and, at a subsequent date, Pepin, Charlemagne and the Othos labored to assume the name, and exercise the rights of the empire. They wished to distribute their dukes and their counts as the emperors had distributed their consuls, their correctors, and their presidents. They even made efforts to reestablish all that system of taxes, enlistment, and administration, which had fallen into ruin.

Coexistent with these efforts was the birth of a territorial aristocracy; this arose in the manner just mentioned, by the taking possession and occupying of large territories by the barbarian chiefs. This ultimately ripened and became developed in the feudal system, which will soon claim a good share of our attention.

Another power that also comes in at this period for a pretty large share of political consideration was the church, the living remnant of Roman society. Here was a strong organization armed with immense power, but that power

was rather moral than political. Indeed, its strict political power amounted to little,[1] if anything. And yet the bishops were the natural chiefs of the towns. In the interior of each city they governed the people, representing them in the presence of the barbarians. They were their magistrates within, and their protectors without. They were, therefore, deeply rooted in the municipal system. They also soon struck out in other directions. They had far more experience and political intelligence than the barbarians. They monopolized the learning and the wisdom of the times. At the same time that they were the magistrates and patrons of what still remained of the municipality, they were also the counsellors of the barbarian kings and chieftains. In addition to these things they became landed proprietors, and entered into that hierarchical organization of manorial property, which subsequently found its full development in the feudal system.

The three great principles, main ideas, which underlie the different European governments, were derived from three different sources, and were the following:

First. The German element or principle, and that was the spirit of individual liberty, issuing in independence and culminating in individuality. From the forests of Germany, during the fourth and fifth centuries, outpoured no public nor religious power, but the strong, resistless, ever active will of man. At the very bottom of the social state of Germany lay the system of force, the power of the individual, the highest possible degree of individual liberty. This legacy, which the Teutonic race bequeathed to modern Europe, has been of immense importance. This was, in some of its aspects, new in the world's

[1] *Guizot*, II, 182.

history. It could not, of course, be found in any of the old world's despotisms. Even the ancient republics knew nothing of it. In them, the most favored of Greece and Rome, the public power was the despot, and disposed of all things. The nation was the actor, the sovereign the individual, the subject. He was just as much at the disposal of the public power as if he were a subject of the Persian despot. He could develop himself, in a public direction, only so far as that public power permitted. But the old Teutonic mind asserted and exercised the right of developing itself on its own account and in its own way, and this right has had a most important influence upon modern history. It has, in truth, lain at the foundation of all modern development and civilization. It is to the energy of individual will, regulated by law, and modified by moral power, that humanity, all there is or can be in man, achieves its loftiest position and largest attainments.

Second. The principle of law, the spirit of legality, the submission of the individual will, in all its hurtful exhibitions, to a public power strong enough to control it, came from the Roman world, the overshadowing power of the empire, the authority of the municipalities, and of the civil law. Without this salutary restraint barbarism would ever have perpetuated itself, and the herding of the animal would have been substituted for the associating of the man.

Third. The moral element, that gives force and efficacy to law, that renders it at all acceptable to rational beings, that constitutes in truth its inherent power, is derived from Christianity, from the church.

Of these three principles, or ideas, the animating, primary moving one is to be found in the German element, and this was brought from the German forests. It was that which gave life to the German institutions, in the

fatherland. The transplanting those institutions into the Roman world had an immense influence upon modern civilization. But it was, perhaps, less those institutions than the situation, the circumstances under which they were placed in the settlement of that world that exerted this influence.

The new settlements were accomplished slowly, and by degrees, but the facts which attended them were very uniform in their character. The towns and cities contained the elements of the Roman world. The rural districts were taken possession of by the invading forces, and occupied by them. Within the towns and cities were to be found the remains of the old Roman municipia, in a state considerably disorganized, but still maintaining, although feebly, their hold on life. In the rural districts, the country, the barbarians were slowly planting the institutions brought with them from the forests of Germany, modified by such institutions of the conquered people as still continued to influence, if not to maintain themselves. From these two sets of institutions, from what grew out of the relations existing between them, and from the void left by the receding of the empire, grew the political institutions of modern Europe.

Out of all these we may trace three systems of institutions, whose germs are discoverable at the commencement of modern history, and whose struggles through its early portions make up the chaos that reigns and rules through those early periods. Of these we have

First. The monarchical system, which strove to fill the space made void by the fall of the Roman empire. The struggle of this system lasted from the fifth to the ninth century, culminated under the reign of Charlemagne.

Second. The aristocratical system, arising out of landed proprietorship, and the relations existing between lord and

vassal. This culminated in the eleventh century in the feudal system.

Third. Free institutions, assemblies of freemen, meeting, deliberating, and governing, or exercising a predominating influence in the affairs of government. The culmination of these, thus far, is in the English constitution.

The tracing out of these, and of the systems which proceeded from them will embrace all that is of much value in the governmental element of modern Europe.

The first of the systems to which I have alluded was the monarchical.

The eyes of the barbarians had long been accustomed to look upon the Roman empire. They had seen it in its glory. They had been scattered and driven before its legions. They had learned to fear and reverence its power. It was the greatest earthly power. Its immense centralized energy, uniting in the emperor all political power, thus divesting it of the weakness of divided counsels, had enabled it to exhibit strength in the midst of decay, and a splendid magnificence on the very borders of annihilation. No wonder, therefore, that when its light was extinguished, when the phantom disappeared, the wish, the strong desire to supply its place should animate the hearts of barbaric kings, and become the highest object of their ambition.

Gigantic efforts were accordingly made to reproduce the empire. All the great barbaric chiefs, Ataulphe, Theodoric, Euric, Clovis, those who had led their warrior bands to victory, had triumphed over the Roman legions, all showed themselves full of the desire of succeeding to the Roman emperors, and of adapting their tribes to the frame of that society which they had conquered. None of them had succeeded in doing it in the slightest degree. Even had the barbaric chiefs been left undisturbed in

their possessions, the difference in their training, in their ideas, in their habits, in the institutions of their hordes, would have presented insuparable obstacles. But there is another and sufficient reason.

Up to the time of Charlemagne, the frontiers of Germany, Spain, and Italy, were in continual fluctuation. We have already had occasion to see, in considering the different European races, the ceaseless changes that were taking place in their various settlements on the downfall of the empire. That thing called a state having fixed limits, a certain extent of territory, a people of a common name and common destiny, could hardly be said to exist in Europe from the fourth to the eighth century. Even in what is now France were the kingdoms of Metz, Soissons, Orleans, Paris, which had given place to those of Neustria, Austrasia, Burgundy, Aquitaine, and these were incessantly changing masters, frontiers, extent, and importance. The reduction was finally brought down to two, those of Austrasia and Neustria, and even these had nothing stable or regular,[1] their chiefs and limits continually varying. The difficulty was that the kings and the provinces were continually passing from one to the other, so that even in the interior of the territory occupied by the Frankish population, no political association had any consistency or firmness.

All around was also in a state of continued change and commotion. On the east and north lay the German nations, the Thuringians, Bavarians, Allemanni, Frisons and Saxons, all in a transition state, and making incessant efforts to pass the Rhine, and share in the territories wrested from the Romans. On the west lay the Britons, and all the British tribes occupying the Armorican peninsula. On the south in Provence, Narbonnese, and Aquitaine, the Roman popu-

[1] *Guizot*, 379.

lation were in a state of constant fluctuation. It constituted a disputed territory, conquered, but not fully possessed by the Franks. Hence the constant efforts incessantly made on the behalf of the original inhabitants to regain their independence.

Another disturbing element still, was that of Mohammedanism, which, about the commencement of the eighth century, inundated southern Italy, nearly all Spain, the south of Gaul, threatening to roll back the barbaric tide into the forests of Germany.

Thus, on all sides, and at all points, was a constant succession of changes. Royalty, the monarchical principle, made some progress with the first invaders, collecting some wreck of the inheritance of the empire, aided by the power given to it by religious ideas; and perhaps, more than all other things, by the native energy of the original invading chiefs. But after the conquest was achieved, and the slower attempts were made at settlement, and other hordes of barbarians were pushing on to possess themselves of the same advantages, the centralized power, essential to monarchy, became gradually broken down, and localized effort became substituted in its place. The first race of Frankish kings, the Merovingian, grew weaker and weaker, until they were overshadowed by the mayors of the palace, who ultimately established a new race, the Carlovingian. Under this latter race, the power of centralization again commenced, and the monarchical principle once more was in the ascendant. This power and principle, commencing under Pepin, culminated under his son and successor, Charlemagne.

The last third of the eighth, and the first decade in the ninth century are rendered of vast importance to the history of civilization by the reign of this great prince. To the ordinary reader of history his warlike achievements, his

conquests, his heroic acts, will excite the greatest interest. But the view we are to take regards only the element of government.

The great object of Charlemagne seems to have been to revive the idea of the Roman empire, at least so far as related to the exercise of power, and the extent of dominion. He strove to break up localization, and to bring back the great central power that was lodged in the emperor.

It was not, however, in the existing state of things, possible to dispense with local officers who were vested with the exercise of local powers. These were dukes, counts, vicars of courts, centeniers, and all other local magistrates, who were nominated by the emperor or his delegates, and whose general duties were the raising of forces, the administration of justice, the maintaining of order, and the receiving and collecting of tribute. There were also besides these, beneficiaries, or vassals of the king, holding from him, sometimes hereditarily, more frequently for life, and more frequently still without any rule or stipulation about it, estates or domains throughout the extent of which they exercised, mostly in their own name, partly in that of the emperor, a certain jurisdiction, and almost all the rights of sovereignty. Here we find the rudiments, in fact the budding of that localization which subsequently became fully developed in the feudal system. We are, however at a loss to know exactly what position to assign it during the reign of Charlemagne. The nature of the power exercised by beneficiaries, together with the extent of it during that reign, is not very clear. They seem to have been both delegates and independent proprietors; both owners and usufructuaries, and to have been alternately in the exercise of these different characters. There is little doubt, however, but that their wills were ever in harmony with that of the

great monarch, and that they were efficient agents in carrying out his designs.

There were also over and above these local and resident agents, magistrates or beneficiaries, another, and entirely different set of officers who were termed the missi dominici.[1] These were temporary embassadors, appointed by the emperor, and sent out by him to inspect the provinces. Their authority embraced the inspection of conceded domains as well as free lands. They had also the right of reforming certain abuses, and were called upon to render an account of everything to the emperor. These were an important medium of order and administration to the emperor.

One important agent by which the central government was conducted by Charlemagne was the national assemblies. These were frequently convoked by him during his reign, and convened at the different places he designated. They were composed of the nobles, lords, bishops, abbots, and great men of the empire. If the weather permitted, these assemblies held their deliberations in the open air, if not, in distinct buildings.

It was here that the laws, termed capitularies, having been first drawn up by the king or his council, were deliberated upon, and upon their final passage were submitted to the king for his approval. Although the king is represented as taking the initiative, and as proposing to the assembly his laws or capitularies, yet undoubtedly the assembly had also the right of originating and proposing them. But the ultimate right of approval seems to have lain with the king.

Another important purpose secured by these assemblies, was to enable the king, by communicating with the members, to obtain a minute knowledge of the true situation of

[1] *Guizot*, II, 406–7.

all parts of his kingdom. Every one was bound to report to him, the situation, condition, or state of things, in that part of it from which he had come.

These assemblies continued in session for longer or shorter periods of time, according to circumstances, and they presented opportunities, by no means neglected, of free and unrestrained intercourse between the king and his great men, which resulted in originating and perpetuating a more perfect understanding between them.

These assemblies, although free in their deliberations, were, nevertheless, rather aids than restraints upon authority. They were convened upon the bidding of the king. They deliberated upon the measures which he proposed. They furnished him with the information which he required. They dispersed when he had no further occasion for their services. They do not present, therefore, so much bodies possessing public activity, and a large amount of national liberty, as a vast means of government, an efficient and powerful instrument in the hands of a great sovereign.

The capitulars, capitula, little chapters, is a term which applies to all the laws of the Frank kings. Great numbers of those of Charlemagne have come down to us. They are exceeding various, covering

1. Ancient national laws revised.
2. Extracts from ancient laws specially required.
3. Additions to ancient laws.
4. Extracts from the acts of the councils, and from the entire body of canonical legislation.
5. New laws, some passed by the general assemblies, some by the emperor himself.
6. Instructions given by Charlemagne to his missi dominici on their departure, with a view to regulate their conduct, or to guide them in their inquiries.

7. Answers given by Charlemagne to such questions as were addressed to him both by counts and bishops, or missi dominici, mostly relative to legislative or administrative matters, or even sometimes to private interests.

8. Questions proposed by Charlemagne, and noted down on paper to be put to the bishops or counts at the next general assembly. Instance of one.

"What is the meaning of these continual suits by which every one appears seeking to wrest from his neighbor that which he possesses?"

9. Mere notes, memoranda of particular things, which Charlemagne conceived the idea of doing, and which he had put down on paper, lest he should forget them.

Instance. "Recollect to order that whenever vicarious persons are found doing evil, or suffering it to be done, they be expelled from their post, and replaced by others of a better character."

10. Certain judgments and briefs of the crown and the courts collected for the purpose of jurisprudence.

Thus it will be perceived that almost or quite everything of a public nature, of which a record was made, come under the general term capitularies.

Charlemagne ruled over the same territory that had submitted to the sway of the old Roman emperors. His instruments were Franks, Goths and Lombards, those of the Roman emperors were the wrecks of the Roman legions. Restoring the name of the empire he attempted to bring back the unity of its administration. This, by the power and energy of his own individual will, he, to a large extent, effected. But all the circumstances under which he was placed were unfavorable. He was in living, in habits, in thought and feeling a German. His language, manners, external form were all German. His home was Germany, not Rome. His national assemblies were Ger-

man in their composition, origin, constitution and mode of proceeding. His wars and manner of conducting them were German. His dress was the habit of his fathers, of the Franks. Twice only, and while at Rome, did he appear in the long tunic, the chlamys, and the Roman sandal. His attempt was to resuscitate permanently the Roman empire out of barbaric materials. It could not, of course, succeed. Roman civilization, with all its instrumentalities and powers had passed away. All its relationships were gone. All the sources from which it had gathered its living, vital forces were dried up. It could only enter as a transformed element into the new world just now coming into being. The ardent wish, the strong desire, therefore, of Charlemagne to revive it could not succeed, because not in accordance with the wants and spirit of the age.

And yet he accomplished much. The name of the western empire was revived by him. The rights attached to the title of emperor resumed their place among the elements of history. Although really of small value, yet for several centuries longer they continued an object of ambition, and a principle that influenced the course of events. Even near the commencement of the present century, Napoleon Bonaparte thought himself happy in wedding a daughter of the Cæsars, and in creating his son the king of Rome.

With Charlemagne fell and perished the great central power. His was a sceptre too heavy for any successor to wield. But his reign was not without its great results in the governmental affairs of Europe. It marks a great era in European history. Its characteristic is fixedness. Down to his time the frontiers of Germany, Spain and Italy were in continual fluctuation. They were subject to constant invasions. He entirely changed the scene.

He extended his frontiers in all directions, and repelled all invading armies. He established real political barriers. States not very thoroughly organized, but real and durable, arose. He, in reality, founded all the states which sprung from the dismemberment of his empire. Germany, Lorraine, Italy, the two Burgundies, Navarre, may all date their political existence from his reign. They grew out of the dismemberment of his empire.

Another, and still greater result was brought about by his reign and death. It may seem strange that so strong, centralized a government as his, should have ushered in the feudal system, the reign of localization. Yet such was the fact. By arresting external invasions, and repressing intestine disorders, he gave to local situations, fortunes, influences, sufficient time to take real possession of the country. The general assemblies, missi dominici, in fact the whole machinery of the central and sovereign administration, disappeared. But not so the local government. The dukes, counts, vicaries, centeniers, beneficiaries and vassals, all holding their authority, in their several localities, under the rule of Charlemagne, still continued. Inasmuch as the empire, at his death, was broken into separate states, which acquired a vigorous and durable life, so his central sovereignty resolved itself into a multitude of local sovereignties, to which a portion of the strength of his government had been imparted, and which therefore were enabled to continue. Before his time, the disorder had been as great in each locality as in the whole country generally. Landed property, magistracies, were continually changing hands. No local positions or influences possessed any steadiness or permanence. During his long reign of forty-six years, these influences had time to become rooted, in the same soil, and in the same families. They had acquired stability, the first condition of

the progress which was destined to make them independent and hereditary, and thus render them the proper elements of the feudal regime. This brings us to the second system of institutions, the aristocratical system, arising out of landed proprietorship, and the relations existing between lord and vassal, culminating in the feudal system.

The feudal system, although in its turn it has passed away, is yet deserving of the most attentive consideration. It was a system essentially novel, and very curious in its provisions, and is necessary to be understood in order to comprehend its outgrowths and agencies in shaping the governments of modern Europe.

There are three essential elements in the feudal system, viz:

1. The nature of the territorial property, the title to it, the tenure by which it is held; the obligations assumed by the holder.

2. The peculiar manner in which sovereignty and property are united. The way, manner, and extent to which the one modifies the other. The amalgamation of the two, and the joint result.

3. The hierarchical system of legislative, judicial, and military institutions, which united the possessors of fiefs among themselves, and formed them into a general society. The first of these embraces territorial property, the state of lands and of tenures. The second, sovereignty, and the social state, the state of persons. The third, the political system, the state of institutions.

1. During the earlier periods of European history, say from the fifth to the tenth century, there were three kinds of landed property, viz: First. Allodial. Second. Beneficiary. Third. Tributary.

First. The allodial were lands owned and held absolutely, the owner entering into no obligations relating to them, being fettered by no restrictions, and having the entire right to dispose of them. The word allod, alode from loos, lot, whence allotted, allotment, indicates the source of these lands.[1] They were lands acquired by conquest, and distributed by lot among the conquerors.

It is clear that in those troublous times, society could not exist with this state of isolation and entire independence on the part of the owners of real estate. The first, and almost the only demand, was for military service. This was the kind of service which the state of the times peculiarly required. This was originally imposed upon a man, by virtue of his quality,[2] his nationality, and not by reason of his wealth. For a long time after the conquest and settlement in the Roman provinces, it seems to have been a mere voluntary service. But in the time of Charlemagne, the obligation to render this service, was imposed on all freemen, proprietors of freeholds, allods, as well as benefices.

There is, however, strong reason for believing that in the conquest and settlement of the barbarian tribes in the continental Roman provinces there were but few allodial lands. Generally each chief took a portion for himself and his associates to live upon, there being few, if any, shares allotted to individuals. The allotments were rather to the chiefs. Even out of the small number of allodial proprietors existing originally, many of them were gradually robbed of their possessions, or reduced to a tributary condition by force and usurpation. The history of feudal institutions in England is different from that of the continent. There the feudal system was introduced at once

[1] *Guizot, History of Representative Government*, 106. [2] *Idem*, 109.

and put into full force with all its revolting features by William, termed the conqueror, in 1066. It followed in the wake of conquest, as it did also on the continent. But in England its operations are more clearly seen, its history is more complete, and its introduction and establishment at once with all its terrible oppressions, causes it to stand out with fearful distinctness.

Second. Benefices, and these resulted naturally from the relative position of the chiefs and their associates. To the former belonged private domains, consisting of lands taken from the inhabitants of the countries in which they established themselves. The conquering chief acquired large domains. Those of the chiefs he conquered belonged to him. So also confiscations, and owners dying without heirs augmented his domains.

By these means the conquering chief, or king, Clovis, for instance, became possessed of extensive domains, and so also the chiefs of warrior bands under him, became correspondingly endowed. What disposition could they make of them? The simple ownership without occupancy in some form, could avail them little, if anything. They had neither time, talent, nor disposition to attend to agricultural matters. As to money there was little of it, and it was besides of little value to them. They possessed probably all they required. They did not, therefore, desire to sell for money or other property. How should they be disposed of?

The most natural way that presented itself was to bestow them, either absolutely or conditionally upon those trusty associates, who had been their companions in arms, and who had shared with them the fortunes of the field. The barbarian is naturally free, generous and hospitable. The chiefs before the conquest had been accustomed to make presents of horses, arms, etc., to their companions.

These were then all they had to give, and they naturally attached still closer together the giver and the persons receiving. These gifts were naturally employed in the service of the chief, and hence the companionship became strengthened.

The conquest introduced a new element of wealth, land; and this, therefore, the barbarian chief bestowed upon his companions. But this species of bestowment had an entirely different effect from the other. The presents of arms, horses, banquets, retained the companions around the chief, and made them lead a life in common. The gifts of lands, on the contrary, were an infallible cause of separation. The beneficiaries were desirous of establishing themselves upon their benefices, of living upon their own estates, and thus of becoming, in their turn, the centre of a small society. Thus, by their very nature, the new gifts of the chief to his companions dispersed the band, and changed the principles, as well as the forms of the society.

Here arose a conflict where all before had been harmony. The givers of benefices were desirous of resuming them whenever they pleased, in order to make them a means of acquiring other companions. The receivers of them were equally desirous of acquiring a full, unconditional, absolute ownership, free and clear of all obligation towards the chief from whom they were received, with whom they no longer lived, and in whose fate they no longer took any interest. Hence has arisen the question, which has been much discussed, as to the character of the benefices.

Although from the time of the conquest to that of the complete establishment of the feudal system, there were instances of benefices revoked and resumed, at the will of the grantor, yet there is no evidence to show that this was ever a fully acknowledged legal right. The beneficiaries always objected, that while on their part they kept their engage-

ments, such resumption was illegal. During all this period there were instances of benefices granted temporarily, for life, and hereditarily. The more usual condition was, that they should be given only for life, but the tendency of the time always was to render the benefice a hereditary possession. Until the end of the tenth century, a confirmation was deemed necessary on the death of the beneficiary or the giver.

Third. Tributary lands were those given to cultivators, on the payment of certain fees or services. The most common method of rendering lands tributary, was to give them either to churches, or to powerful proprietors, and then to receive them again on the tenure of usufruct, to be enjoyed during life, on the payment of fixed fees. The same causes which tended to destroy allods, or to convert them into benefices, contributed also to augment the number of tributary lands.

2. Leaving the peculiar condition attached to benefices for after consideration, we proceed to the second essential element in feudalism, viz: the sovereignty, social state, state of persons. The sovereignty here spoken of, is only that of the possessor of the fief within his own domains, and over those inhabitants who are not themselves the possessors of fiefs.

Upon the full establishment of feudalism, the possessor of the fief, or benefice, whether great or small, possessed all the rights of sovereignty in his own domains. Within these, no foreign power had a right to enter. No power, external to them, could give laws there, assess and collect taxes, or administer justice. The proprietor, by virtue of his proprietorship exercised the legislative, judicial, and military powers in his domains. He made war, coined money, and performed other acts of sovereignty. Herein consists one of the peculiarities of the feudal institution, the

union of proprietorship with the exercise of sovereignty, and this was irrespective of extent of domain. The baron, or suzerain, of an hundred acres, who had under him vassals, subject to the feudal relations, was rightfully just as much a sovereign within his barony as a king within his own more extensive domains.

This was entirely new in the world's history. Nothing was ever found in Roman jurisprudence that could even suggest it. There is little probability that anything existed in the primitive institutions of the Germans that would have led to it while in the enjoyment of their forest life. Those institutions were essentially free, the sovereignty, in its rude state, residing in the assemblies of the people. But this was mainly owing to the then state of things. Those composing the tribe resided near each other. Their assemblies, therefore, could more easily be got together. Besides the occasions seldom arose in barbaric life that required their action. Sovereignty had little to do, and not much to do that little with. The safety valve of the tribe was the warrior band that sought its fortunes in foreign adventure. Here was the vent hole through which all the aspirations of ambition found a ready passage.

On their conquest and settlement in the Roman world arose a new state of things. Government has always been very considerably modified by the circumstances under which it has come to exist. This is apparent from what we are now considering. The settlement in a new country, and in the midst of a new and hostile people introduced complicated relations. The arts of defense were required to be exercised. A sovereignty must be established, fully adequate to the new demands made upon it for the purposes of protection, as well as preservation. The band, in their settlement, had scattered over a large territory. They did not take from the original owners all the lands. They ap-

propriated in some parts of the Roman world one-half, in others two-thirds of all the lands. This led to a wider separation from each other. This distance apart, together with the more complicated relations, and the more frequent demand and necessity for the exercise of sovereignty, caused a declension, and ultimately, for most of the purposes of the exercise of sovereignty, a dying out of the public assemblies. The sovereignty then passed to the proprietors of fiefs or benefices, who exercised it over their own vassals.

In speaking of the state of persons we should here briefly allude to a class occupying the highest place in the social scale, during these early centuries, called leudes. These, as the name indicates, were deemed trusty, faithful, and succeeded the associates of the German chiefs. These were the faithful friends of the chief or king, those upon whom benefices were conferred, and who were the great household officers of the palace and court; such for instance, as count of the palace, referendary, seneschal, mareschal, falconer, butler, chamberlain, porter, etc. To these, kings were in the habit of giving important public occupations, such as belonged to dukes, counts, etc. As these constituted one of the principal sources of strength, their number was sought to be multiplied by all kinds of devices.

The general obligation assumed by this class was fidelity, service in the palace, and military service. In return those composing it received power and wealth.

Not only kings, but every large proprietor had also his leudes, who enjoyed the same privileges, had the same offices, and were subjected to the same obligations.

The leudes were not confined to the barbarians. Many distinguished Romans became such, as their services, from the extensive knowledge they had of the country were of great importance to the kings and chiefs. Bishops, and

the heads of monasteries, or of large ecclesiastical corporations, were included in the number.

3. The political system, state of institutions. The inquiry here is, what was the organization, the union, among the possessors of fiefs themselves?

The answer is, that there was little of it at all, and that what there was, was far more nominal than real. The very nature and tendency of feudal institutions was opposed to any such union. Feudality embodied the very principle of localization. It scattered all over the land innumerable little petty sovereignties, all in one respect, viz: their sovereignty, equal to each other. It exhibited no higher sovereignty to which they in common owed any subjection. When we come to examine the relations between the suzerain, or feudal lord, and his vassals, we shall find a vast chain of dependencies, extending from the king to the smallest baron, each owing allegiance to his superior, thus constituting a mighty hierarchy of powers, extending from the highest to the lowest. Although this system would, and did, create relations between the king, or lord paramount, suzerain in chief, and the great suzerains in the kingdom, yet this entirely failed to create any relations between the suzerains themselves.

In the feudal ages many occasions of dispute and controversy would naturally arise between different suzerains. Whenever this occurred there existed no tribunal which could decide, and the decision be acquiesced in. Hence a resort to war, the ordeal of force, was necessary. And thus petty wars, with all their desolating influences, were the most common and ordinary occurrences.

It is quite obvious from all this that the real principle of feudalism was opposed to any political union among the possessors of fiefs themselves, and hence that there really was not such union. It is true there were principles

or political forces developing in the bosom of feudalism, which ultimately did achieve a union, or rather a nationality upon the ruins of feudalism, as we shall subsequently have occasion to see. But these were hostile, tended to its destruction, not perpetuation. And when they became sufficiently strong, the days of feudalism were ended, and, having accomplished its mission, it passed away. In examining the political institutions to which feudalism gave birth, we shall have occasion to investigate these forces.

We are now prepared to go into the investigation of feudalism itself, and to ascertain the peculiar nature of those novel and curious political institutions, which, for three centuries, the eleventh, twelfth, and thirteenth, spread their singularly constituted net work over a large portion of Europe, everywhere localizing, and producing national disorganization, but everywhere nourishing conservative forces, which were destined ultimately to accomplish its own destruction, and to rear upon its ruins most of the present forms of European government.

The whole subject of feudalism is essentially embraced in the fief, feud, benefice, including the relations existing between the possessor or owner, and his vassals, the one dwelling in, and owning his castle, the other dwelling around and constituting the feudal village. It essentially consists in the hierarchical association of the possessors of fiefs, and in their sovereignty over the inhabitants of their domains.

One great fact, significant of ripened feudalism, was the castle. Nothing similar was exhibited in the Roman world. In that world the rich, the great proprietors lived either in cities, where they could indulge themselves in luxuries, or in splendid houses situated near cities, or in rich plains upon the banks of rivers. Through the country were dispersed the villæ, a species of farms, great buildings

serving for the improvement of estates, and also for the dwelling of the laborers, serfs or slaves who cultivated them. Even for some time after the conquest and settlement of the barbarians these villæ continued as the great centres of improvement, occupied often both by Romans and barbarians.

But times of trouble came. Fresh invasions were everywhere productive of disorder and pillage. A want of safety was everywhere experienced. The villæ became surrounded by moats and ramparts. The country population sought a refuge in heights, places difficult of access, and surrounded them with fortifications.

But not only were these sought as security by the innocent. Those who abandoned themselves to lawlessness sought and found in the fortified castle a means of protection. Many followed a life of hunting and pillage, and thus required places of safety to repel the vengeance of their adversaries, and to resist any such magistrates who attempted to maintain order.

After the death of Charlemagne, and the annihilation of the great central power which he exercised, these castles and fortified places became very numerous all over the country. The vassal constructed one on his little fief, as well as the suzerain on his large domain. Even monasteries and churches surrounded themselves with towers, ramparts and moats. The burghers fortified their towns. In some cases even each street had its barricades, and each house its tower, loop-hole and platform. Local wars became longer and fiercer, the castle serving for aggression as well as defense.

The following is a description of the castle of Monbazon, near Tours, in the fourteenth century:

"Imagine to yourself a superb position, a steep mountain, bristling with rocks, furrowed with ravines and precipices;

upon the declivity of which is the castle. The small houses which surround it set off its grandeur.

"This castle must be seen when, at sunrise, the outward galleries glimmer with the armor of the sentinels, and the towers are shown all brilliant with their large, new gratings. Those high buildings must be seen, which fill those who defend them with courage, and with fear those who should be tempted to attack them.

"The door presents itself all covered with heads of boars or wolves, flanked with turrets, and crowned with a high guard house. Enter, there are three enclosures, three moats, three drawbridges to pass. You find yourself in a large, square court, where are cisterns, and on the right and left the stables, hen-houses, pigeon-houses, coach-houses; the cellars, vaults, and prisons are below; above are the dwelling apartments; above these are the magazine larders or salting rooms, and arsenals. All the roofs are bordered with machicolations (apertures through which hot substances are poured upon assailants), parapets, guard-walks, and sentry boxes. In the middle of the court is the donjon, which contains the archives and the treasure. It is deeply moated all round, and can only be entered by a bridge, almost always raised. Although the walls, like those of the castle, are six feet thick, it is surrounded up to half its height with a chemise, or second wall, of large cut stones."

Such was the feudal castle of the middle ages. Alone, isolated from every one of the same character. Its inmates leading a life of solitude and seclusion. Its warlike owner seeking in the stream, in the chase, and by wars and robberies on the highways so to diversify his life as to banish the ennui of existence.

Leaving the effects of feudalism upon the state of society to be considered under the social element, we now take

leave of the castle, the proprietor of the fief, and descend to the vassal to inquire as to his condition, and more especially as to the relations existing between him and his lord. Here we arrive at that vast hierarchical organization in which the essence of feudality more especially consists.

We are here to observe, in the first place that when feudality was at its height, all kinds of things were given in fief, but with different views and upon different conditions. Their dignity of course varied like their nature. At this period also the situation of possessors of fiefs was very complex, the greater portion of them sustaining double sets of relations, being at the same time both suzerains and vassals; suzerains of such a one by reason of a fief which he had given them, and vassals of the same or of some other, by reason of another fief which they held of him. So also fiefs were of different natures, some being held upon condition of military service, others upon that of inferior services.

The original relations between the barbarian chief and his associates reposed entirely upon two foundations, viz: personality and liberty. They embraced only the individual and not his descendants, and besides he was at perfect liberty to abandon his chief, and unite himself to some other. The introduction of landed property was, in this respect, a disturbing element. That naturally tended to descend from parent to child, and, in doing so, to carry along with it the obligation upon the strength of which it was received. Hence, it tended to destroy both personality and liberty.

As a compromise, however, and by way of reconcilement, on the death of the vassal, the social tie was renewed. The son, before he could succeed to all the rights of his father, must go through the ceremonies of homage, oath of fidelity, and investiture.

The ceremony of homage was performed as follows: The lord, or feudal seigneur, as he was generally called, being in a sitting posture, the vassal unbuckles his girdle, if he has one, lays down his sword and staff, kneels on one knee, and pronounces these words: "I become your man from this day forth, of life and limb, and will hold faith to you for the lands I claim to hold of you."

The oath taken was the following: "This hear you, my lord, that I will be faithful and loyal to you, and will keep faith to you for the lands which I claim to hold of you, and will loyally fulfill unto you the customs and services that I shall owe you on the conditions belonging thereto, so help me God and the saints."

Then followed the investiture of the vassal by the seigneur, which was done by delivering to him a clod of turf, or a branch of a tree, or a handful of earth, or some such symbol, as indicating the giving of the land itself.

By these means the feudal relations became complete, and it is perfectly obvious that the great principle was fully recognized, that society requires reciprocal consent and engagement; that it is not territorial nor hereditary; and that it does not necessarily result either from origin, or from any material fact.

The important inquiry here occurs as to what were the real obligations incurred on the part of the vassal towards his feudal lord. These were of two kinds: moral and material. The former, however, were merely moral obligations, duties from man to man, having nothing in them peculiarly feudal. The material, consisting of duties and services, were:

1. The military service. The extent of this seems to have been various. In regard to time, it was in one place for sixty, in another forty, in another twenty days. Sometimes the vassal was bound to follow his lord alone,

sometimes with a certain number of men; sometimes only within the limits of the feudal territory, and sometimes everywhere; sometimes again only for defense, and sometimes for attack as well as defense. The conditions varied much with the extent of the fief.

2. The court service, which consisted in the obligation to serve the suzerain or seigneur, in his court, in his pleas, whenever he convoked his vassals, whether to ask for their counsels, or for them to take part in the judgment of the disputes brought before him.

3. The obligation to acknowledge the jurisdiction of the suzerain.

4. The obligation to render certain feudal aids, which were subsidies, pecuniary assistance, which the vassal in particular cases was bound to render. These were demandable upon three occasions. When the lord was in prison, to pay his ransom. When he armed his eldest son a knight. When he married his eldest daughter.

All these were inherent in the feudal relation. Custom, in time, also introduced several others, as

First. The right to relief, as it was termed. This occurred on the death of the vassal. The fief thereby becoming vacant, the heir, in order to possess it, must pay to the suzerain a certain sum called relief. The amount greatly varied, and was the subject of continual dispute, as no fixed and general rule seems to have been established. This followed naturally from the establishment of the principle that on the death of the vassal the heir required to be confirmed in his fief.

Second. The second right which was also a customary but a very common one, and flowed from the same principle, was that which the lord had, when his vassal sold his fief to another, of exacting a certain sum from the new pos-

sessor. The principle lying at the bottom of this was, that as the feudal relation was purely personal, no one could impose upon the suzerain another vassal without his own consent, which consent was purchased or obtained upon payment of the required sum.

Third. Forfeiture was another important right which occurred when the vassal failed in any important feudal duty. This forfeiture was of the fief itself, and was either for a limited time, or for life or forever. This was a principle universally admitted in feudalism, although there were differences in regard to what should cause a forfeiture, and also as to the extent of it.

Fourth. The right of wardship, which was the right of acting as guardian of his ward during his minority, and of enjoying the revenue until his ward attained his majority.

Fifth. The right of marriage, that is, the right of offering a husband to the heiress of a fief, and of obliging her to choose among those whom he offered her. The ground upon which this rested was that the woman could not perform the obligation of military service, and that the lord was the best judge as to who had the proper capacity for that purpose.

The only way in which the woman could escape accepting one of the husbands offered her, was by paying to the suzerain a sum equal to that which they had offered him to have her as a wife; for he who desired the hand of the inheritor of the fief, thus bought it of the suzerain.

These embrace all the obligations due from the vassal to his suzerain, and they were, in the aggregate, sufficiently onerous. But when they were all discharged he was entirely free. He enjoyed then an entire independence in his fief, administered justice, imposed taxes, coined money, and gave laws, thus exercising all the essential acts of sovereignty.

He had also further rights, rights over his suzerain. A reciprocity existed between suzerain and vassal. Not only was the suzerain bound to do no wrong to his vassal, but the latter had a right to claim and receive of the former that protection which was necessary to maintain him in the possession of his fief, and also in the enjoyment of all his rights.

Having settled the reciprocal rights and obligations existing between suzerain and vassals, it next becomes important to inquire what were the relations between the vassals of the same suzerain, those who were called pares, peers.

Here we find one of the great deficiencies of the feudal system. However great the number of vassals by whom the suzerain was surrounded, yet they had, with each other, strictly no feudal relations. All their relations were with their suzerain, and these relations existed between each vassal and his lord. The vassals owed one another nothing. They did nothing in common. They were or might be entire strangers to each other. It could only be through the tie of the suzerain that they were enabled to meet and form a society.

The question, therefore, naturally arises: How were the disputes arising between the vassals of the same suzerain terminated? The answer to this question will clearly disclose one of the fatal defects of feudalism.

The party demanding justice must address himself to the suzerain, who was bound to see that the proper steps were taken to secure it. He convoked his vassals, the peers of the accused, who were bound to attend his court, and pronounce upon the question. The suzerain then proclaimed their judgment.

Suppose the lord refused to convoke his vassals, thus hindering justice. The party complaining then carried his plaint before the court of the superior lord. So also

if one of the parties thought the judgment unjust, he appealed to the court of the superior lord.

But suppose the ultimate judgment pronounced, how was it to be executed? If the vassal submitted to its execution, then the ends of justice were attained. But suppose he did not. Suppose he returned to his castle in the midst of his men and refused to obey. What was the result? Was there any common force, any power in the community, that could be regarded as a guaranty that the judgment, once rendered, would be executed? None whatever. The lord could only summon his men, and endeavor to compel obedience. The condemned vassal could resist. Private war was the necessary result. The law of force, which is no law at all, must prevail. The legal execution of judgments was therefore wanting in feudal society. There are in the feudal monuments many precautions, and precise directions relative to judicial duels, and even the conducting of private wars, showing that attempts were made to bring even them within the empire of law.

We have now traced the essential characters of a system that had long been maturing in almost all Europe until it attained its full perfection, and during the eleventh, twelfth, and thirteenth centuries apparently reigned and ruled undisturbed. It is hardly possible to say what would have been the destiny of European society had it not fallen under the reign of feudalism. The probabilities are that it would have been handed over to despotism. If, therefore, the feudal system has had no other mission than to prevent that result, no one will deny its importance.

Although this system was, in many respects, oppressive; although its tendency was to the extremest degree of localization — for the system of subinfeudation was susceptible of being carried to the greatest ultimate limit — although this last feature, as well as other defects, con-

tained in it, went very far towards totally disorganizing society, yet we must not be insensible to many of its positive merits, and to the general results that have proceeded from it.

Its merits consisted chiefly in the large amount of liberty that breathed through it. It was a system in which beyond all others the individual will was predominant, and which was eminently fitted to nourish and strengthen the voluntary principle.

1. The entering into it was purely voluntary. The concurrence of the will of both parties was necessary.

2. The obligations mutually undertaken were clear and well understood.

3. The submission to any judgment or sentence of peers pronounced by the suzerain was voluntary.

4. The continuance of the feudal relations was voluntary. Either party was at perfect liberty at any time to renounce them. The renunciation of one, of course, discharged the other. The system, in fact, perished through the prevalence of individual will. Its unrestrained exercise, for any long period of time, must, of course, be inconsistent with the continuance of social order. The decline, decay, and ultimate death of feudalism was in precisely the order we should expect from the unrestrained prevalence it gave to individual will. It declined and died. 1. In its judicial combat and private warfare.[1] 2. In its extent. 3. In its independence.

But feudalism could not be expected to break up and perish, leaving nothing to supply its place. Nor should we look for the reign of one or more powers in its place, that came suddenly into existence. It is not thus that the affairs of the world are taken care of. The forces that

[1] *Guizot*, IV, 161.

govern society and ensure social order, are of gradual growth. Like the enduring fabrics that have been reared by the coral insect in the midst of conflicting waves, their advancement is often so slow as hardly to appear possessed of the elements of progress.

Let us now proceed to the interesting inquiry as to what were the powers and political forces which were gradually developing in the bosom of feudalism, and which ultimately accomplished the destruction of that system, ruling in its place. I say destruction, I mean as a ruling, reigning, system in Europe. I do not say annihilation, for its remnants still exist, and even one of the great governments of Europe, as we shall see long continued, and may almost be said still to continue, largely feudal in its constitution. Having identified these powers and forces, it will then be a delightful task to trace them out, and witness their expansion and development into the present governments of Europe. In doing this we may promise ourselves not only large acquisitions in relation to the governments that have swayed the civilized world, but also, what is of far greater value, to familiarize ourselves with all the important elements of political philosophy itself, and it is mainly with this latter view, that our principal inquiries will be directed.

The reign of feudalism was little else than the reign of individual will. It is obvious that could not always last. The only thing that can perpetuate social institutions, is government; and that is an element which creates and maintains relations between men independently of their will. This term, in its largest sense, is very extensive, comprehending the powers of every kind which exist in society, including as well the domestic powers embraced in the family, as the public powers which are placed at the head of the state. The entirety of these powers constitutes

a mighty social bond; and they not only give birth to many relations between men, which their will alone would not create, but they impose upon those relations, and upon many others, perpetuity and regularity, the pledge of the peace and progressive development of society. "Individual wills and public powers, the free choice of men and the government, these are the two sources whence are derived human relations,[1] and their transformation into active and permanent society."

But how shall the element of government be evoked out of feudalism? How shall that, whose special mission is the bestowment of order, be made to arise out of disorder and disorganization? We shall see.

It is the mission, the special function of government, to rule, to dominate over others. This is only accomplished by the possession of power; and the possession and exercise of power is the object of ambition, one of the strongest prompters to action. Thus, government of some kind is not only a necessity, but its existence and exercise is secured by the original constitution of human nature.

But what were the powers laying at the foundation of society, and embosomed in feudalism, which were striving to become separated from each other, and to gain the ascendancy over all the others, ruling and reigning, each by virtue of its own inherent energies? These were four in number:

1. That strong corporate power, the Romish church.
2. The burgher force that prompted the rise of free cities.
3. Royalty, the essentially monarchical principle.
4. The third estate, the commons, the representative principle.

[1] *Guizot*, IV, 103.

We have here, if we include the aristocratic principle, the remnant of the feudal system itself, all the really efficient forces that were coexisting together with feudalism; that on its downfall were struggling vigorously to obtain the ascendancy either alone, or through the aid of another or others; and that have succeeded, at different periods of European history, in reaching the surface of society, and planting a government of its own organization.

Each one of these, therefore, has a struggle, and consequently a history; a success, more or less complete, in which it has realized its aspirations, and either singly, or in conjunction with another, or others, established and exercised a government upon its own principles; and some of them a declension in which they have either died out, or passed themselves into other forms. A general remark may be here made applicable, although not in equal degree to all. And that is, that no one, with the possible exception of royalty, and that may be somewhat doubtful, has ever succeeded in establishing its own reign and rule singly, and without any aid from any other; but that in most of the European governments, although one may have largely predominated, yet we can clearly discern traces of another or others in the composition of the government. We ought, perhaps, to make a further exception in the pure aristocracies of Italy, especially of Venice; but it may possibly be doubted whether their aristocratic element may be fairly traceable to the feudal system.

Let us now inquire in what governments of Europe the action of these forces can be traced.

I. That corporate, religious force embraced in the church early striving for political dominion in Europe, and obtaining it in the states of the church.

II. The aristocratic force, the remnant of the feudal system, after various fortunes, prevailing in a modified

form in the Italian republics, in Poland, in Hungary, in England, but more fully exhibited in the Germanic constitution.

III. The burgher force, the democratic principle localized, first appearing in the free cities of Italy, France, and Germany in the middle ages, finally settling down in Holland and Belgium, in Switzerland, in the free cities of Germany, and in a modified form, in the borough system of England.

IV. Royalty, the centralizing, monarchical principle, struggling for existence through the feudal period, allying itself with the burgher force to overcome feudalism, finally prevailing more or less modified in England, Poland, and Hungary, and in a purer, more absolute form in Naples and Sicily, Spain and Portugal, the northern kingdoms of Europe, Austria, Prussia and France.

V. The third estate, the commons, the force residing in the people, the whole people of any one nationality; boldly asserting its right to supremacy as against both feudalism and monarchy; developing its power through the cortes in Spain, the states-general in France, the states in Germany, and the parliament in England; the great author of revolutions in governments; acting through the representative system; finally acquiring a modified supremacy in France and Switzerland, but achieving its greatest culmination in the British constitution.

By following out the struggles and development of these different forces; by tracing out their efforts at separation; and their exertions, both singly and in combination with each other, to establish themselves as ruling powers, together with a contemplation of them when established and organized in forms of government more or less permanent, we cannot fail to get a clear idea as well of the his-

tory of the governmental element in Europe, as of the forms under which it has governed society and dispensed order to its different peoples. This, together with a brief reference to the systems of law or jurisprudence in the different European governments, will comprise all we have to say in reference to this element, as developed in modern Europe. I shall not, however, deem it necessary to examine with minuteness all the governmental forms that either have existed, or are now existing in the different nations of Europe. A very brief reference to many, and a general allusion to some will be all that will be attempted; while to a few others, which will illustrate more clearly the action of one or more of these forces, and will furnish more abundant and valuable materials to build up the mind of the statesman and jurist, a more particular consideration will be devoted.

I. Our attention then may first be directed to that corporate religious force embraced in the church, early striving for political dominion in Europe, and obtaining it in the states of the church. The history of the church in its political European relations has already been considered under the element of religion. So also have the circumstances which led to the creation of the pope as a temporal prince. It only remains to remark briefly upon the system of government in the papal states. The pope, it should be remembered, is a sovereign who unites in his own person a threefold capacity. 1. He is bishop of an important diocese. 2. Pope or primate of the whole Romish church. 3. A temporal prince in the states of the church.

In regard to the latter, which can only come up for consideration here, the proper inquiry is, what kind of a government it is, and what is the extent of the pope's au-

thority. And these are readily answered. The government is in the nature of a monarchy,[1] whose head is the pope. His authority is absolute, without any limit to control it. The peculiarities which distinguish him from all other monarchs, are in the nature of his election to the throne, and the religious supremacy which he possesses.

The pope is elected by the college of cardinals. These are seventy in number, and upon the decease of a pope they are shut up together in what is termed the conclave, until their choice can fall upon another. It requires a majority of two-thirds to make an election.

The government is administered through several congregations, or colleges as they are termed, on which devolves the management of the several departments. With each one of these congregations, acts a functionary of eminence. All these are composed of cardinals, prelates, assessors, clerks, and a secretary, who is always in direct communication with the pope. The latter, therefore, not only names the members of each congregation, but may also direct their proceedings. The decision of the congregation or college, however, is not binding, when made, even upon the minister, much less upon the pontiff. All criminal proceedings are carried on with closed doors, and there are no limits to the power of arbitrary imprisonment.

At each fresh accession, which averages once in about eight years, an entire change is made in the instruments of government. The persons employed, and even the principles acted upon, are made often to undergo a total change.

A sale of all offices was early made a branch of the papal finance. Even offices have not unfrequently been created for the very purpose of making a sale to replenish an exhausted exchequer.

[1] *Brougham*, I, 559.

Thus we have purely a government of priests in conducting the temporal affairs of the state. The spiritual administration is carried on in like manner, by ministers, with congregations, or colleges of priests, or rather of cardinals, to assist them.

II. The aristocratic force, the remnant of the feudal system, after various fortunes, prevailing in a modified form in the Italian republics, in Poland, in Hungary, in England, but more fully exhibited in the German constitution.

The aristocratic principle has never failed of becoming developed where a conquering and conquered race coexist within the same territorial limits. The superiority of the one over the other, and the rights and privileges arrogated in consequence, naturally lead to this development. But in the case of the conquest and settlement of the Roman world, there was superadded to this the fact of territorial possession. Beyond this, the feudal system introduced into this possession, distinctions in rank, thus creating a political aristocracy. Here we find a privileged class. Privileged: 1. By their superiority as conquerors. 2. By their territorial possessions. 3. By their political distinctions in rank. All these were sufficient to give, in the feudal ages, a large infusion of the aristocratic element, the strong traces of which are still to be found in many European governments.

This applies equally to all those who were territorial possessors, or enjoyed the rights of such, although they might in point of fact be poor and dependent. But in this class there were others, not very numerous, who, in addition to all the privileges belonging to the class, possessed, also, large landed estates and great wealth, thus creating an aristocracy within an aristocracy; the whole body of the

nobles being distinguished from the rest of the people, but the real aristocracy consisting of the wealthy nobles.

With the possession of these general principles, and the knowledge of the feudal system, let us proceed to inquire how the aristocratic element has succeeded in developing itself, after emerging from the ruins of feudalism.

And first in regard to Venice, which has a peculiar history, and exhibits perhaps the purest instance of an aristocratic government anywhere to be found. The city of Venice is built upon the island called the Rialto, and sixty neighboring islets of the Adriatic.[1] It is of little use to mark the early changes in the Venetian government. For about a century and a half preceding the year 1173, the government had been a ducal monarchy, an officer termed the doge being the executive officer. About that year was laid the foundation of the aristocratical constitution, which, with some changes and modifications, continued for six hundred years. During quite a portion of this period Venice, as we have seen, enjoyed a high degree of prosperity, and exercised no inconsiderable an amount of influence in the political affairs of Europe.

The foundation of the whole was a grand council of four hundred and eighty members, in whom, together with the doge, was lodged all political power. The members were at first chosen annually by twelve tribunes who were elected annually by the people. Thus originally a democratic element was introduced. As, however, the grand council had the absolute nomination of all other offices, its members soon usurped the power of rejecting whatever names were presented as their successors, thus preventing few, if any, changes, and retaining the power mostly in their own hands. About a century and a quarter afterward, a law was passed

[1] *Brougham*, 261.

that none should be excluded at the annual election but those who had done something to render them unworthy. This was in 1297, and in the year following another law was introduced providing that those only should be elected who had previously been of the council, or were descended from ancestors who had belonged to it. Thus an hereditary aristocracy was completely established.

A formidable conspiracy entered into by the excluded nobles and the plebeians in 1315, which came very near succeeding, led to two constitutional changes. By the first all election was abolished, and every person who had either sat in the council, or was of a noble family was entitled to become a member, provided his qualifications on examination proved sufficient. This established the aristocratic constitution.

By the other change the celebrated council of ten came into existence. This council was created under the strong impulse of fear and alarm, was at first named only for two months, and was commissioned to watch the conspirators, and to prevent a renewal of their attempts. It was, in truth, a dictatorship, as it was armed with the absolute power to arrest and punish summarily, whether common people or nobles; to dispose of the public treasure; and to exercise all the powers of the grand council for the safety of the state.

But, although like the Roman dictator, it was created for a temporary purpose, yet unlike the Roman institution it became a permanent body. After the expiration of the two months it was continued for three years, but with the important provision that each member should be reelected or excluded at the end of four months. It was afterwards adopted as an integral part of the government, and would almost have superseded the grand council itself, had it not been for the control exercised over it by that body in the

frequency of the elections by which its continuance was secured.

This, although called the council of ten, really consisted of seventeen members, one of whom was the doge, who was president, and held his place for life, of the others, ten held their office for a year, and six for eight months. They were chosen by, and out of the grand council, all the members of which were eligible, except that no two persons of the same family, or even the same name, could be elected at the same time.

The council kept profoundly secret all its proceedings. The accused and accusers were never confronted with each other. The death sentence was sometimes inflicted in public, and sometimes in private. Sometimes they acted arbitrarily, and without any regard to law; at others, according to rules which they had laid down for their own guidance. They used the torture, applying it both to the party and the witnesses. There was no appeal from their sentence, and the members were not responsible for their conduct, either individually, or as a body.

In order to secure even more efficient action, three of its members held in succession, for three months, the office of inquisitors, with power to order the instant execution of any citizen, not a noble, and to inflict upon nobles themselves, any punishment short of death.

This system led naturally to the employment of spies, and secret informers. It was not even necessary that they should be seen by the council or inquisition. All that it was necessary for them to do was to throw their accusations into boxes, called from their form lion's mouths, which were placed in different parts of the city, the keys of which were kept by the inquisitors. The punishments they ordered were always inflicted secretly in the prisons.

Although the council of ten exercised this immense power, yet, what is very remarkable, it never once made the attempt to usurp power, by continuing its own existence, or to erect itself into a body independent of the grand council. When the grand council omitted, as it sometimes did, to reelect when the term expired, the council of ten submitted, and, until a new election, there was an interregnum in the office. The whole theory of it, in truth, was, that it was a provisional remedy, a kind of committee of public safety, a dictator, to act for the time being, as the exigences of things required. The lion's mouth was always open, and the council, by its profound secrecy, and its unprecedented suddenness of action, suppressed all plots and conspiracies at the moment they were hatched. It struck unseen, and its power was an ever present reality. Although in its nature provisional, and even violent, yet, with occasional interruptions, it was continued for centuries. The secret of this undoubtedly was, that the common people, being removed from all power, and entering, therefore, into no plots or conspiracies, felt little, if at all, its terrible tyranny. With them, therefore, it was popular. The nobles, among whom plots and conspiracies to attain power would otherwise have been frequent, felt that the institution was necessary in order to preserve the aristocratic form of government. It was, therefore, preserved by them because they were all interested in continuing that form of government.

In the grand council, and its provisional delegate, the council of ten, resided all that was effective in the Venetian government. They exercised the real power. Everything else, all other authorities were subordinate. Even the doge was merely an officer of rank, with no real power, and even very little influence. His mode of election from 1249 to 1798, when the republic terminated, 549 years,

was very curious and very complicated, more so perhaps than any other in any form of government.

"First of all, thirty of the council were drawn by lot, and these again were reduced by lot to nine, who selected, by a majority of seven at least of their number, forty of the council, and those were by lot reduced to twelve. These twelve elected twenty-five of the council, which were reduced by lot to nine, and the nine selected forty-five,[1] of whom eleven drawn by lot selected forty-one of the council to be electors of the doge. A majority of twenty-five of these electors was required to join in choosing the doge."

The power of the doge, thus elected, was very trifling. He was bound in all things, by the advice of the signoria, or little executive council, consisting of six members, and these, although originally selected by him, yet from 1229 the choice was vested in the grand council, who elected them only for eight months, and, during that time, they formed a part of the council of ten. The doge could neither receive foreign ministers nor open dispatches except in the presence of the signoria, or little council. On his election the doge was required to take an oath, which, in fact, amounted to a renunciation of all power and prerogative. So important was this deemed that five magistrates, called correctors of the ducal oath, were created by the grand council to receive the oath, and correct it when required. So also, another singular institution, three other magistrates were created, called inquisitors of the late doge, whose duty it was to examine into his conduct, and in case he was found to have violated either the laws or his oath, not only to condemn his memory, but also to fine his heirs.

[1] *Brougham*, II, 270.

There was also another singular institution, viz: three magistrates appointed for the express purpose of watching over all the laws, and restraining all violation of them, whether by the doge, nobility or people. They were termed avogadors of the community, and were authorized, at any time, to bring the conduct of the doge before the grand council. Under all these limitations and restraints, the doge was little more than the presiding officer in the councils, with the right of proposing any measure without the previous assent of, or communication with, any other authority.

As to the administration of the government, the most important council was the pregadi, over which the doge presided, which after 1229 became a senate, composed of sixty, elected by the grand council. This was afterwards increased until it included the council of ten, all the ministers, the criminal council, in fact all the important members of the great council, numbering in later times about three hundred. It, therefore, came very fully to represent the great council, and in it the most material deliberations of the government were conducted. Resolutions were there taken for making peace or declaring war, choosing councillors, appointing embassadors, regulating trade, directing expenditure, and imposing taxes. The substantial power, however, over its deliberations and results, was still exercised by the council of ten.

The body next in importance was the college of which the signoria, or the doge and his six councillors, formed the principal members, there being added about eighteen others, the chiefs of the quarantia, and ministers of different departments. Here were received all foreign embassadors and the dispatches and petitions addressed to the government.

The judicial power at first belonged to the doge, but was taken from him in 1173. In 1179 the criminal jurisdiction

was vested in a council of forty, called the quarantia, to distinguish it from two others, also composed of forty each, and exercising criminal jurisdiction. All these bodies were chosen by, and out of, the great council. Their secretaries, as also those of all the councils, might be commoners, about the only office accessible to the commoners.

The most important offices under the republic were those of the provinces. The governors and judges appointed here were at all times Venetian nobles. They were appointed by the ruling powers in the great council, but only for a limited time. Three of these provinces, the Morea, Candia, and Cyprus, were always termed subject kingdoms.

Although the republic was much devoted to war and conquest, having always held possession of distant territories, yet it never would have an army of its own citizens, nor would it ever suffer a Venetian to command its land forces. Its soldiers were hired from the different Italian states. They were never allowed to enter the city. The general was always a foreigner, under the control of two councillors appointed for that purpose.

The navy, however, was chiefly manned and officered by Venetians. The council of ten must have deemed themselves competent to cope with the ambition of naval commanders, but not perhaps with that of the two combined.

In regard to finance, the burden of taxation fell very lightly upon the inhabitants of Venice. The public expenditure, in all ordinary times, was defrayed by what was drawn from the provinces and foreign dominions.

It is well worthy of remark, how the aristocracy of Venice, became, in the course of time, a real oligarchy; that is, a government vested in a few aristocratic houses.

A noble could not, without disgrace, follow any profession but that of arms, or public employment, and that of arms was limited to the navy. The law forbade the exer-

cise of trade, and prohibited the holding more than one office at a time. The Venetian nobles could form no foreign alliances, although they might contract marriages with wealthy mercantile families.

Under these circumstances, it could not but happen that great differences in regard to wealth, would very soon occur. The four hundred and eighty nobles that at first composed the grand council, probably embraced nearly all of noble rank in Venice. But the number was constantly increasing, while the accidents of life, and the small opportunity of making property, soon created a division of the order into rich and poor. The number increasing to about thirteen hundred, many of them, although invested with the whole privileges of the order, were, nevertheless, reduced to the lowest poverty, and were compelled to lead a miserable and dependent life, mere pensioners upon the charity of the state, or serving their wealthier brethren in almost a menial capacity. It was reckoned that no less than five hundred received public charity, and several hundreds besides had nothing that could be called an independent fortune. Yet the names of all these are inscribed in the golden book, equally as the wealthiest, and they all equally had votes in all the elections.

While the nobility consisted of so large a number, there were only about sixty families who really possessed sufficient influence ever to be chosen as members of the government from their wealth and rank. Thus an aristocracy existed within an aristocracy, or what would probably be better expressed by an oligarchy, in which we have an hereditary body of sixty families, in whose hands the whole powers of the government were placed.

Thus, in Venice, we have the instance of a singularly curious constitution of government. It is a civil structure

that we look in vain elsewhere to find. It is the purest instance of an aristocratic or oligarchic form of government anywhere upon record. Its greatest peculiarity consisted in its elevating that feature, the council of ten, which was naturally merely a provisional remedy, into a permanent part of the government. The consequence was that it checked all plots and conspiracies in their very bud, and there is perhaps, no instance of any government existing for a series of centuries, having fewer of these than Venice.

Neither, if we except Rome and England, and even these may be doubtful, have we an instance of a government conducted, for so long a series of centuries, with sounder political wisdom, or that carried out a more uniformly consistent course of policy, with a greater measure of success. We have seen in the element of industry that its merchant princes controlled, for centuries, the commerce and industry of the world. Neither did her government decay. It was when the discovery of the road to India around the Cape of Good Hope ruined her commerce, and destroyed the sources of her wealth and prosperity, that her power waned, and ultimately her existence terminated, and she became what she now is, an Austrian province. And yet her government was always abnormal, always provisional, always a government of force, always a tyranny. But it was a tyranny self-imposed and self-continued by the aristocracy, in order to secure their own continuance. It was a government that pursued steadfastly its own selfish policy; was heartless, cold-blooded and calculating in all its measures, totally regardless of everything that would not tend to its own perpetuity, and the ultimate triumph of Venetian policy. It was a government, in fine, that may have had many admirers, but has had no imitators.

The government of Venice, on account of some of its remarkable and peculiar features, its long continuance, and the important part it performed in European politics, is beyond that of all the other Italian republics, the most important to be fully understood. The other so-called Italian republics, the Lombard, and Tuscan cities, the principal of which are Milan, Genoa, Florence, and Pisa, will come up for a very brief consideration under the next head, which relates to the development of the burgher force in Italy and other places. The aristocratic force, it is true, is found pretty largely influencing those governments, but even that is as much or even more derivable from the burgher force as from the feudal system.

The once government of Poland, sometimes termed a kingdom, sometimes a republic, and neither clearly one nor the other, presents itself to the political philosopher as a subject of study rather for avoidance than imitation. Although now erased from the map of Europe, yet in name and in idea it still exists, and ever will, to proclaim the injustice of Russia, Prussia, and Austria, who have enriched themselves by its dismemberment, as also to furnish by its form of government a warning to all nations never to endanger their political existence by the adoption of similar institutions.

The feudal polity once prevailed here, although it was not reduced to so regular a system as in most other European countries. There were here no great fiefs as in France and Italy; the division of land was very unequal; the more wealthy possessing the largest estates, and exerting the most influence; but all owning estates were recognized as the ruling order.

We shall get a clear idea of the Polish system of government by considering:

1. The noble, his special privileges and powers.

2. The diet. Its component parts, senate and chamber of nuncios.

3. The king, his election and powers.

1. The chief, if not all, the real power was lodged in the body of nobles, each one of whom enjoyed immunities of a very extraordinary kind. He alone could hold landed property. He had a right to all mines and minerals on his lands. He exercised jurisdiction over his peasants or vassals, even to the extent of life and death. His house was an asylum protecting from arrest all malefactors, and all debtors, although he assumed some responsibility by affording such protection. His own person was sacred. He could only be arrested upon judicial conviction of a crime, or if taken in the act. No great office could be held but by a noble. The principal great offices were:

First. The palatines, who were governors of provinces, and chiefs of the nobles within their respective bounds.

Second. The castellans, who were originally the lieutenants of the palatines, and became afterwards invested with equal powers, only in smaller districts.

Third. The starosts held offices attached to lands originally domains of the crown. These offices were a species of government, often conferring both civil and criminal jurisdiction, and they were valuable in point of emolument. All these were conferred by the crown.

Every noble had an equal voice in exercising the functions of the government, in the fact that he was a voter in the election of representatives, called nuncios, to compose the chamber of nuncios in the diet. This choice was made in the provincial assemblies, or lesser diets, called dietines.

Every noble became such in one of two ways: 1. By being born of noble lineage. 2. By having it conferred upon him by the united voice of the three states composing the diet, viz: the king, senate and nuncios. The

body of nobles, therefore, strictly constituted an aristocracy, no person obtaining admission into it except by birth, or its own consent first expressly given.

2. The diet, composed:

First. Of the senate. This was a body nominated by the king, consisting of one hundred and thirty-six members, who held their places independent of the crown; seventeen of them were prelates. Ten great officers of state had also their seats in the senate. The senators had constant access to the king's person. Indeed, without the presence of at least four of them, the king could do no act of state. A somewhat similar provision we have seen apply to the doge of Venice.

The functions of the senate were to preserve peace and union among the various provinces or the palatinates and castellanies; to assist at the diet; of which, in its legislative capacity, it formed an integral part, although it was not until the middle of the fifteenth century that it was recognized as a body separate from the representatives or nuncios. Its consent was required for the making of any law, as fully as was that of the king or the chamber of nuncios. The convocation of the senate was by the king only, unless illegal proceedings were taken by him, and in such event the primate might call a meeting.

Second. The chamber of nuncios. This was chosen by the dietines of the provinces, and represented the nobles. The number was one hundred and sixty-eight, provided the electors in each of the sixty-four districts were unanimous. All the nobles claimed the right to attend the meetings of their representatives, and even to interpose their opposition, and protest to the choice of the marshal or president of the chamber.

The diet, composed of the senate and chamber of nuncios, could make laws, determine questions of peace, war,

or alliance; levy taxes, raise troops, coin money, confer nobility, and naturalize foreigners. To it was confided every function of government not performed by the king alone. A very singular anomaly in its proceedings is witnessed in what is called the liberum veto. The effect of it was to require absolute unanimity to give any vote force and effect; so that if any one of the many parts or chapters of a law, or even if any one law of the many discussed at a diet, was rejected, the whole legislation of that diet fell to the ground. It led to the absurd necessity of adopting all or rejecting all. The diet could continue only six weeks, so that this singular and perfectly anomalous provision had the effect often to entirely annul all the proceedings of the diet. As some slight compensation for this,the king could convoke extraordinary diets upon emergencies, to continue three weeks, and also in case a diet had failed in coming to any useful decision, in consequence of the veto, a majority of the chambers, might, with the assent of the crown, turn the diet into a confederation. If without the royal assent, the confederation took place, it was called rokosr. In such case, and sometimes in case of regular confederations, there were reconfederations, or anticonfederations, leading to a civil war. The king had the power of convoking a senatus concilium, or senate, deliberating under his presidency; but its decrees only had the force of law temporarily, and required confirmation by the diet.

3. The king, his election and powers. The decease, abdication, or deposition of a king, caused an interregnum. The ordinary administration of justice was suspended, except as to the disposition of criminals. The generals only guarded the frontiers. The national forces were feeble, and foreign invasions with difficulty repelled. The foreign ministers were formally desired to quit the capital, which

they very regularly refused to do. The primate was viceroy, or interrex, during the interregnum.

The election was a political curiosity. The king was elected by the whole body of the nobility. They all, in complete armor, marched forth from their various castles and at the head of their retainers and dependents, and by different routes reached Warsaw, often one hundred and thirty thousand, sometimes two hundred thousand strong. When arrived there, they encamped on the great plain of Vola near the capital, where they remained during the period of the election, which lasted six weeks. In the centre and hemmed in by this army of nobles, were the nuncios, one hundred and fifty in number, who were deputies sent from the various dietaries, and were called rota equestris.

The election diet commenced with a statement of grievances, called exorbitances or complaints of the infractions of the constitution during the late reign. These were discussed fully by the rota equestris, the discussion usually ending in a resolution to exact some new concession from the new king. During all the period of discussion the rota equestris were liable at any moment to be changed at the will of their constituents who were encamped around them. The deliberations were wholly conducted by the rota equestris but the elective vote for the king was given by them together with the whole body of nobles.

The sovereign elected, and who obtained the crown, possessed considerable power. His revenue for his personal expenses was sixty thousand pounds a year. He had the nomination to all the great offices of which there were forty-eight, ten of the highest having places in the senate as well as in the council of state. He appointed all the military offices. He had the exclusive patronage of all the seventeen bishoprics, and of all the greater livings.

He gave away the vacant starosties, and gave or refused the succession of deceased starosts to their families. He granted privileges to towns not interfering with the rights of nobles. He distributed orders of knighthood, and bestowed titles of nobility on foreigners, but could grant them no right or privilege thereby. He received foreign ministers in the presence of the council, and appointed embassadors, but they could neither make alliances, nor treat of peace and war. The generals and ministers held office until they chose to retire or were removed by the diet. He also had the nomination of the senate.

The administration of justice was singularly conducted. Until late in the sixteenth century, the king was the sole judge of important cases both civil and criminal, and he was accustomed with his suit to go round the kingdom to exercise his office. The judicial power finally came to be lodged in the hands of judges, who were elected at the several dietines by the nobles, and at the chapters by the superior clergy. The persons of the judges were sacred, and their places lucrative. An appeal lay from them to the diet, which was not only a court of review, but had original jurisdiction in cases of treason and peculation.

The military organization was almost the worst possible. It was little more than a continuation of the old feudal regime. All the cavalry, men as well as officers, were nobles. Each could bring three servants to attend him, each almost on an equal footing with his master. The servants were all armed and took part in the fight. Every noble was admitted to the general's table. The nobles, however poor, did not serve in the infantry except as officers. The armed state of the nobles, their great number, and high privileges, almost exempting them from the control of the law, made the country a prey to the worst form of anarchy, that of a military mob. The diet

alone could call out the pospolite (or levy of aniere-ban), and, on its being summoned, all ordinary administration of justice ceased, the king alone and senate exercising judicial functions, and martial law being administered by military tribunals.

Such substantially was the constitution of Poland. It was a government always weak, always distracted by intestine broils, always open to the intrigues of foreign diplomatists, and overawed more or less by foreign forces. At last its own inherent weakness became such, that by successive acts of partition its whole territory was absorbed into, and became component parts of Russia, Prussia and Austria, and thus the nationality of Poland has completely died out.

Another government which presents itself in European history as largely aristocratic in its composition is that of Hungary.

This country in the ninth century was conquered by the Magyars, a people from central Asia, who reduced the former inhabitants to a state of slavery, dividing the lands among their chiefs. It is not clearly settled whether the feudal system was ever introduced into Hungary, but the general impression is, that although not in operation in all its details and refinements, yet that its substantial principles have been in operation there. In speaking of the Hungarian government I shall of course refer to it previous to its recent absorption into the Austrian empire.

The nobles, originally a select few, have for a century past been very numerous. They are now estimated at a million and a half in a population of nine millions and a half. A fact tending greatly to their increase is that on the death of the lord the land is equally divided among his sons, reserving to the youngest the benefit of a house. But although all these possess the same legal rights and ex-

emptions, yet the real power is exercised by a comparatively few wealthy individuals.

The privileges enjoyed by the nobles were of two kinds: cardinal and non-cardinal. The latter are chiefly made up by the privilege of possessing lands, the right of selling upon them certain articles, and of being exempt from having troops quartered upon them.

The cardinal were more numerous and valuable. They consisted in holding lands free from all direct taxes, tithes and tolls. The only service he is bound to perform is to attend upon the levy when the bann or insurrection is called out on an invasion. His person and house are sacred. The former could not be arrested prior to conviction unless taken in the fact.

Prior to 1222 the magnates, or higher nobles, oppressed the inferior, but a charter, called the bulla aurea, was then exacted from king Andrew and the higher nobles, conceding the privileges of the nobility to the whole order, containing also other stipulations, and among them a similar one to that contained in the British magna-charta wrested about the same time from king John, viz: a stipulation of resistance in case the other provision should be violated. That was only omitted since the year 1687.

The theory of the Hungarian constitution devolved the supreme power upon the diet, or general assembly of the orders. This was composed of three great branches, the prelates, magnates, and delegates of the inferior nobles and the free towns. The first were thirty-six in number, the second, the six or seven hundred, although comparatively few attended, the two forming one chamber; the upper chamber. The third were chosen by the inferior and numerous nobility, and also by the forty-six counties, and the free towns. Those from the towns were under the influence of the crown, and for that reason their right of

voting has been taken away. These composed the lower chamber.

The crown alone can convoke the diet, but the law requires its assembling once in three years. The same diet has been known to sit for three or four years. There were, at least, two constitutional anomalies: One, an uncertainty as to what part of the magnates the right of voting resides in; the other, that the nobles, like those of Poland, claim the right of attending in person, and of taking part by cheering and other interruptions, although not the right of speech or protest.

The upper chamber had only the right of assent or refusal to the resolutions of the lower. It could originate no measure. The two chambers formerly sat together. They only separated in 1562, the hall where they assembled being too small to contain both. But when the chambers differed, they had recourse to a mixed sitting, in which both sit, discuss, and vote together.

It was accounted the function of the diet to legislate, to levy taxes, to distribute them for collection among the different districts. Most of the revenue, however, was raised by indirect taxation.

The local administration in Hungary was worthy of note. The forty-six counties had each its local administration, changing their officers once in three years. The local officers were charged with the execution of the general laws. Of these officers, the crown named the lord lieutenant; the others were chosen by the nobles of each county.

The county meetings were attended by all the nobles and ecclesiastics. Besides the direction of local matters, they put in force all the decrees of the diet. They were bound by these decrees, although not necessarily by the royal ordinances, which, if they found contrary to the

national rights, or noble privileges, they laid aside, and neglected to enforce them. Thus, each county formed a kind of separate state, and Hungary has been by some deemed a sort of federal monarchy.

Even the government of the towns was placed in the hands of a senate and council, who were self-elected.

There was a power we have not yet referred to, that of the crown. The king had the exclusive appointment of all officers, civil, military, and ecclesiastical, except those whose election he shared with the nobles, and except the palatine, who presided in the upper chamber, and was chosen by the two houses. He also granted privileges of nobility at his pleasure, except to foreigners. All hereditary titles flowed from the crown. He had the right to pardon all convicts. He had the unrestricted control of all expenditures of public money, without rendering any account to the diet.

The limits of the law, making prerogative, so far as concerned the king, do not appear to have been very clearly defined. The enactments of the diet were undoubtedly of acknowledged binding force. And so also, in some cases, were the laws proclaimed by the sovereign. In 1764, Maria Theresa, having in vain endeavored to obtain from the diet, a law relieving the condition of the peasantry, issued her famous urbarium, partly declaratory, and partly enactive, by which great changes were introduced into the condition of the lower classes.

Their previous condition was truly deplorable. The nobles were the only body recognized by the constitution, the only body, in fact, ever recognized by it. The word people, populus, was confined to the nobles, clergy, and citizens of free towns. The remainder of the community, the great masses, were peasants, plebs, sometimes termed plebs misera contribuens. They were originally restricted

to the soil, but, in 1405, a law was passed permitting them to quit with the lord's leave, and that not to be arbitrarily or capriciously withheld. At the beginning of the sixteenth century they were reduced again to complete servitude by a law which was repealed in 1547, reenacted the year after, and modified in 1556.

By the urbarium of Maria Theresa, 1764, the peasant could leave his land, provided his debts were paid, and there was no criminal charge against him; but his lord could not remove him. A certain portion of land was allotted to him; his money payments greatly reduced, and his labor and services were fixed at certain times. The power of inflicting corporal punishment was reduced to the bestowing of twenty-five lashes. The obligation to grind at the lord's mill was abolished. The peasants' land could not be taken by the lord, unless for building his own house upon, and then land equivalent should be given in return. The peasant was also allowed to take wood in the lord's forest, for his needful occasions.

Still all causes, those between lord and peasant as well, were triable in the lord's courts. But the new urbarium of Metternich, in 1835, removed this cause of complaint, by providing that all questions arising between lord and peasant should be tried by a new court, composed of the district magistrate, and four disinterested persons. He also abolished all right of inflicting corporal punishment, restricting the lord's court to imprisonment for a term not exceeding three days, in case the peasant failed to perform his services.

The first Hungarian kings were the descendants of their principal leader, Arpad. After the lapse of nearly four centuries, the house of Austria obtained the supremacy, and occasionally the kingly power; but it was not until the latter part of the seventeenth century, that the crown

formally belonged to her, and only since 1711, that she has held it without dispute. Ever since the last mentioned date, the emperor of Austria, by virtue of being such, is also king of Hungary; but, until 1848, he was a constitutional king, reigning under the constitution we have briefly described. At the last mentioned date commenced the Hungarian struggle for independence; the diet was dissolved by the emperor, and martial law proclaimed. After a severe contest for about a year, through the interposition of Russia, the Hungarian armies were subdued and surrendered, and the war was terminated by the complete subjugation of Hungary, and the annihilation of her former constitution. She may now be said to form a component part of Austria.

In England the aristocratic force, the remnant of feudality, is concentrated in the nobility, which is represented in the government, forming a component part thereof, in the house of lords. The nobles of England are the descendants of the old feudal barons, and such additional ones upon whom patents of nobility have been since conferred. The rule of primogeniture, descent to the eldest male born, which has ever been the common law of England, together with the entailment of estates, have operated to prevent the multiplying of the nobles to an indefinite extent, and also to preserve the old estates in the same family during successions of generations. The part performed by the house of lords in the workings of the British government will be seen when that element as applied to Britain comes to be considered.

The Germanic constitution, that anomalous governmental outcrop not alone of the aristocratic force, but also of the burgher, and royal; that puzzle of political philosophers; that key, the knowledge of which is so essential to an understanding of European history, comes now up for

consideration. It is important, however, to bear constantly in mind that this constitution has itself a history and a progress, and exhibits different phases at different periods of European history.

There is also an additional interest attached to this for the reason, as we have already seen, that Germany is the mother of nations. It was amid her forests that were reared the men and the institutions that have exerted such a commanding influence over the destinies of mankind.

The feudal system early existed in Germany. When Charlemagne conquered it, he established himself as emperor, and made the title hereditary in his family. Thus it continued until 911. At that time Germany was under the dominion of counts, each being sovereign in his own dominion, and they then rendered the emperor elective, that is, they elected one of their number, to whom they gave the title of emperor. Thus it continued sometimes in one family, sometimes in another, the counts thus electing being called the electors, until 1250, when an interregnum of twenty-two years took place, all the localizing, disorganizing effects of the feudal system being then experienced to their extremest limits.

At length in 1273 the choice fell upon Rodolph of Hapsburg, then an insignificant prince, and elected because he was thus insignificant, who was the founder of the house of Austria, in which house the imperial dignity continued with scarce any interruption down to the year 1806.

We have, at this point of time, 1273, presented to us a fair sample of a feudal monarchy, except that it was an elective monarchy. There was the same combination under one head, the same independent power of each over his own territory, the same relations between each as fellow subjects of a superior prince. Here commences the point of divergence. While the other kingly governments of

Europe were growing compact, the force of royalty increasing, and that of aristocratic feudality diminishing, Germany, instead of becoming like France and England, one state, governed by a single head, continued, with a powerful territorial nobility, to be a collection of independent states, each forming a monarchy within itself, at the same time that it constituted a member of a league or confederation under a head possessed of no great power, the whole being regulated by certain laws both in their relations to each other, and to the superior head. It, in fact, presents us with a federal government or union of monarchies. Our main object here will be to examine the federal constitution, with but little, if any, reference to the states themselves that help compose it.

The Germanic constitution rested upon four grounds:

1. The golden bull issued in 1356 regulating the manner of electing the emperor, fixing the number of electors at seven, and regulating their rights.

2. The pax publica, issued by the assembled states, at Worms, in 1495, the object being to terminate the right of private war, and to restrain the abuses of feudal power by the barons. This was sought to be attained by placing whoever violated the public federal law, under the ban, that is, exposed to the combined hostility of the rest of the states, acting under the requisition of the emperor.

3. The pax religionis, issued by the diet in 1555, which established general toleration to all who either should conform to the catholic religion, or to the confession of Augsburg, and regulating ecclesiastical rights in general.

4. The treaty of Westphalia in 1648. This, more than all others, established on a strong basis, the Germanic constitution. It regulated the titles to dignities and benefices, which might become vacant by the party changing his religion; established the right of the electors, princes,

and states of the empire, to refuse to give their consent to all laws of the federal body; prohibited the declaration of peace or war on the part of the empire, the formation of alliances, the raising of taxes, or of troops, or the erection of fortresses, without the consent of the same powers in diet assembled. It also recognized the right of those free towns, called the imperial towns, which had obtained an independent state during the interregnum, and which claimed and were allowed a place in the diet, or states-general, or great parliament of the empire. It required the consent of the electors, before the emperor could put any one under the ban; and, in 1742, this veto was extended to the other component parts of the diet.

Thus, we have the instance of a federal nation, consisting of kings, princes, and imperial cities, each being independent of the emperor, and of each other, the Germanic government being an association, or league, in which the members governed themselves, agreeing only, for the sake of acting in concert, that the majority should bind the minority, and the decrees of the whole be executed by the chief.

But these restrictions upon the emperor were not deemed sufficient. It was the practice at every election to require the emperor to sign a capitulation, by which he bound himself to govern according to the laws, and also according to such rules and maxims as, at each election, were prescribed. This power of imposing conditions grew out of the right of election, the right to regulate the exercise of the power that was given. The electors preferred exercising this power at each election to the enacting a general code of rules for the guidance of the emperor.

The electors were originally seven: margrave of Brandenburg, afterwards king of Prussia; duke of Saxony; count palatine; king of Bohemia; and three ecclesiastical

princes, the arch-bishops of Metz, Cologne, and Treves. Some changes were subsequently made, introducing Hanover, Baden and Wirtemburg, and uniting Bavaria with the palatinate.

The electors made choice of the emperor, generally at Frankfort, by a majority of votes. They then made him sign the capitulation, and crowned him at Cologne. The practice was, during the emperor's life, to choose his successor, who was called king of the Romans.

The great diet of the empire consisted of three orders, or colleges, the electors, the princes, and the free imperial towns. The princes were both ecclesiastical and secular, the former consisting of twenty, viz; three prince-bishops, four prince-abbots, and two prince-prebendaries, each having a vote, the remainder composing two bodies or benches, each bench having one vote. The secular princes comprehended not only princes, each of whom had a vote, but also counts and barons, formed into four benches, those of Franconia, Suabia, Westphalia, and Wetteravia, each bench having one vote. There were forty-five votes of princes of the ancient houses, and thirteen introduced subsequently to 1582. One family, possessing itself of several states which had votes, acquired all their votes. The right of the counts and barons to sit depended on their possessions or seignories. A certain rate of tax was required for their admission, and also the consent of the emperor, and the electors, and college and bench. Once admitted, the right of sitting was hereditary.

The free imperial towns, constituting the third college, were those which had become such through the operation of the burgher force, having obtained their charters and privileges in the same way we shall hereafter mention. The sovereignty of these was recognized by the treaty of Westphalia. Each town had its senate, its members some-

times taken from the nobility, sometimes from the citizens. Each sent a deputy to the grand diet, the whole forming two benches; one of the Rhine, representing fifteen towns; the other, of Suabia, representing thirty-seven, each town having one voice.

The emperor issued his letters patent to each state separately, to convoke the diet. The last summons was in 1663, to convene the diet at Ratisbon, where it continued to sit until the extinction of the Germanic constitution in 1806. Upon all religious questions, the protestant and catholic states separated into two bodies, and could only come to a decision through negotiation, there being no umpire, and nothing to compel a compromise, except the fear of having recourse to arms. This finally resulted in a permanent separation of the states into two parts, the catholic and the protestant. Upon all matters of a secular kind, the majority of votes decided.

The college of towns, like those of electors and princes, deliberated within itself, and had the right to present any measure as the result of their deliberations; but, what was a singular provision, the free towns were excluded from all voice in the ultimate determination of any question. When such a measure was presented, the princes and electors joined in one chamber, and resolved either to accept or reject the measure. If accepted, the approval of the emperor was still required to give it the force of a law. The diet, also, decided upon questions of peace and war, and of foreign negotiation.

In regard to the mode of administering justice, there was:

1. The aulic council, named entirely by the emperor, consisting of two benches, one of nobles, the other of learned men and lawyers; its jurisdiction in appeals being concurrent with that of the imperial chamber.

2. The imperial chamber of Westphalia, was a high court of appeal from all those parts of the empire where the sovereign had not the right of jurisdiction. This body was independent of the emperor, being named by him with the consent of the diet. It consisted of seventeen judges, princes, and lawyers. Its decisions were according to the laws of the empire, the civil or Roman law, and the customs or laws of the particular state, where the original judgment was pronounced. Its jurisdiction was appellate, except when disputes arose between different independent states of the empire, which were not otherwise determinable.

It is obvious, however, that in deciding between conflicting states, a force was wanting to compel submission. This was attempted to be supplied by the division of the empire into circles, each of which had its assembly of states, where titular, as well as territorial nobles, sat; both its director, who convoked the states, and its military force, being at the disposal of the states and of the empire. The states of each circle were bound to aid the diet, and its executive officer, the emperor, in enforcing the laws made by it, and the decisions pronounced by the chamber. The standing army of the circles was required to be thirty thousand foot, and ten thousand horse, but in times of war this was increased.

The revenues of the empire formerly amounted to near a million sterling. The emperor, on his election, was formerly accustomed to give up to the empire, all his family estates within its limits. The imperial domain thus became extensive, but the extravagant alienations of successive princes, and other causes, subsequently reduced the revenue to a small sum.

The prerogatives generally enjoyed by the emperor were the following. He had the right of submitting proposi-

tions to the diet;[1] of negativing its resolutions; of naming embassadors, of conferring dignities and titles; of filling vacant electorates; of founding universities; of granting privileges not injurious to the states of the empire; of receiving and applying the public revenues; and generally of watching over the public safety.

No very complete idea of the Germanic constitution can be acquired without a knowledge of the principal powers whose union essentially aided in forming the great German confederacy. Of these the first in point of importance was Austria. We have already seen in the sketch of European history how the Austrian power was gradually built up by successive accretions of territory acquired in different ways, but principally by marriage, descent, and conquest. Were these different territories united in a federative league and with a constitution similar to the Germanic, we should have presented on a smaller scale one Germanic confederacy within another, a sort of imperium in imperio. But the Austrian union is made to centre in the absolutism of the Austrian emperor.

One of the component parts of this empire is the kingdom of Bohemia, which, as we have already seen was secured to the house of Austria by the marriage of Ferdinand the brother of Charles V, with the sister of Louis, the last of the house of Luxemburg, who died without issue. This was in 1527. The great body of the people here were in early times, in a state of slavery, even below the condition of the serf, for they were not attached to the soil, but were subjects of bargain and sale like cattle.

The power of the crown in Bohemia is substantially absolute, with the exception that he must obtain the consent of the states to impose new, or additional taxes. The

[1] *Federalist*, 102.

states are composed of four orders, the prelates, the territorial barons, the titular nobility, and the twenty-seven royal towns, the latter having but one voice, while each of the other orders has four. Although a yearly convocation of the states is required, yet the king alone can call it; he alone can prorogue it, he alone can bring forward any matter for its deliberation, so that they are never likely to be convened unless the king's necessities require it, or he is desirous of enacting a new law, and fears to do it without their sanction.

The ordinary administration of the kingdom is in the hands of six tribunals; the administration of justice is entrusted to two baillis in each circle or division of the kingdom. All these officers are appointed by the crown, and are removable at pleasure, so that they can be regarded but as the mere instruments through whom it exercises its power.

The abolition of servitude and villanage was effected in Bohemia, as in all the other Austrian states, by the edict of Joseph II, but the peasants are still subject to various feudal services. The whole male population of Bohemia is subject to military service.

The other Austrian states in Germany are constituted much the same as Bohemia. Although in all parts of the empire the consent of the states is required to raise a new tax, yet in the Tyrol the principle seems to be the most clearly recognized and acted upon, as their consent is formally asked, and the right to refuse it is clearly recognized. In the duchies of upper and lower Austria the states do little more than apportion the sums to be levied among the different towns and baronies. So also in the Tyrol, a diet of the states is held every two years, composed of deputies of the different orders, and to this body all public functionaries are required to account for

their administration. But the authority of the crown is still well supported here from the great weight it derives from its other dominions.

The power next to Austria, the most important as a member of the Germanic confederacy, was Prussia. This also is a monarchy formed of many states scattered in detached portions over the large extent of country extending from the Baltic to the Alps, and from the Vistula to the Rhine. It originated from the marquisate or margraviate of Brandenburg, the government of which was aristocratic and feudal. We have already seen how it grew gradually into a great kingdom.

In all the countries which successively fell under the Prussian crown,[1] and became incorporated into the Prussian kingdom, there existed the same kind of government by states, together with the prince, whose power they limited, as in the other principalities, which arose out of the feudal system. But the king was constantly deriving increased power from the new dominions that were unceasingly being added to the kingdom. He was, therefore, gradually enabled to dispense with those assemblies, first by controlling them, then by rarely appealing to them, and ultimately by never calling them together. Even in Brandenburg itself the acquisition of the duchy of Prussia early in the seventeenth century enabled the king to dispense with the states. And this will readily show how small states having constitutions may easily have them broken down and destroyed when they become component parts of a large kingdom having at its head a despotic monarch. In this case, early in the seventeenth century, a council was formed which consisted of the ministers of justice and finance and two other great officers. The

[1] *Brougham*, I, 522.

government was carried on by the sovereign in conjunction with this council. From it, all edicts proceeded, and it acted as the regency in his absence. The power of this council was greatly reduced by the great elector in the course of the same century.

Under Frederick II, the Great, was enacted the Frederician code, by which a uniform system of jurisprudence came to be adopted and extended over all the different parts composing the Prussian monarchy. He also introduced improvements into the modes of judicial proceedings, established schools, and promulgated laws ameliorating the condition of the serfs. He emancipated the serfs upon many of the royal domains, and his example was followed by other proprietors.

But although many reforms were introduced, yet the government of Prussia was essentially despotic in its composition and action.

When, in 1806, Prussia was overthrown by Napoleon, and the kingdom of Westphalia erected upon its ruins,[1] he abolished all exclusive privileges, abrogated villanage, and proclaimed the absolute equality of all the subjects of the state in the eye of the law. But that kingdom was of short duration, and the downfall of Napoleon was signalized by the revival of the Prussian monarchy.

Frederick William III made important reforms, commencing by an attack upon the remnants of the old feudal tyranny. Nearly all the real property in the country was of a description called noble, and none but nobles could hold this. He abolished this restriction, enabling all persons to acquire and hold property of any description. He also established municipal corporations, by which the local affairs of the towns were administered by magistrates

[1] *Brougham*, I, 525.

elected by the people, all classes and sects having an equal right of choosing or of being chosen. Exclusive privileges of trade were also abolished, and military employments, hitherto confined to the nobility, were rendered accessible to all. The feudal system, or very important portions of it, long held its sway in the Prussian states. Between 1809 and 1811, all that remained of that system was abolished. The emancipation of the serfs was completed, all rights of private jurisdiction attached to property were extinguished, and the peasant was placed in the eye of the law upon the same footing with the noble proprietor. In addition to all these reforms, a system of universal education has been established, which effectually provides for the elementary branches of education being taught to the whole people.

Notwithstanding, however, all these reforms, the king is still absolute. He indeed feels restrained by the laws which have been made, but he may at any time, alter them. He may, if he chooses, diminish, or even entirely abolish, all the restraints under which he now exercises his prerogative. But even without changing the law he has it in his power to oppress one individual and favor another contrary to justice.

For the purpose of stirring up the people against France, and of restoring the Prussian government, the people were promised a representative constitution. This promise has never been performed, and much discontent exists in consequence among the Prussian people.

Another member of the Germanic confederation was Saxony. The Saxon states consisted of three orders:

1. Prelates and princes, or heads of certain great houses, who sat in person.

2. Nobles, one portion sitting in person by right of holding certain lands. Another were deputies chosen by the other nobles in each district or baillage.

3. Towns, to the number of a hundred and two, represented by deputies.

These states met once in six years, and on the succession of a new elector. Their power was chiefly derived from their right of voting supplies, as they availed themselves of these opportunities to stipulate for a redress of greivances, which, when agreed to by the prince, had the force of a law until the next assembly. During the intervals of the meetings, there were two deputations or committees, one of forty-two chosen by the nobles, which named the other, consisting of sixty; the former sitting every two years, and the latter only called upon to meet upon extraordinary emergencies. In these meetings were generally discussed national matters. They, however, offered little resistance to the executive government, and were rather counsellors than checks.

These were the more powerful states forming the Germanic confederacy.[1] There were also many others, amounting, altogether, to nearly three hundred, of various extents, and different forms of government, with interests widely differing, and even conflicting, all under the organic law embodied in the old Germanic constitution. So little stringency did this possess, that the free towns often entered into leagues with each other, against the feudal laws, and the sovereign princes, by whose territories they were surrounded, with the view of securing their citizens from violence, and protecting their commerce. In the thirteenth century was formed the league, or confederation of the Rhine, which, at one time, engaged to maintain six hundred armed vessels upon that river, to protect against the robberies of the inferior nobility. The Hanseatic league, considered already under the element of industry, began in a similar confederacy.

[1] *Brougham*, I, 491.

Thus much for the constitution of the Germanic empire. The fundamental principle on which it rests, is that the empire is a community of sovereigns;[1] that the diet is a representation of sovereigns; and that the laws are addressed to sovereigns. This certainly tends to render the empire itself, a nerveless body, incapable of regulating its own members, insecure against external dangers, and agitated with unceasing intestine commotions. It must also be admitted that the aristocratic constitution of the diet was little calculated to promote popular rights in the different states there represented. With the exception of the free imperial towns, the title to sit was purely of a feudal and territorial kind, and the whole principles of the system tended to the encouragement of the aristocracy. And yet it is not possible to deny but that beneficial effects have flowed from this system, whether we regard its influence upon the tranquillity of that portion of Europe under its control, or the internal improvement of each of the states composing it. It will be recollected there was not only a direct appeal to the diet on behalf of any individual who had a seat in it, if oppressed by the sovereign whose subject he was; but there lay also an appeal to the imperial chamber, in all matters affecting the public peace of the empire, even if these had arisen from dissensions in the domestic affairs of any state.

It may undoubtedly be affirmed that this organization secured the independent existence of many weak states for centuries, and prevented the wars which would otherwise have arisen from mutual aggressions among the members of the confederacy.

Another consideration should be by no means overlooked, and that is the problems in public and international law

[1] *Federalist*, 102.

that were successfully solved through the workings of the Germanic constitution. The great cause of civilization required such a confederacy of nations, bound together by bands so weak and inefficient, and yet working their way along through several centuries, in order to originate and develop several new principles and truths, which may have a successful application internationally, among states not thus confederated. In harmony with this idea, occurs the fact that the great principles of international law have been the most thoroughly investigated, and settled by the great lawyers and statesmen of the Netherlands and Germany.

On the 6th of August, 1806, the old German empire was dissolved, the emperor having before assumed the title of hereditary emperor of Austria. After the overthrow of Napoleon, and on the 8th of June, 1815, a new German confederation was formed, the members consisting of Austria and Prussia, Holstein, Luxemburg, the other sovereign princes of Germany, and the free cities of Lubeck, Frankfort, Bremen and Hamburg. These mutually guaranty to each, independence and security; refer their differences for decision to the federal assembly or diet; are never to take up arms against each other; never to negotiate with a foreign state at war with the diet, nor to make any alliance or treaty injurious to the security of the confederation, or of any confederate state. The right of all the members are equal, each being independent and sovereign, except so far as the articles of confederation limit the sovereignty. The number of votes belonging to each member is fixed. The sitting of the diet is permanent, and it cannot adjourn for more than four months. The different states are bound to furnish troops, in proportion to their population. Each state furnishes its proportion of the expenses, and names its commander, the diet appointing the general-in-chief.

Since the French revolution of July, 1830, and the impulse given to liberal opinions throughout Germany, her princes have become alarmed, and the diet has become the instrument of absolutism, passing a number of severe laws for the repression of popular feeling, and the establishment of absolute power.

III. We now come in the third place to the burgher force, the democratic principle localized, first appearing in the free cities of Italy, Gaul and Germany, in the middle ages, finally settling down in Holland and Belgium, in Switzerland, in the free cities of Germany, and in a modified form in the borough system of England.

The burgher force, as developed in the free cities of Europe, plays a very important part in general history, as well as in the element of government. In France, Spain, Italy, and Germany, they attained their principal power and glory in the twelfth and thirteenth centuries. In order properly to understand them, we must attend:

1. To their origin or cause.
2. To their constitution, or organization.
3. To their decay, or change.

These free cities had three different sources or origins:

First. Some of them were the remnants of the Roman municipia. We have already seen what were those political institutions. As pure municipal institutions we have seen that they decayed and died out. But some of them continued much longer in force than others. There are traces of them through the ninth,[1] tenth, and eleventh centuries. There are many whose names are not found in the communal charters of the twelfth century, enjoying the chief municipal institutions and liberties, sometimes even

[1] *Guizot*, IV, 198.

under the name of commune.[1] These are undoubtedly Roman municipalities which had survived the empire, and had no need of an act of the new powers to recognize or create them. It is true it is hardly possible to follow out the thread of their history. In the ninth and tenth centuries there was neither order, sequence, nor light for any class of facts, or for any condition of society. Chaos reigned everywhere, and it is only at the end of the tenth century that feudal society escapes from it, and becomes a subject for history. In the midst of this universal night and anarchy the Roman municipality perpetuated itself in the same way that the feudal society formed itself. Those burghs or towns, however, which derived their origin from the Roman municipium, had little democratic in their composition. Those were all aristocratic in their origin, although in the changes they were made to undergo, they probably acquired some democratic features.

Second. A second source or origin was barbaric, feudal. The German bands that overran the Roman provinces settled not in cities but in the country. It was there the baronial castle was erected. It was around it that the dependents of the baron gathered, and the serfs labored. Their industrial pursuits were at first all agricultural. Very many, where the settlement was little extended, poor and obscure, always continued so. Some, however, increased, extended, and in time acquired a fixed character. It became a working population. New wants began to be experienced, and these provoked a more extended, a more varied labor. Industry ran into other channels besides the agricultural. The mechanic arts and commerce began to be cultivated. In the course of time some of those primitive settlements aggregated around castles became great

[1] *Guizot*, IV, 199

burghs or towns. The baronial possessor of the domains, amidst which they were situated, soon perceived that he profited by their prosperity. He would grant them certain favors, certain privileges, which, without destroying the feudal relation, or rendering them independent, would tend to attract thither population and increase wealth. And in turn the more numerous the population, the greater the amount of wealth, as all that added to the material strength of the lord, the more extensive the concessions he would be willing to make.

Quite a large number of possessors of fiefs are thus found conceding lands and privileges to those who would establish themselves in the towns in their domains.[1] They, in this manner, derived both revenue and material strength. The inhabitants of these burghs were bound to render in return certain military services, and they were accordingly found marching to war as true feudal vassals.

Third. The third source, or origin, of these burghs, is the most apparent and therefore the best known. It is reckoned by some as the only one from which they are derived. That is, that they issued from a violent struggle of the citizens against the lords. The vexations which the lords put upon the inhabitants of the boroughs and towns situated in their domains, were often of an atrocious character, frequently repeated, and irritating in the extreme. They deprived them both of liberty and security.

Notwithstanding the severity of these oppressions, the industry and indomitable energy of the burghers, aided by the fortunate position they might happen to occupy, and the wants and demands which their supplies had tended to create, they often made progress in wealth, and hence their efforts at resistance became more frequent and more ener-

[1] *Guizot*, IV, 201.

getic. The twelfth century witnessed a very general uprising of the inhabitants of the boroughs against the tyranny of these petty lords, and sometimes the formation of petty local confederations among them, for the purpose of joint defense, and the obtaining of security. Thus a thousand petty wars broke out all over the land. These were carried on with various success. Sometimes the lord was triumphant, and then the boroughs had to submit. Sometimes they proved too much for the lord, and then the contest was ended by treaties of peace between the two. It is these treaties that constitute the communal charters, which are so common in this century, conferring upon many boroughs and towns a kind of sovereignty within their own walls, which was then the only possible guaranty for security and liberty. These concessions being the result of force and conquest were far more real, extensive, and efficacious, than those obtained as we have before stated, and hence were more valuable and more notorious. Besides the struggle itself brought out all the energies of the borough, proclaimed its strength, gave it standing and consideration, and enabled it to take a position in history. In addition to these it should be stated that many of the Italian cities obtained their special municipal privileges from the German emperors. Sometimes by voluntary concessions on their part, but more frequently by purchase, paying for them large sums of money.

In France another cause existed, not hitherto noticed, resulting in giving to several cities, communal charters. A severe political contest was there in progress between the king and the feudal nobles. To create fresh means of contending successfully with the latter, and to raise up a new power upon which he could lean for support, the king resorted to the practice of bestowing charters of community sometimes for a pecuniary consideration upon towns in his

own domain, thus creating them free cities, and enabling them to act for themselves. The great barons often imitated the example of the king, and more especially as the rage for the Crusades created on their part the strongest desire to realize money, they made quite an extensive practice of selling privileges and charters to cities on their domains, thus vesting political rights beyond their power of subsequent recall. In addition to all these, as noticed in the element of European industry, the formation of guilds was to some extent instrumental in giving rise to free cities.

Having ascertained the source, or origin, of these boroughs let us inquire:

2. Into their constitution or organization. This, of course, would vary with the difference of origin, and in that last mentioned, with the different provisions in the communal charters. The great principle in every case lying at the foundation was that they should possess the right of regulating their own affairs, of making their own municipal arrangements, of being themselves the directors of their own industry under such regulations as they should deem proper, of electing their own magistrates, of imposing taxes upon themselves for their own benefit, and of possessing such powers of sovereignty as would secure the exercise of these rights, and such additional ones as they found themselves able to obtain. Sometimes the right to coin money was possessed and exercised, sometimes, although more rarely, the right of making peace and war.

There is little doubt but that in Italy, and the south of France, there were such transformations of the Roman municipia as gave a strong coloring to the borough organizations. In all such, there were aristocratic features mingled and mixed up, more or less with democratic institutions. In entering many of these towns of the middle ages we encounter often facts analogous to the organiza-

tion of the Roman city, the most important being a kind of hereditary senate invested with the right of governing the city. But this is not the predominant characteristic of the communal organization of the middle ages.[1] In general, we find a numerous and changeable population, all the classes that are in easy circumstances, all trades of a certain importance, all the burghers possessed of a certain fortune, all called to share, indirectly at least, the exercise of the municipal power. The magistrates are far the more generally elected, not by a senate, but by the mass of the inhabitants. There are found infinite varieties, and very artificial combinations, in the number and relation of the magistracies, and in the mode of election. But even these varieties prove that the organization, in far the more numerous cases, was not simple and aristocratic like that of the Roman cities. "We recognize in the different modes of election of the boroughs of the middle ages, on the one hand the concurrence of a large number of inhabitants, on the other a laborious effort to escape the dangers of this multitude, to diminish, to refine its influence, and to introduce into the choice of magistrates, more wisdom and impartiality than might naturally be expected from so large a number. The following is a curious example of this kind of combinations. In the borough of Sommieres in Languedoc, France, the election of municipal magistrates was subject to the following tests: The town was divided into four quarters,[2] according to the bodies of trades. It had four superior magistrates and sixteen municipal councillors. Their office lasted one year. At the end of a year, these four superior magistrates and their sixteen councillors met, and they themselves chose in the four quarters of the town twelve notables, three in each quarter.

[1] *Guizot*, IV, 233. [2] *Idem*, 234.

Thus there were four superior magistrates, sixteen councillors, twelve notables, in all thirty-two. These twelve notables chosen by the magistrates of the preceding year, introduced twelve children into the hall. There were twelve balls of wax in an urn. They drew out a ball for each of the twelve children. Then they opened the balls of wax, in four of which was enclosed the letter E, which meant electus, elected. The child who had drawn the ball in which the letter was contained, on the other hand, named a notable, who thus found himself elected one of the superior magistrates of the borough."

In the municipal system of the middle ages are to be found many precautions and artifices of this kind, showing the endeavor to refine, restrain, and correct the election, the choice of the superior by the inferior, of the magistrates by the people.

With these general remarks we are prepared to inquire more particularly in reference to the rise and privileges of these communal cities in Italy, France and Germany, where they appear the earliest, and play the most important part in the general progress of civilization. Not, however, that they were limited to these countries. There have been boroughs in all Europe, but they have been by far the most numerous and accomplished, the most marked results in Italy, France, Germany, Spain and England.[1] In Italy, as we shall see, they gave birth to glorious republics. In France they have contributed to the birth and growth of the commons, the third estate. The German boroughs have become free sovereign towns, which have had their particular history, and have exercised great influence in the general history of Germany and of Europe. Those of England have aided essentially in developing and giving power to

[1] *Guizot*, IV, 195.

the commons, by early uniting with a portion of the feudal aristocracy, and thus contributing to the formation of the English parliament.

I cannot forbear here making the remark incidentally, that the principle lying at the very foundation of these little communities—for small they were in their original inception—may have been the same that I have before referred to as underlying the German movement, and as being retained even in the iron grasp of the feudal system, viz: the empire of the individual will. The burghers composing the little community, finding themselves individually of little political importance, resorted to the expedient of combining together, and by adopting the combined will as their own; and uniting in carrying it out, they were very often successful.

We have also before referred to the localizing tendency which everywhere prevailed upon the downfall of the empire of Charlemagne, the feudal system being one of the phases which developed this tendency. We have here an instance of another phase of the same general character. The burgher force was always local in its action, certainly in its giving origin to these communal bodies. It is, therefore, another fact proclaiming the localizing tendencies of the age.

In Italy the burgher force is first seen to develop itself. Two reasons were strongly conducive to this fact. The first is that Italy was filled with Roman cities when the empire ceased. These being nearer Rome, the municipia were stronger, had greater vitality, continued longer, and exerted a more enduring influence. Hence we find the constitution of many towns appearing very analogous to that of the ancient Roman city. Another general fact we may notice is that feudalism was never so perfectly established in Italy as in most other European

countries. It was always weaker, less oppressive, and gave rise to less ferocious contests than in France and other countries.

While under the empire, the cities in Italy, which enjoyed municipal privileges and jurisdiction, were also the owners of the lands lying adjacent and around them. These on the overthrow of the empire, were appropriated by the barbarians, and on them were often erected the baronial castle.

The first effort made by the towns in Italy was to repossess themselves of these lands, and in so doing, they were brought into contact with the feudal lord who claimed to own them.[1] They often succeeded in overcoming these troublesome neighbors, and, annexing their territories to their own communities, made considerable additions to their own power. From being successful against their more immediate neighbors, they proceeded to attack those barons that resided at some distance; and if successful against them, they often compelled them to become members of their community, to take the oath of fidelity to their magistrates, even to subject their lands to taxation by common consent, to defend the community against its enemies, and to reside in the city during a certain specified time in each year.

Many nobles observing the high degree of security, and the credit and estimation which the growing wealth and power of cities conferred upon all their members, voluntarily became citizens of the towns, to which their lands were contiguous, abandoning their ancient castles, and, at least, during a portion of the year, residing within their walls. This was not confined to laymen. Ecclesiastics of the highest rank often became members of the great communities,

[1] *Robertson's Charles V*, 1, 203.

in the hope of enjoying the safety and dignity which that condition was supposed to confer.

This wrought a change in the cities themselves. Previously the great attraction was in the country. There was the baronial castle in which the elegancies of life were often accumulated. There the courts were held, and rude justice dispensed. In the city many of the inhabitants were slaves, or persons of low condition. This introduction of the barons and their retainers not only rendered the cities more populous, but filled them with inhabitants of a better rank, and thus added to their attractions.

This condition of things had its effect upon the war contests in which the Italian cities were engaged. In other countries those contests were almost exclusively between the cities and the feudal barons. In Italy the great contests, those that have furnished material for history, were carried on between the large cities, chiefly the cities of Lombardy, and the emperor of Germany. Those carried on between the Lombard cities and the emperor Frederick Barbarossa, and which ended in the treaty of Constance in 1183, we have already adverted to in another connection. This treaty secured great privileges to the confederate cities, and although important rights and prerogatives were reserved to the emperor, yet his great distance, employments and engrossing cares at home, in connection with the favorable circumstances under which the Lombard cities were placed, enabled most of them, before the conclusion of the thirteenth century, to shake off all marks of subjection to the empire, and to become independent sovereign republics.

We can only indicate in very general terms the government which prevailed in the Italian republics during the twelfth and thirteenth centuries.[1] When they first began

[1] *Hallam's Middle Ages*, 145.

to shake off the jurisdiction of their lord, count or bishop, they elected magistrates who were styled consuls. These were always annual. Their number was various, extending from two to twelve. Their office comprehended as well the command of the national militia, in war, as the administration of justice, and the preservation of public order. In their legislative and deliberative councils the Lombard cities copied the Roman constitution, or, more probably, preserved the forms to which they had been accustomed. They had a council of trust and secrecy, composed of a small number of persons, who took the management of public affairs, performing the functions of ministers of state. But the actual exercise of power in matters relating to the general sovereignty, was not lodged with this council. The ultimate decision in matters of general importance,[1] such as declarations of war, and treaties of alliance, the choice of consuls and embassadors, belonged to the general council. This general council appears not to have been constituted in every city; and, according to its composition, the government was more or less democratical. In many, if not most, of those republics, an ultimate sovereignty was still reserved to the mass of the people, and a parliament or general assembly was held to deliberate on any change in the form of the constitution.

When Frederick Barbarossa turned his attention particularly to Italy, and made his power felt in the Lombard cities, he substituted in the place of the elective consuls, officers of his own appointment, called podestas. When the cities rose in rebellion against Frederick they abrogated this office, but after the peace of Constance it was revived in a modified form. It became a general practice (and presents an anomaly perhaps nowhere else witnessed)

[1] *Hallam's Middle Ages*, 145.

to elect, by the name of podesta, a citizen of some neighboring state, to act as their general, their criminal judge and preserver of the peace. The latter duty was especially difficult and arduous, as offences against the peace were, during the middle ages, the most frequently committed by the rich and powerful. These had numerous friends ever ready to defend them, so that the law was to be enforced not alone against an individual, but a family, and not unfrequently, a faction. The podesta had to arm the republic, besiege the house of the refractory citizen, and quell his opposition by violence.

The podesta, therefore, was an officer of great importance. He was sometimes chosen in a general assembly, sometimes by a select number of citizens. His office was annual, though prolonged when peculiar emergencies required it. He was invariably a man of noble family; received a fixed salary; and was compelled to remain in the city, after the expiration of his office, to answer any charges that might be adduced against his conduct. He could neither marry a native of the city; have any relation resident in the district; or even eat or drink in the house of any citizen. In some cities, as in Milan and Florence, his authority was merely judicial, while in others he also commanded the armies in war.

The Tuscan cities were later in rising into importance than the Lombard. About the middle of the twelfth century the cities of Florence,[1] Pisa, Lucca, and several less considerable ones became independent republics. The municipal government of Florence was not materially different from that of the Lombard towns. The executive power was intrusted at first to consuls, who commanded the forces. A senate of a hundred members

[1] *Hallam*, 156.

chosen annually, formed the council of the community, and, upon extraordinary emergencies, they called together the whole people. In general, the government was in the hands of the consuls and senators, who were of the civic nobility. Here, as in most other Italian cities, the nobles or barons became citizens for their own protection, submitting their fiefs and vassals to the civic jurisdiction.[1] The government was thus a civic aristocracy, with a certain influence given to the people, any one, by the acquisition of wealth, being rendered capable of becoming a member of the governing body.

The practice arose here, about the same time as in other towns, of confiding to a foreign podesta, annually chosen, the administration of criminal justice, with the superintendence of the civil judicature vested in subordinate judges, and also the execution of the government or political decrees, as well as of his own sentences.

Throughout all the cities of northern Italy, whether Lombard or Tuscan, the nobles very generally becoming residents within their walls, led to the introduction of rank and distinction. They not unfrequently embarked in commercial pursuits, and thus were enabled to add riches to rank. As a very natural result all offices of trust and command were shared among them. The inferior citizens selected from among a numerous body of nobles, by free suffrage, the magistrates to whom the preservation of public order was confided. Both the Tuscan and the Lombard cities, as we have seen in the element of industry, enjoyed, under their republican forms of government, a career of extraordinary prosperity.

But it is by no means improbable, that this very prosperity may have been one of the causes that contributed to

[1] *Brougham*, II, 342.

wreck their republican forms of government. The acquisition of riches gave the noble families the means, while it left them more at leisure, and created in them stronger motives to obtain political distinction. This led to rivalries, factions, and deadly hostilities between different noble families. Feuds, resulting in violence and bloodshed, arose and were perpetuated. To escape from these repeatedly frequent scenes of violence, many cities voluntarily placed themselves under the dominion of a master. By force, stratagem, or free consent, almost all the Lombard republics fell under the yoke of some leading citizen,[1] who became the lord or tyrant of his country. So rapidly was all this accomplished, that before the middle of the fourteenth century, at the latest, all those cities which had so stoutly and successfully resisted the claims of the German emperors, lost even the recollection of self-government, and were bequeathed, like an undoubted patrimony, among the children of their new lords.

In France, the towns in her southern part appear the earliest in her history as rich, populous, and playing a considerable part in society.[2] They appear from the tenth, almost from the ninth century, very much sooner than the boroughs of the north. The communal charters, however, are much more numerous for the latter than the former. The reason of this is, that a large portion of the towns of the south having preserved the Roman system, their municipal organization has not been written. It was continued along with such changes and modifications as the new circumstances required. Acts creating charters, or conferring or recognizing municipal rights or privileges, emanated not only from royalty, but also from the feudal barons, each one of whom when he had any borough or

[1] *Hallam*, 150. [2] *Guizot*, IV, 207–8.

town in his domains, had the power to regulate its destinies or rights.[1]

The royal acts are quite various in their provisions. Some speak of towns, and of municipal liberties and customs as already existing. They give them no precise form or date, but modify, extend, and adapt them to new needs, to some change in the social state.

Others concede certain privileges, or give certain peculiar exemptions, for the special benefit of such a town or burgh, without constituting it a corporation, or in any way conferring upon it an independent jurisdiction, with the right of nominating its magistrates and governing itself.[2] The concessions are very various, but confer no political independence.

Again, there are others that constitute corporations, recognizing or conferring upon the inhabitants the right of confederating, of promising each other reciprocal succor, fidelity, assistance against all external violence; of nominating their magistrates, of meeting, deliberating, in fact of exercising within their walls a kind of sovereignty quite analogous to that of the possessors of fiefs in the interior of their own domains.

The communities in France never seem to have aspired to the same independence with those of Italy.[3] The great point of difference consisted in the right of sovereignty. Those of France contented themselves with the acquisition of new privileges and immunities, leaving the right of sovereignty to remain in the king or baron within whose territories they were situated. The charters of these communities possess immense interest as containing the first expedients employed for the introduction of equal laws and regular government. They chiefly have reference to two

[1] *Guizot*, IV, 197. [2] *Idem*, 198. [3] *Robertson's Charles V*, 206.

things; safety of person, and security of property. For the first they made provision:

First. By an article in the charter binding all the members of the community by oath to assist, defend, and stand by each other against all aggressors.

Second. By another, obliging every one residing within the town, under a severe penalty, to accede to the community, and take part in the mutual defense of its members.

Third. By securing to the community the privilege of carrying arms; of making war on their private enemies, and of carrying into execution the sentence of their magistrates, if necessary, by military force.

Fourth. By procuring the abolition of the practice, then so universally followed elsewhere, of rendering satisfaction for violence and even murder by a pecuniary compensation, and by visiting upon such crimes their adequate punishment.

Fifth. By procuring, as far as possible, the abolition of judicial combat, and securing a trial and judgment, by the evidence of witnesses, and in the regular course of legal proceedings.

Sixth. In case of violence threatened, oath might be made before a magistrate, and the person threatening was obliged to furnish security to keep the peace.

The second was provided for:

First. By exacting from the purchaser of a commodity a pledge securing the payment, to be returned upon receiving the payment. By the general law there was no right of arresting for debt, the payment of which seems to have been considered an obligation merely personal.

Second. If no pledge was given, and the debtor refused to pay or became insolvent, the creditor was authorized to seize his effects by his own authority. This practice was legally authorized from 1134 to 1351.

Third. When this practice was abolished provision was made for attaching or distraining the debtor's personal property, and if that proved insufficient then his real estate. There were, however, some exemptions of personal property, as there have ever since been.

Fourth. Every person admitted a member of the community was obliged to buy or build a house, or purchase lands within the precincts, or bring into the town a considerable portion of his movables.

Fifth. In some towns the members of the community became bound for each other.

Sixth. All questions respecting property were tried within the community, by magistrates and judges whom the citizens elected or appointed.

Seventh. No member of a community could be burdened by an arbitrary tax; for the baron in granting the charter usually accepted of a fixed sum in lieu of all demands. Nor could the members of a community be subjected to the payment of an unequal imposition of the sum to be levied on the whole community.

The rise and progress of the boroughs, or free cities of France, had not the same results as those of Italy. They stopped far short in their progress towards sovereignty. They were, however, greatly instrumental in reviving commerce and manufactures, in creating a taste for articles of luxury and refinement, in creating order, and inspiring a sense of security; and in various ways contributing to destroy the most offensive features of the feudal system. Instead of rising, however, as in Italy, to the dignity and importance of republics, they ultimately became component parts of a great kingdom, centralizing everything in royalty, which we shall hereafter consider.

In extending our inquiries under this head into Germany the first obvious remark is that the ancient Germans

had no cities. They even considered it a badge of servitude to dwell in a city surrounded with walls. Even in their small villages and scattered hamlets, they never built their houses contiguous to each other.

The Romans, it is true, built several cities on the banks of the Rhine, which were flourishing.[1] But in all the vast region of country stretching from that river to the coasts of the Baltic, there was no city of any importance previous to the ninth century. We shall find, therefore, little or no remains of the Roman municipia in the German cities. With the exception of those upon the Rhine, they came into being under other than Roman influences, and in their organizations, purposes to which they devoted themselves, and objects which they accomplished, altogether differ from the old Roman city.

It was not until the reign of Charlemagne and those of his family, when the political state of Germany began to improve, that men became accustomed to dwell together and erect cities. Under these emperors, archbishoprics and several bishoprices were founded, and as the bishops were accustomed to fix their residence in the chief town of their diocese, and perform religious functions there, they soon became centres of religious activity, and many people were induced to settle in them. Henry the Fowler, in the first half of the tenth century, founded many cities in Germany. He encouraged his subjects to settle in cities which he surrounded with walls and strengthened by towers. He induced some of the nobility to take up their residence in cities, and thus rendered them honorable. Although from this period cities increased in number, wealth and population, yet they were still destitute of municipal liberty or jurisdiction. Those situated in the imperial demesnes were

[1] *Robertson's Charles V*, 213-14.

subject to the emperors. Their judges presided in them and dispensed justice. Those situated on the estate of a baron, were part of his fief, and he or his officers exercised a similar jurisdiction in them. The Germans appear to have borrowed the institution of communities from the Italians.

The tenth century found the cities of Germany divided into such as depended immediately upon the empire,[1] which were usually governed by their bishop as imperial vicar, and such as were included in the territories of the nobles, the dukes and counts. Henry V granted privileges of enfranchizement to the inferior townsmen or artisans, relieving them from several oppressive usages, and he also, in several instances, took away the temporal authority of the bishops, and restored the cities to a more immediate dependence upon the empire. The citizens were classed in companies, according to their several occupations. This was an institution which was speedily adopted in other commercial countries. But even under this emperor, whose reign was about the middle of the twelfth century, the cities of Germany had not the privileges of choosing their own magistrates, a right which those of France, in some instances then enjoyed. But very gradually they began to elect councils of citizens as a sort of senate or magistracy. This innovation seems to have been as early as the reign of Frederick I, Barbarossa, at the latter part of the twelfth century, and was fully established in that of his grandson. Their introduction was, at first, only as assistants to the imperial or episcopal bailiff, who probably still continued to administer criminal justice.

But in the thirteenth century, the citizens, now grown richer and stronger, either purchased the jurisdiction, or

[1] *Hallam*, 288.

usurped it. The great revolution in Franconia and Suabia, occasioned by the fall of the house of Hohenstauffen, completed the victory of the cities. The great fact which created an essential difference between the free cities of Germany and France, and assimilated the former more nearly to those of Italy,[1] was that those which had depended upon mediate lords became immediately connected with the empire. This, under any circumstances, would have been a fact of vast political importance, but at this period of time, when the empire was in a very weak and feeble state, and the emperor in constant want of money, that importance was infinitely enhanced. It was sometimes very easy for a consideration, to obtain great political privileges.

One great consequence very soon followed as the first fruits of their immediacy, and that is, they were admitted to a place in the diets, or general meetings of the confederate powers of the empire. This amounted to a tacit acknowledgment of their being equally sovereign with the electors and princes.

There is no clear evidence relating to the time of their first admission. Under the emperor Henry VII, about the commencement of the fourteenth century, there is unequivocal mention of the three orders composing the diet, electors, princes, and deputies from cities, and in 1344, near the middle of the same century, they appear as a third distinct college in the diet of Frankfort.

The free cities always found a natural friend in the emperor. Their natural enemies were the prelates and nobility.[2] In the western parts of Germany an almost incessant warfare was carried on between the possessors of fortified castles and the inhabitants of fortified cities. The nobles were too often mere robbers who subsisted entirely upon plunder.

[1] *Hallam*, 238. [2] *Idem*, 238.

It was the policy of the cities to offer the privileges of burghership to all strangers. This afforded an asylum to the vassals of the feudal lords, who could abandon their lord at pleasure and find refuge in a neighboring town. Thus occasions of hostility were constantly arising between them.

These free cities had their own internal organization, which was very similar to that adopted by the cities of Holland and the Netherlands soon to be considered.

We have already seen that the amalgamation of the nobility with the citizens in the Italian cities resulted in creating factions, feuds, and such a series of intestine wars and resorts to violence, that those free republics were finally compelled to flee to despotism for shelter and protection. In Germany, different circumstances led to very different results. There the nobles instead of amalgamating with, were always the enemies of the free cities. The natural relations between them were those of warfare. The cities had their commerce to protect, or their industry would avail them nothing. Their wars were therefore necessary, and called forth the energies of the people in their prosecution. They were not exhaustive, like the factions, feuds, and intestine wars of the Italian cities. They were even strengthening, as they combined with the industrial pursuits to give vigor and energy to character, and hardihood and power to those lusty burghers of the ledger and the knapsack. The consequences were precisely such as might have been anticipated. The Italian republics, although many of them have continued to be bright spots in the art-history of Europe, yet politically have long since ceased to enjoy any liberty or exercise any political rights themselves, or even to exert any political influence in the national affairs of Europe, none certainly beyond that of offering rather tempting baits to excite the cupidity and lust of dominion of the great nations of Europe.

The German imperial free cities, on the other hand, although not attaining the same complete sovereignty as the Italian, having nevertheless different elements of character originally, and being nourished and brought up in a hardier, rougher school, have continued through a long course of centuries, gradually maturing and flourishing like plants of a hardy growth, and promising to send their influences far into the future.

One early fruit of this free organization in the German cities, and which has served both for their protection, and to bring out in still bolder relief, the great elements of their character, has been the leagues and confederacies they have formed with each other, thus making common cause against their enemies. These were generally entered into against the nobility and barons. They withstood both the bishops and barons by confederacies framed expressly to secure their commerce against rapine or unjust exactions of toll. More than sixty cities, with three ecclesiastical electors at their head, formed the league of the Rhine in 1255, to repel the inferior nobility, who, having now become immediate, abused that independence by perpetual robberies. The Hanseatic league we have already referred to and given briefly its history. About the year, 1370, was formed another, which, although not of so long continuance, procured nevertheless very striking effects in Germany. This was the confederacy entered into by the cities of Suabia and the Rhine, to protect themselves against the princes, and more especially those composing the houses of Wittemberg and Bavaria. But in this instance counter-confederacies were formed by the provinces, and the city confederacy did not meet with the success that other instances afforded.

From this stern necessity thus forced upon the German cities, of maintaining their general liberty by their united

exertions, they never suffered the petty jealousies, which undoubtedly existed among them, to ripen into such deadly feuds as sullied the glory, and ultimately destroyed the freedom of the Lombard and Tuscan cities.

Free cities were not limited to Italy, France and Germany. Besides Holland, the Netherlands and Switzerland, to which we shall presently advert, Spain also, especially the Castilian portion of it, presents them for our consideration. Chartered towns, or communities, were here established at an earlier period than in France and England. The object here sought by their establishment was to secure the public defense. Instead of purchasing their immunities, as we have seen was elsewhere a very common practice, the Castilian towns were invested with civil rights and extensive property on condition of protecting their country.[1] The earliest instance of this was in the city of Leon, which was erected into a community in 1020. A number of others followed between 1020 and 1076. The charters of all these communities were very similar in their main provisions. Each was properly a compact by which the king or lord granted a town and adjacent district to the burgesses, with various privileges, and especially that of choosing magistrates and a common council, who were bound to conform themselves to the laws prescribed by the founder. These laws were essentially the Visigothic code. The territory held by these chartered towns was frequently very extensive. In every such town the king appointed a governor to receive the usual tributes and watch over the police and the fortified places within the district. But the administration of justice was exclusively reserved to the inhabitants, and judges of their own selection. In the fourteenth century an altera-

[1] *Hallam*, 200.

tion was made by Alphonso XI, who vested the municipal administration in a small number of jurats or regidors.

As a consideration for the grant of these special privileges the incorporated towns were bound to make certain money payments, and to render military service. The royal governor and the magistrates, raised and commanded the militia, whose term of service was always short.

Deputies from the Castilian towns formed a part of the cortes as early as 1169.[1] At the cortes of Burgos in 1315 there were one hundred and ninety-two representatives from more than ninety towns. There seems, however, always to have been a good deal of irregularity in the town representations to the cortes.[2] By the year 1480 only seventeen cities had retained the privilege of representation. After the change was made by Alphonso XI, at the beginning of the fourteenth century above referred to, the common people had little to do with the municipal government.

In England, before the Norman conquest, there were voluntary associations, in some cases for mutual defense, in others for mutual relief. These were called guilds, and much resembled corporations.[3] An internal elective government seems to have been required for the administration of a common revenue, and of other business incident to their association. They became more numerous and more commercial after the era of the conquest.

From an early period after the conquest, even from the reign of William Rufus, charters were granted to towns, creating in their favor certain exemptions, or conferring certain privileges, such as commercial franchises, or those of internal self-regulation. These grants, however, were not extensive until the reign of John. Except in a few in-

[1] *Hallam*, 206. [2] *Idem*, 207. [3] *Idem*, 864.

stances the right of choosing magistrates was first given by him. The rise of the commons, or third estate, and the representation in parliament, will come up more appropriately for consideration in connection with the third estate, and the English constitution.

In Holland and Belgium we find the burgher force the most thoroughly organized, and attaining its highest point of culmination. Here we find the ancient borough system perpetuated, and continuing to form the fundamental elements of society.[1] In Holland, more especially, the municipal system, continuing the municipal system of the middle ages, forms the foundation of the political institutions.

That territory denominated the Low Countries, and consisting of a large triangular tract, lying between Germany and France, was conquered by Charlemagne, and long formed nominally a part of the German empire. The territory came afterwards under the dominion of the dukes of Burgundy, and by the marriage of Mary of Burgundy with Maximilian of Austria, became transferred to that house, and descended to Charles V, and his son and successor Philip II. It then consisted of seventeen provinces, and the political principles generally recognized were — that the states had the power of assembling as they pleased; that none but natives could hold any public office; that the consent of the states was necessary to the declaration of war;[2] that the king could not marry without this consent; and that no money could be levied except upon their grant.

We have already seen that the tyranny of Philip drove the provinces into rebellion, and that after a long and severe contest, they finally achieved their independence.

[1] *Guizot*, IV, 252. [2] *Brougham*, III, 374–5.

Out of the revolution finally emerged the seven provinces of Holland: Zealand, Utrecht, Friesland, Overyssel, Groningen and Guelderland. These composed the Belgic confederacy, remarkable alike as a political confederation, and also as to the provinces and towns of which it was composed.

The confederacy was one of republics, or rather of aristocracies with some mixed democratic elements. It composed what was termed the states-general, which was made up of about fifty deputies appointed by the provinces, some holding their seats for life, others for six, three, and one years. The provinces sent each a different number of deputies, but whatever were their number, each province had but one vote in the states-general, there being but seven votes in the whole body.

The states-general possessed the authority of entering into treaties and alliances, of making war and peace; of raising armies and equiping fleets; of ascertaining quotas and demanding contributions.[1] They had also authority to appoint and receive embassadors; to execute treaties and alliances already formed; to provide for the collection of duties on imports and exports; to regulate the mint, with a saving to the provincial rights; to govern as sovereigns the dependent territories. For the better preservation of their authority, the provinces were restrained, unless with the general consent, from entering into foreign treaties; from establishing imposts injurious to others, or charging their neighbors with higher duties than their own subjects. A council of state, a chamber of accounts, together with five colleges of admiralty, were the principal instrumentalities by which the federal administration was carried out.

[1] *Federalist*, 106.

The executive magistrate of the confederacy was the stadtholder, who, for a long period, was an hereditary prince. He possessed the military power, in virtue of which he provided for garrisons, commanded the federal troops; disposed of all military appointments, and had the general regulation of all military affairs. In his marine capacity he was admiral-general, and, as such, had the superintendence and direction of everything relative to naval forces, and other naval affairs.

He had a right to propose any, and all measures to the states-general, but after proposing he was obliged to retire while the states were deliberating upon them. But although he had no political power in the states-general, yet he had weight and influence derived from his independent title, from his great patrimonial estates; from his family connections with some of the chief potentates of Europe, and also from his being stadtholder in the several provinces, as well as for the union.

In the constitutions of the different provinces we perceive features analogous to those we have just mentioned. There the provincial states represented the towns of each province. In each there was a representative body, the government of the towns composing the province belonging to the nobles and the magistrates.

In the town was more especially manifested the burgher force and spirit. The inhabitants were divided into guilds of arts and trades, with deacons at the head of each. Each guild generally inhabited its own quarter of the town and over all the guilds of every town was a hoofdman,[1] or captain of this burgher guard. There were frequent musters or drills. Each town embraced a portion of the adjoining country, but the remainder of the country generally be-

[1] *Brougham*, III, 378.

longed to the nobles. In Holland there were two bodies: the nobles or equestrian order, and the order of the towns or burghers.

The states in the provinces were always convened on a specific occasion for a specified purpose. Whatever number of deputies any town sent, the whole had but one vote. The chamber of nobles formed one body. The number of deputies chosen to it varied, but generally it was ten, and the whole order had but one vote. If anything new was tabled in the proceeding of the states, there must be an adjournment, to obtain fresh instructions; so also if any town was not represented, or the nobles did not appear by deputy.

Thus we perceive in the constitutions of the Belgic confederacy and also of the different provinces, that the leading feature was delegation. The power each deputy exercised was a merely delegated one, each deputy was not the representative sent to consult for the good of the whole union or province, and then to act as his own judgment should dictate, but he was a mere agent to carry out the instructions of his principal, and to give that principal's assent or dissent upon each question arising in the assembly of the states; or in those of the province. In each of these, each town was a commonwealth within itself, and so far independent of every other, that it sent a deputy or deputies to give its vote, and to obey its instructions, and not to confer with those of other towns, and then to act as circumstances should seem to require.

It resulted from this that no affair of any importance could be adopted in the states-general while a single province withheld its assent, and in the different provincial estates no measure affecting the province could be adopted if each town did not concur. Thus a liberum veto really prevailed here as well as in the Polish diet, with this

difference, that in the latter persons sat in their own right, but in the former in right of the provinces or towns they represented. The principle was about equally bad in both. At the best it was mere delegation, not representation.

The Belgic confederacy was overthrown in 1795, and the Batavian republic established. Since that period a rapid succession of changes has occurred. These were of such brief continuance that it is of little use to trace them. It is sufficient to say that after being modeled upon the plan of the French republic before the advent of Napoleon, and having several changes made within a short space of time, it became in 1806 a kingdom, the kingdom of Holland, over which was placed Louis Napoleon. He abdicated in 1810, and that kingdom was united with the French empire. It was severed from that empire in 1814, and the whole Low Countries, including not only the seven united provinces, but also the Austrian Netherlands, were formed into one monarchy, which was called the kingdom of the Netherlands, at the head of which was placed the family of Orange.

The revolution which occurred at Brussels in 1830, separated the Dutch provinces from the rest, and thus formed two kingdoms, one of which remains in the Orange family while the other, in 1831, was conferred upon prince Leopold. The constitution of each is essentially the same. This differs no very material degree from the British constitution, which will be particularly considered in another connection.

In turning our attention towards Switzerland, and inquiring what forms of government have flourished beneath the shadows of the Alps, we are visiting both an interesting people, as well as region of country. Switzerland once formed a part of Gaul, belonged to the Franks and Burgundians, formed a portion of the empire of Charlemagne,

and after his death frequently changed hands, being too weak to establish or maintain an independent existence. The feudal barons exercised a tyranny so severe that the Helvetic people were driven to seek the protection of the house of Hapsburg, afterwards that of Austria, and by that means came under the Austrian authority. In 1300, they rebelled against the Austrian tyranny, and the three forest cantons, Schwitz, Uri and Unterwald, laid the foundations of the Helvetic confederacy.

The constitution of each canton was purely democratic, the supreme power being vested in the people at large assembling in a yearly diet or general assembly held in the open air, and in extraordinary diets called as occasion might require. The confederation bound them to make common cause against all attacks from without, to form no alliances but in common concert, to admit no foreign judicature, to settle all dispute among themselves by arbitration, and to afford no asylum to fugitives from one another's territories.

New accessions strengthened the confederacy, and in 1499, after a long war with the emperor Maximilian, the whole of Switzerland shook off its dependence on the empire, and achieved its independence.[1]

The federal union of the Swiss cantons rested mainly upon three leases, the treaty of Sempach in 1393, which regulated the military contingents and discipline of the cantons; the covenant of Stanz in 1491, regulating the league; and the peace of Arau in 1712, settling the differences between the catholics and protestants. The Swiss federal commonwealth consisted of thirteen cantons as its members, with several large districts as appendages. The general league was a good deal complicated, as the cantons

[1] *Brougham*, III, 391.

were either confederates, associates, or subject bailliages; and among those first mentioned were the Grisons, who had a confederacy of their own, with a diet, an executive power vested in a congress composed of nine deputies and three chiefs, and a chief magistrate named yearly to fill almost a nominal office.

The Helvetic league held a general diet, convoked the most commonly by Zurich, which fixed both the time and place of meeting. There were also special diets for particular objects only, at which those cantons whose interests were concerned sent deputies. At all diets the votes were taken by cantons upon the true federal principle, the question being determined by a majority of the cantons, each canton being privileged to send whatever number it chose. The league was strictly federal. It had no common treasury; no common troops even in war; no common coin; no common judicatory, nor any other common mark of sovereignty.

With such slight political bands, it is not a little curious how the league was so long enabled to keep together.[1] To account for this, we must consider that their situation was peculiar, being entirely surrounded by powerful neighbors; that their manners were simple and homogeneous, and hence few sources of contention existed among them; that they possessed a joint interest in their dependent possessions; that they stood in need of mutual aid from each other, for suppressing insurrections and rebellions; and also of some provision for terminating disputes between the cantons. This provision was, that the parties at variance should each choose four judges out of the neutral cantons, who, in case of disagreement, should chose an umpire. This tribunal, under an oath of impartiality, pronounced de-

[1] *Federalist*, 105.

finite sentence, which all the cantons were bound to enforce.

In regard to the Swiss cantons themselves, as they had become developed under circumstances nearly similar, their constitutions bore a great resemblance to each other. The three largest of these cantons, were Lucerne, Zurich, and Berne.

The first has been always a catholic canton, and had originally a constitution purely democratic, the whole community deliberating in common, in the passage of laws, and the exercise of sovereignty.

This became changed upon the throwing off of the Austrian yoke. An aristocratic constitution supplanted the democratic. Political institutions were almost entirely confined to the city. The burgher force came into operation. The supreme power was vested in a sovereign council of one hundred members, chosen from the five hundred burghers of the city. This council was divided into two bodies, the senate, or little council, and the great council. The former consisted of thirty-six members, divided into two bodies; a few great families having the whole management of elections, and their members succeeding one another, so far as to make the places hereditary. The senate administered the police and finance, in fact, the executive government, for the two chief magistrates appointed from their number were changed every year.

The great council consisted of one hundred, but the senate exercised in it an overpowering influence. This council was only convoked upon special occasions, while the senate was a permanent body always in session, and exercising criminal jurisdiction, except in capital cases, when the consent of the larger body was required. An appeal in civil cases lay from one body to the other. But

in the larger body the voice of the senate was very sure to preponderate.

There were, however, these checks upon the power of the senate. First. No two members of the same family could at the same time have a seat in it. Second. In the imposition of any tax or decision of any question of peace or war, or of foreign alliance, a general assembly of the burghers was necessary for the decision. This constitution continued for above five centuries, and at last yielded with reluctance to the power of France.

In 1803 Napoleon gave a new constitution to Lucerne, which was not of long continuance. In 1814 the constitution was so changed that the supreme power became vested in two councils; viz. the council of one hundred, and the daily council, the latter being thirty-six members of the former. The whole hundred hold their places for life, and are chosen half by burghers of the city and half by the inhabitants of the country.

The principal legislative power resides in the great council and its presidents, who are chosen by it from the daily council. All laws proposed by the latter are adopted or rejected by the former. All taxes are imposed or repealed by it. The daily council sits the whole year exercising the executive, judicial and administrative powers of the government, while the great council sits three times a year, and oftener if convoked by the daily council.

Zurich was at first democratic, but when the imperial power was overthrown and it joined the Helvetic confederacy, the government assumed an aristocratic form. The city burghers, about two thousand in number, elected the governing and sovereign council,[1] and, in 1661, adopted a resolution that no additional ones should be admitted to

[1] *Brougham*, II, 874.

their number. The right of exercising any trade in the city was strictly confined to the burghers. They were divided into thirteen tribes, one being noble, and having a great preponderance.

The sovereign council, called the council of two hundred, consisted of two hundred and twelve, and the senate, of fifty, who formed a part of it. Twenty-five of the latter administered the government for six months, and the other twenty-five for the rest of the year. The legislative authority resided in the council, the judicial in the senate, with an appeal in civil cases to the council.

In 1814 a material change took place, the exclusive power of the city of Zurich being taken away, the rights of election to the councils being apportioned, according to population, among the different districts into which the canton, including the country as well as the city, was divided. The great council still retained its number, two hundred and twelve, but the little was reduced to twenty-five, chosen as before, by the great council from its own number. The great council choose one hundred and thirty of its own members. The rest are chosen by the tribes, thirteen choosing two each, one choosing five, and the others one each. The right of voting in the districts or tribes belongs to those who, in each, are enrolled as burgesses; servants, insolvents, and convicts being alone excluded.

Another large Swiss canton was Berne, which was chartered a free city, by the emperor, in 1218. The supreme power was vested in a council, called from its original number, the council of two hundred, but it was afterwards extended to two hundred and ninety-nine, all chosen from the burghers of the city, these latter being divided into four guilds, and the chief of each, called the banneret, had great influence in the elections. This body appointed

from its own members a senate to administer the executive powers of the state. The general assembly of the burghers elected the council, and also chose the magistrates. The members of the council finally prolonged their offices during life, filling up all vacancies, so that the government became a complete aristocracy, or an oligarchy, a few families obtaining the entire control. As the constitution became more aristocratic, the meetings of the general assembly were held less frequently,[1] until in 1682, the sovereignty was declared to reside in the council, which engrossed the whole power of the state. There was also a senate consisting of twenty-seven persons, all chosen by the great council from its own members. The magistrates were also chosen by the great council. The executive government was vested in the senate, which had a daily session. Thus the real power was vested in the great council, which filled its own vacancies, and ruled, with great popularity, for over a century.

Napoleon, in 1803, imposed upon the Bernese a new constitution, diminishing the number of the great council to one hundred and ninety-five, and restoring to the community a voice in their election.

In 1816, the new constitution of Berne was settled. It admitted both the towns and rural districts to a share, although not an equal one, in the administration. The capital was to have two hundred, and the country ninety-nine members of the great council. Of the latter ninety-nine the members of the council chose twenty-five. The deputies must have the right of burgesses in a town or parish, being twenty-nine years of age, and having about seven hundred pounds in property. The two hundred deputies of the capital are chosen by an electoral college, com-

[1] *Brougham*, II, 376.

posed of the little council or senate, and a committee of fifteen adjuncts taken from the great council. The little council, or senate, consists as formerly of twenty-seven, and is chosen by the great out of its own members. It requires annual reelection, and is little more than a mere committee of the great council.

The powers and functions of the two councils are very much the same as those possessed by the same bodies under the old constitution. Even the manner of election is not so much changed. The principle of self-election still applies to the two hundred town deputies, and the twenty-five country; so that a majority of the whole members of the council, in the proportion of three to one, are not in any way elected by the people, but are appointed by themselves. The government of Berne may therefore still be deemed strongly aristocratic.

There is another Swiss state which although less important in point of extent and power, is nevertheless one possessing great interest, and that is Geneva. This territory originally belonged to the empire, and was subject to Charlemagne and his successors. Subsequently it came under the dominion of the duke of Savoy. In 1526 it established a republican government, adopting the reformed religion. In 1584 it united with the Helvetic confederacy.

The form of government adopted was strongly aristocratic. There were four councils. 1. The senate or lesser council of twenty-five. 2. The council of sixty for the management of foreign affairs. 3. The great council originally of two hundred, but afterwards composed of two hundred and fifty. 4. The sovereign council, or general assembly, composed of all the citizens of the age of twenty-five years.

In regard to the election, the sixty were chosen by the senate, and originally the great council by the general or

popular assembly.[1] But in time the patrician party procured the taking away the right of election from the general assembly, and, vesting it in the councils themselves, so that the senate should choose the council, and the great council the senate.

The senate had the power of convoking the great council; of furnishing all magistrates from their own body; of naming the inferior magistrates; of choosing half the great council; of conferring rights of burghership; of superintending the financial administration; and, generally of exercising the executive and judicial power of the state. The great council chose the senate, had a veto on all its proceedings, and appellate power over all its judicial sentences, as also the pardoning power. The general assembly, or sovereign council, consisted of fifteen hundred burghers. It met twice a year; chose the greater magistrates; decided on alliances and questions of peace and war; had a veto on all legislative acts of the two other councils; and chose half the great council.

It will be perceived that more of the democratic element is embraced in the old constitutions of Geneva, than in any other of the Swiss cantons to which I have specially referred. But here, as in all the other great cantons of Switzerland, the tendency was towards an aristocracy. In 1782 a revolution was effected, by which the power of the general council to name half the great council, or council of two hundred, was taken away, the latter obtaining the right of annually confirming, amounting, in fact, to annually choosing the senate. All clubs or circles, and assemblies or meetings of the people were abolished. But seven years after, through foreign aid, the old constitution was restored.

[1] *Brougham*, II, 379.

But in 1814 a constitution with still stronger democratic elements was adopted. It abolishes all distinctions of rank, recognizes no noble class, counting all Genevans as equal politically. The immediate exercise of the government is vested in two councils; the one a representative council of two hundred and fifty, the other a council of state of twenty-eight members. In electing the first all persons of twenty-five years of age, who pay yearly six pounds in direct taxes, and who are armed and equipped for the militia, have a right to vote. Thirty members of this council go out yearly, and no more than five of the same name and family can sit in it at one time. The selection of the smaller, or council of state, is vested in this council, the members of the former being taken from its own number. The vote on their continuance is generally taken every year, when if any have against them one hundred and twenty-six votes, they leave the council of state and retire into the great council, which chooses others of its number to succeed them. Only two of the same name or family can sit in the council of state at the same time.

In the council of state, reside the executive functions generally, of the government, such as the direction of foreign affairs, subject to the action of the great council as to treaties. The direction of the finances also belongs to the council of state, and also the power of proposing measures to the great council.

The great, or representative council, possesses the legislative power. It also raises, remits, or changes all taxes, appoints to all the more considerable offices, and receives yearly the report of the council of state as to its administration.

There are four syndics, or executive magistrates, named yearly from the council of state and the great council. This election is by ballot.

The several Swiss cantons have, from a very early period, been accustomed to form with each other some kind of league or confederacy. We have already noticed one which was early formed. In 1798, the French armies forced upon Switzerland a new constitution, having, as France then had, an executive directory with a legislative body, and termed the Helvetic republic. This continued to govern until 1803, when Napoleon established a new federal government, by which nineteen cantons were made to compose the federal body, each independent as regarded its own internal government and administration, as we have already seen, but all united by the relations of the proper or perfect federal union.

The quota of taxes or men to be furnished to each, was precisely regulated. The whole votes were not nineteen, but twenty-five, the six greater cantons having each two votes, and the other thirteen, one each. The several cantons surrendered to the confederacy some of their powers of sovereignty. They could make no alliances, either with each other or with any foreign power. They could confer no exclusive privileges on any class, or family of citizens, and they were all subject to the authority of the diet.

The diet was composed of deputies from each canton, all of whom were bound to follow the instructions of their constituents. The regular diets met in June, but extraordinary ones might be called. The diet possessed the power of declaring war and making peaces and alliances, three-fourths of the deputies concurring. It alone named the commanding officers of the forces, and embassadors on extraordinary missions. In all disputes between different cantons, if arbitration did not settle them, the diet formed itself into a syndicate, in which each deputy had an equal voice, and no one was to follow any instructions from his constituents.

This constitution fell with Napoleon, in 1814 and in 1815. The congress of Vienna gave to Switzerland a new constitution. Three more cantons were added, making the whole number twenty-two. The making of war, peace, and treaties, is lodged with the diet, which is composed of deputies from the cantons, each canton having one vote. The diet meets yearly, and may be specially convened. It names the envoys of the confederation, appoints the commander of the forces, and provides for their levy and distribution. In case any dispute arises among any of the cantons, on any matter not provided for by the federal constitution, each is to choose as arbitrator, one or two of its magistrates, who, if they differ, shall choose an umpire from among the magistrates of an indifferent canton, and if they cannot agree in the choice, the diet shall name him.

The development of the burgher force in the free imperial cities of Germany, and in the borough system of England, has already been alluded to.

IV. We now arrive in the fourth place at royalty, the centralizing monarchical principle, struggling for existence through the feudal period, allying itself with the burgher force to overcome feudalism, finally prevailing more or less modified in England, Poland, and Hungary, and in a purer, more absolute form in Naples and Sicily, the northern kingdoms of Europe, Austria, Prussia and France.

Most of the political forces we have been contemplating have been of a character to localize while they were being developed. We have seen that to be eminently the fact in regard to the feudal system, and the aristocracies derivable from it, and also in the various developments of the burgher force. The two forces that remain to be considered, royalty and the commons, are of a different

character. These tend to centralize, and are entirely consistent with embracing great extents of territory, and numerous populations under the same governing powers.

Royalty may be derived from four different sources, or rather may be clothed with four different powers. A king may exist:

1. By election.
2. By personifying the state.
3. By divine appointment.
4. By right of inheritance.

The first marked the barbaric era. It was military royalty. The warlike German chiefs, often simple warriors themselves, surrounded by companions whom their liberality and bravery attracted, were designated by the word kong,[1] kœnig, king, from which the modern title is derived, and their power, however limited or precarious, was one of the bases upon which royalty raised itself after the territorial establishment.

The barbarian monarchy I have called elective, and it was essentially so. The election, it is true, did not take place in the way and manner we are now accustomed to behold it.[2] It took to itself none of the forms with which we are now familiar. The king was a mere military chief, whose power was freely accepted by a great number of his companions, by whom he was obeyed as being the bravest, and the most competent to rule. Election, untrammeled by forms, and arriving at its results by a species of instinct, was the true source of this barbarian monarchy, its primitive and essential character.

The existence of this species of monarchy was conditioned upon the continuance of the same state of society. It was, therefore, of a temporary character, and not destined to

[1] *Guizot*, IV, 109. [2] *Idem*, 223.

endure beyond the circumstances that called it into being. It was by virtue of its inherent forces that the German races were enabled to leave their primitive forests and establish themselves in the provinces of the Roman empire. That being accomplished, this species of monarchy sunk into decay. It may be said to culminate in the person of Clovis, the founder of the kingdom of the Franks. As early as the fifth century it was much modified; different tribes had possessed their chiefs for a certain space of time. Families had arisen to consequence, becoming more considerable and wealthier than the rest. This gradually inaugurated the fourth species, producing the beginning of hereditary succession; the chief being almost always chosen from these families. This was the first principle of a different nature which became associated with the leading principle of election.[1]

It is obvious that one very important thing is implied in election, and that is that the power possessed by the person elected is really conferred by the electors. They make him what he is. They place him in a position to exercise the power belonging to the station. The theory of it is, therefore, that such exercise is on their account and for their benefit.

It follows as a result from this, that those electing may prescribe whatever conditions they choose to the person elected. He may accept or decline, but in case of acceptance he must comply with the prescribed conditions, as he accepts subject to them.

2. The second source of power is the personification of the state. This was well illustrated in the Cæsars, the first Roman emperors. They personified the state, were heirs of the sovereignty and majesty of the Roman people.

[1] *Guizot*, 223.

They governed under the forms of the republic. The emperor was the representative of the senate, the assemblies of the people, in fine the whole republic.

But although the emperor was subrogated, or put in the place of the people, yet he really exercised all the power. For about three centuries, until the reign of Dioclesian, the Roman emperors personified the people.

This source of authority was not confined to the Roman emperors. We have already seen that the Carlovingian race sought to fill the space left void by the downfall of the empire. This race culminated in Charlemagne. He presents himself as the personification of the people, governing through their great assemblies. He was the great representative man of the age, stood for the people, and governed for them. As the first or Merovingian race culminated in Clovis, who was the highest and chief representative of the barbaric era, "so did the second, or Carlovingian race, culminate in Charlemagne, the Frank representative of the Roman emperor. We have had also a recent illustration of this species of sovereignty in the person of Napoleon Bonaparte. He was the personification of the sovereignty of the people." "Who," said he, has been, like me, elected by eighteen millions of men! Who is, like me, the representative of the people?"

This source of power will always be put into requisition, when great representative men appear upon the stage; men who can comprehend all others, while they are themselves uncomprehended; who possess the wishes, sentiments, desires, passions of the people, coupled with that commanding intellect, that enables them to comprehend all, guide all, govern all, in accordance with their own designs. Such men will rule, and precisely upon the principle here indicated, viz: the personification of the people.

It will be perceived that the limit which bounds the exercise of power here, is more enlarged, and less definite, than occurs in the kind of sovereignty last mentioned. And yet there is a limit, although indefinite and shadowy. Whenever such a ruler departs from the wishes, sentiments, desires, and passions of the people, his power is ended. The very sources of it are cut off, and cease altogether.

3. The third source of power is that by divine appointment. Monarchy here presents itself under a very different aspect from any hitherto considered. It is no longer of earthly origin. The prince is, in no respect, the representative of the sovereignty of the public. He is the image, the representative, the delegate of God. Power does not come up to him from below. It descends from above. He is clothed upon, instead of with, power. The rights of freedom, and political securities, are here as nothing. And yet the principle itself upon which it is conducted, is high, moral, and salutary.

The following are some of its maxims, taken from the canons of the council of Toledo:

"The king is called rex, because he governs with justice.[1] If he acts justly he has a legitimate title to the name of king; if he acts unjustly, he loses all claim to it. The two principal virtues of a king are justice and truth.

"God, the creator of all things, in constructing the human body, has raised the head aloft, and has willed that from it should proceed the nerves of all the members, and he has placed in the head the torches of the eyes, in order to throw light upon every dangerous object. In like manner he has established the power of intelligence, giv-

[1] *Guizot*, 225.

ing it the charge of governing all the members, and of prudently regulating their action.

"It is necessary then, to regulate, first of all, those things which relate to princes, to provide for their safety, and protect their life, and then those things which concern the people, in such a manner, that in properly securing the safety of kings, that of the people may be, at the same time, and so much the more effectually secured."

In religious monarchy we almost invariably find the clergy a dominant power. They are deemed essential to interpret the will of God, and if the king happen to be weak-minded, their own will often coincides nearly so with the will of God as to control in the direction of affairs.

The assumption of this principle of king, "By the grace of God," destroys all accountability on the part of the king to his subjects. As he received no power or authority from them, he cannot in any way be accountable to them for its exercise. His accountability can only be to God, and that will be very likely to be explained and regulated by the clergy. The limits that control the exercise of power must be here extremely indefinite, and depend much upon those professing to be the oracles of God.

Different countries in Europe in the fifth century, afford us instances of barbarian, imperial and religious monarchy. All these made their appearance upon the ruins of the Roman empire.

In France, under the Merovingian race of princes, the barbarian monarchy prevailed.[1] While under that first race the system of election, in the royal family, with some mixture of inheritance and of religious notions, remained predominant.

[1] *Guizot*, 226.

So also in England among the Saxons, manners remained almost wholly barbarous. The Saxons would naturally be expected to carry the Teutonic institutions into England. The kingdoms of the heptarchy were little else than the territories of different bands,[1] every one having its chief. Military election appears more evidently among them than anywhere else. The Anglo-Saxon monarchy is the most faithful type of the barbarian monarchy.

The imperial monarchy during the fifth century appears in Italy among the Ostrogoths. The barbarous customs were there the soonest overcome. Theodoric considered himself as successor of the emperors. But Italy furnished too narrow a field, too little material, to enable a great empire to flourish. These were subsequently furnished in France under the second, the Carlovingian race.

The religious monarchy appeared in Spain under the domination of the Visigoths. The councils of Toledo, being the influencing power, the religious character predominated, if not in the government of the Visigothic kings, at least in the laws suggested by the clergy, and in the language they made the kings to speak. From the fifth to the seventh century these three sorts of monarchy, one or the other of them, according to circumstances, prevailed in the different states of Europe.

The barbarian monarchy continued in France until about the middle of the eighth century, the incoming of the Carlovingian race. Pepin procured himself to be elected at Soissons. So universally was this principle recognized, that when the first Carlovingians gave kingdoms to their sons, they took special care that they should be acknowledged by the chief men of the states assigned to them. When they divided a kingdom, they desired that

[1] *Guizot.* 227.

the partition should be sanctioned in the national assemblies.

We also see, at the same time, the religious principle introducing itself into monarchy, and assuming a greater degree of importance. Pepin, in addition to being elected, procured himself to be acknowledged and consecrated by the pope. Religion was then becoming a great power, and he felt a safety in allying the throne with the altar. His son, Charlemagne, pursued the same line of policy, and to a large extent, united the imperial with the religious monarchy. The accomplishment of the first, however, was his great object, that of the other being merely secondary. His alliance with the clergy was for his own benefit, not theirs. He was not their instrument, but he made use of them, as he did his own national assemblies, to promote the great aims he always had in view. To build up a great state, to restore in his own person the Roman emperor, was the constant object of Charlemagne.

4. The fourth source of power mentioned was that by right of inheritance. This is in direct conflict with the first or barbarian monarchy, derived from election. It may coexist with the other two, but is far less likely to with the second than with the third.

This is based upon the conservative principle that what a man inherits is as truly his own as if he had acquired it by purchase, or it had been bestowed upon him by gift.

This assumes that the crown, like other species of property, obeys the law of descent, and, like the peerage or real estate, gives the same rights to the heir that it gave to the ancestor. It is true this assumes that there was an original right to it, of which the heir's is only a derivative, but it stops not to inquire whether this was obtained by conquest, by personation, by gift from the people, or be-

stowment from deity. It is enough that a king, while in the legitimate exercise of kingly powers, dies, leaving an heir. Upon him legally devolves all the rights and prerogatives of his ancestor. This source of power was the last recognized in European monarchies. We shall find in it that principle of legitimacy which has long so strongly upheld, and still upholds the kingly governments of Europe.

The three first kinds of monarchy I have mentioned almost entirely disappeared about the middle of the ninth century. They disappeared in the confusion into which the political affairs of Europe fell upon the downfall of the great central power erected by Charlemagne. Then commenced the reign of feudalism; which, as its tendency was to localize, was really antagonistic to the monarchical principle, the tendency of which is to centralize.

It is true, however, that some have wrought out of the feudal system a feudal monarchy, making the king the suzerain over suzeraines, the lord over lords, connecting by firm links the whole frame of society, calling around him his own vassals, then the vassals of his vassals, and so on in gradation, exercising his authority over the whole mass of the people. But all this, although true in theory, yet is false in fact. This hierarchical organization existed only in idea. Far the greatest part of the feudal chieftains of that period were independent of the monarch. The real and only tendency of the feudal system, as already remarked, was to localize not to centralize.

But amid the confusion of the feudal period, a confusion that absorbed all the previous forms of monarchy, "amid the ideas of suzerain, fief, and vassal, and their respective relations to each other, with which that system was familiar," lay side by side with the feudal association, in intimate relation with it, and yet reposing upon other principles, and striving to emancipate themselves from it

and from each other, royalty, and the third estate, the commons. It is in great part the struggles for supremacy between these three powers or principles, feudality, royalty, and the commonalty, which creates the confusion of that period.

As we have already seen how the religious force, and the aristocratic force, and the burgher force, emerged from the reign of feudalism and expanded themselves into different European governments, it now remains to inquire how royalty, and the commons have accomplished their emancipation, and the agency they have respectively exercised in the governmental element of Europe.

First as to royalty. And here it is obvious that France is the battle-ground upon which modern royalty has succeeded the earliest and the most effectually in emancipating itself both from feudalism and the commons, and in ruling the most strictly upon its own principles. It dates here from the reign of Louis VI, the Gross, about the beginning of the twelfth century. Here commences the royalty of the feudal epoch, the predecessor of modern royalty.

We recognize here an entire change in the claim of title. It was not in virtue of election that the crown claimed to exert its power. The barbarian monarchy had passed away. It had traveled back to Germany, where the imperial dignity was still elective. It was not by inheritance from the emperors, or by the title of imperial monarchy or by any personation of the nation, that the claim was made. The empire had also fled from France, and gone to Germany. It was not laid claim to as an emanation from the deity, and hence as possessing authority coming from above. All the elder sources of monarchical power seem to have lost their efficacy, and to have vanished at the approach of the feudal system.

It was at this period that the right of inheritance came to possess an acknowledged force. This right was in perfect harmony with the claims made by the feudal barons. The great effort on their part was to give to their fiefs inheritable qualities, to enable their children to possess the same rights, and enjoy the same privileges and prerogatives which they themselves had possessed and exercised. They were, therefore, fully prepared to concede to the rights of inheritance all that could reasonably be claimed for them. But as title by inheritance is merely derivative, we must inquire by what other means royalty, at that period, sought to sustain itself. "The new royalty," says Guizot, "claims not absolute power,[1] the right to rule alone and everywhere, it makes no claim to that inheritance of the emperors of old; it acknowledges and respects the independence of the feudal seigneurs; it leaves them to exercise their jurisdiction freely in their own domains; it neither abnegates nor destroys feudalism. What it does is to separate itself from feudalism; it places itself above all these powers as a distinct and superior power, which, by the original title of its office, is authorized to interfere for the purpose of reestablishing order, of protecting the weak against the strong, the unarmed against the armed; a power of justice and peace amidst general violence and oppression; a power whose essential character, whose real force, consists not in any anterior fact, but in its harmony with the real pressing wants of society, in the remedy which it applies, or at all events promises to the evils under which society labors."

And again: "Now, for the first time, seems to have entered the minds of men, the idea, though very incom-

[1] *Guizot*, IV, 123.

plete, confused and feeble, of a public power, unconnected with the local powers which had possession of society, called upon to render justice to those who could not obtain it by ordinary means,[1] and capable of producing, or at least commanding, order; the idea of a great magistracy, whose essential character was to maintain, or reestablish the peace of society, to protect the weak, and to decide differences, which could not be otherwise settled."

It was, undoubtedly, a great public necessity that lay at the foundation of modern royalty. All men felt that the evils of localization could not be always submitted to; and that a power that could rise superior to the feudal lord, that could enforce order and administer justice where he failed to do so; that could centralize, reorganize society, was a political necessity. But this was very slow in its realization. There were, however, certain things that favored it. One of these, was, that royalty had now accomplished its separation from feudalism, and had become a power distinct from it, and foreign to it; not connected with territorial property, a power sui generis, purely political, and as such, claiming to govern.

Another was, that it was both a sole and a general power. While the feudal barons were numerous, there was but one king. The power claimed was also over the entire kingdom. It combined political with national unity.

Another was, that it was a power, which, neither in its origin, nor in its nature, was well defined, or clearly limited. Neither in the laws nor in the customs, had it any known, definite, or prescribed limits. At times it would seem to lay hold on absolute power, while at others, it would recognize bounds and limits, which it would not pass.

[1] *Guizot*, 231.

A practice inaugurated by Louis the Gross, during the first half of the twelfth century, contributed to increase the influence and power of the crown. This was the era of free cities. They found their way from Italy into France. Louis early perceived their political importance, and adopted the plan of conferring new privileges on the towns situated within his own domain. These privileges were called charters of community,[1] and by means of them, he enfranchised the inhabitants, abolished all marks of servitude, and formed them into corporations or bodies politic, to be governed by a council and magistrate of their own nomination. The effect had upon the cities, and the result brought about by it, we have already seen.

The object which Louis sought to accomplish was to raise up a power in the state which should counterbalance that of the feudal barons, a power that should possess the elements of activity, and upon which he might rely as a counteracting force. That object was, in a great measure, accomplished. The crown at that time lacked both men and money. No regular troops were kept on foot in any of the feudal kingdoms, and the king could therefore bring no army into the field except what he could raise by means of the feudal services owing him by his crown vassals, and out of his own domains. The former were always jealous, and their supplies of men scant and grudgingly furnished; while the latter were unable from poverty to furnish any great supplies. Nor had the king any funds for carrying on the public service, except what his vassals would grant, and the small amounts obtainable from his own domains.

The free cities trained their own soldiers, and the prosecution of their industrial pursuits soon gave them the

[1] *Robertson's Charles V.* 1, 26.

command of pecuniary means. Their natural protector was the king, who had granted them their privileges, and the supplies they furnished, were, at times, very essential aids.

Philip II, called Augustus, in his long reign of forty-three years, from 1180 to 1223, did much to centralize the monarchical power. His efforts were in a different direction from those of Louis the Gross. He endeavored to collect around him the grand vassals, and to constitute them an assembly, a parliament; to give to the feudal courts, those of the peers, a frequency, and a political activity, before unknown. Many of his ordinances run: "With the concurrence and assent of the barons of the kingdom," thus giving them the force of law throughout the kingdom.

Another great fact marks the reign of Philip Augustus, and that is the effort made by him to emancipate the kingdom from papal, and even clerical supremacy. In defending himself against ecclesiastical pretensions, he succeeded in rendering the kingdom, to a great extent, independent of the papal power.

The long reign of Louis IX, St. Louis, extending from 1226 to 1270, was of vast importance to the French monarchy. It was the judicial arrangements made by this king, and the respect and reverence for justice which he inspired throughout the kingdom, which contributed so much to strengthen royalty.

In the feudal element, as we have already seen, ultimate justice resolved itself into private wars and judicial combats. By the former the power of might must triumph; but the latter, clothing itself in the superstitious garb of the age, claimed the judgment of God upon the matter in dispute.

In regard to the former the king instituted, or rather restored the quarantaine du roy, by which in all cases of

discords, quarrels and skirmishes, resulting in the death or wounding of any engaged in them, the relations of all such were forbidden for forty days to take any part in the matter, those actually engaged being in the meantime liable to be apprehended, imprisoned and held for trial. Of this he enforced the observance.

The judicial combat was more difficult to attack. This was a regular institution, enveloped in the forms of law, dear to the heart of feudalism, and much cherished by the barons. All the king could venture on was to suppress the judicial duel in the royal domains. He also negotiated with his principal vassals, and induced several of them to abolish it in their domains.

The most important judicial step taken by St. Louis was the effecting such an organization of the national courts, as to lead to the taking of appeals from the courts of the baron to those of the nation. It was, as we have seen, the privilege of the feudal baron to hold his own court, and dispense justice among his vassals. This was among the feudal rights; and was estimated, and rightly so, of the highest importance. The unfortunate consequence followed, that no general laws or principles could prevail, the different courts in each court baron, basing their decisions upon local customs, and often having contradictory forms of proceeding.

The organization of the national courts was slow in perfecting. In all feudal kingdoms the king's court of justice was originally ambulatory, following the person of the monarch, and held irregularly,[1] generally during some great festival. The first important change accomplished in France was to render the supreme court or parliament fixed as to place, and constant as to the time of its meetings.

[1] *Robertson's Charles V*, I, 255.

Great privileges and distinctions were conferred; and persons eminent for integrity and skill in law were appointed judges. The final decision of all causes of importance was finally brought into the parliament of Paris, and the other parliament which administered justice in the king's name in different provinces of the kingdom. St. Louis himself was in the habit of hearing causes and administering justice in person.

The obtaining of appellate jurisdiction was no easy matter.[1] The first instances of appeals were on account of the delay or refusal of justice in the baronial court. To these there was but little opposition. But when these were followed, as they soon were, by appeals on account of the injustice or iniquity of the sentence, the nobles made a strong opposition, sometimes mutilating and even putting to death such as ventured to appeal from the judgments of their courts. By pursuing a persistent course of policy, the national courts came at length to dispense justice in important cases, and this fact exerted a strong influence in producing a centralization of power.

The next important reign was that of Philip IV, the Fair, from 1285 to 1314, during which a long stride was made towards absolutism. The acts or ordinances passed during his reign are very numerous, and relate to a great variety of matters. The legislative power mixes itself up with a great variety of things. Another noticeable fact is that the larger portion of these ordinances emanates from the king alone without any mention being made of the consent or counsel of the barons or other great possessors of fiefs. This is particularly the case with all those which regulate at home the condition of persons and property. But in questions of war and peace, and in foreign

[1] *Robertson's Charles V*, I, 48, 49.

negotiations, he often invoked the concurrence of the barons and other notables of the kingdom.

The judicial power also received additional development under Philip the Fair. It was the era of lawyers. They, as a class, now began to assume an importance in the state. They were essential aids to royalty, and effective instruments in its hands in combating the only two adversaries it had to fear, the feudal aristocracy and the clergy. And the aid they rendered was of vast importance in substituting the power of the public in the place of feudal and ecclesiastical power.

Another vastly important power which Philip the Fair arrogated to himself was the right of taxing even beyond his own domains, and also the right of coinage. This latter right he purchased from some and usurped from others, until he concentrated it almost wholly in himself.

Thus, in the three essential elements of sovereignty, the legislative, the judicial, the power of taxation, royalty, at this period, advanced almost to absolutism. Under the immediate successors of Philip the Fair, his three sons, a strong reaction took place against the usurpations of royalty.

Notwithstanding these advances of royalty, sometimes rapid, and then slow and even receding, the feudal character continued strongly to prevail in France down to the reign of the house of Valois, which commenced in 1328. External causes about that time commenced their operation which strongly tended to centralization. The last half of the fourteenth and the first half of the fifteenth century, was the period of the great national devastating wars between the French and English. These, more than any one cause, contributed to make the French one people.[1] All classes of society in France joined in the

[1] *Guizot*, 259.

struggle. The nobility, the burghers, even the peasantry, made common cause against the English. It was the peasants of Lorraine who sent Joan of Arc to succor the citizens of Orleans. It was a struggle for the French name and nation, and resulted in giving to France a name and nation. The nobility, burghers and peasants were never before united by a moral tie, the tie of a common name, of a common honor. But while this gave centralization and power to France, it gave to it at the same time an absolute government, and what is much worse, brought into existence that terrible engine and supporter of absolute power everywhere, a standing army.

Charles VII was endeavoring to reconquer France from the power of the English. This was nothing but a protracted warfare, and to carry it on required regular soldiers. This led to the formation of a permanent militia, of companies of ordinance, a standing army, consisting of cavalry, free archers, and infantry. By means of these, Charles VII was not only enabled to complete the reconquest, but also to reestablish order in the provinces.

Another step, about as serious, and pregnant with important consequences, was also about the same time taken, and that was the grant of the taille, one of the principal revenues of the crown was made perpetual, thus giving great strength to the government, but destroying at once the very means by which the people could control or influence it. At the same time, that great instrument of power, the administration of justice, was extended and organized. Parliaments were multiplied, five new ones having been instituted in a short space of time.

The reign of Charles VII was succeeded by that of Louis XI, another reign celebrated in the annals of France, and also of modern European monarchy. This reign is a masterpiece of cunning, duplicity, tact, and adroitness of

management in the employment of all the powers, whether of force or fraud, in advancing monarchy to the highest pitch of absolutism. Although it lasted but sixteen years, from 1467 to 1483, yet it developed more resources, and was followed by greater and more lasting results, than any other in the previous history of France, with very few exceptions. He granted liberal charters to many cities and towns, to some constitutions almost wholly republican. He organized the militia of Paris and other great towns, and called into existence the institution of the national guards. He raised the standing army to three times as many horse and twice as many foot as Charles VII had maintained, in all between fifty and sixty thousand men, and increased the taille from £72,000 to £188,000. He commenced the practice of employing foreign mercenaries.

By a series of negotiations, and pursuing a masterly course of policy, employing for that purpose both cunning and force, he finally succeeded in completely breaking down and destroying the power of the barons, and great princes of the blood, and in erecting upon its ruins an absolute monarchy. From this period France became a great centralized power, all the parts subordinated to the general whole, and everything moving in obedience to the will of the court.

In the bringing about of this result much more is due to Louis XI than the judicious employment of force. He really inaugurated a new system of tactics. Little other than force, or physical means, had previously been employed by governments in conducting their affairs. He employed persuasion, address, the presentation of motives to men's minds,[1] thus substituting policy in the place of force. His policy, it is true, was often made up of falsehood and

[1] *Guizot*, 262.

deceit, but was generally characterized by management and prudence. It was, at least, a substitution of intellectual for material means, and of cunning for force. He effected a change in the secret proceedings, the tactics, of power. True, it was self-interest where it should have been justice, concealed cunning and adroitness of manœuvre where it should have been openness, frankness and publicity; still it was calling in the aid of intellectual superiority, and governing men through their understandings, and not seeking to break down all obstacles though mere force.

The age of Louis XI, the last half of the fifteenth century, marked a great and material change in all the leading European governments. This was characterized by the abolition, everywhere, of feudalism as a living, governing institution, and the substitution, in its place, of centralized monarchy. Not but that feudal customs, features, and some laws still remained; in fact they continue to the present time; but its hold on life and power was lost; its mission as a governing energy had ceased; and the different nations and peoples of Europe were passing under new influences. I may say, perhaps, that the different peoples of Europe were becoming nations instead of suzerainties, and that in the place of vassal, fief, and suzerain, we are having the nation and the government.

We have just seen the operation of this new principle in France. In crossing the Pyrenees, and visiting the Spanish peninsula, we notice the same change. During the last quarter of the fifteenth century Spain was consolidated into one kingdom. Twelve years after Louis XI commenced his reign in France, the marriage of Ferdinand, the Catholic, of Arragon with Isabella of Castile, united togeher the two kingdoms, and their joint efforts expelled the Moors from Grenada, and thus brought the whole of Spain under one sceptre. The power which the sovereigns acquired,

or came to possess, by this expulsion of the Moors, they employed in centralizing the government of Spain, and in rendering it an absolute monarchy.

The Spanish sovereigns resorted to means severe and gloomy to establish their centralized despotism. While the parliament and standing army had their origin in France, the inquisition was upreared in Spain. It was at first of a political rather than a religious nature, being shaped rather in reference to the maintaining of civil order than defending religious faith.

We perceive the same principle, about the same period, making a progress in Germany. The house of Austria came to the empire in 1438, near the middle of the fifteenth century. To no single house in Europe has monarchical despotism been more largely indebted than to this. From the time of its establishment a new system was inaugurated in Germany. The election of emperor, it is true, was for some time continued, but it soon came to be a mere form, and to operate merely as a sanction given to hereditary right. So rapid were the advances made, that towards the close of the fifteenth century Maximilian I established the preponderance of his house, and the regular exercise of the central authority. He was the first to create, in his hereditary dominions, a permanent militia, a standing army. He was also the first to introduce into Germany the post-office system, and the carrying of letters by post.

The great centralizing monarchical tendency of the fifteenth century was not limited to the continent. England also felt the force of it. Two great general facts there contributed to this result. The one was the war with France, the other the civil war of the roses, the bloody contests between the houses of York and Lancaster.

The first was a national contest. It was not alone the government, it was the people of England, that carried on

this war. They prosecuted it with great zeal, and armed royalty with great power for the purpose of carrying it on efficiently. They surrendered into its hands their treasures and resources, thus seeking to conquer another people by enslaving themselves. Almost at the commencement of the reign of Henry V, a very considerable tax, consisting of custom house duties, was granted to the king for his lifetime.

The foreign war was scarcely ended when the domestic contests began. These were long and sanguinary. The English nobility were all enlisted on one side or the other, and were the severest sufferers. Many were totally ruined. Some entirely disappeared, and generally they were no longer able to preserve the power they had previously exercised. The great barons could no longer govern the throne. Their coalitions were impotent. The house of Tudor gained the ascendant, and with Henry VII, in 1485, commences the era of centralization, the triumph of royalty. This continued to increase through the reign of the Tudors, so that under Henry VIII, Mary, and Elizabeth, England was one of the most absolute despotisms in Europe.

The power of this spirit of absolutism and centralization, in its sweep over Europe, was also felt in Italy. The Italian republics fell during the fifteenth century. Although in form some remained, yet the actual power became concentrated in the hands of one, or a few families, and thus the spirit of republicanism was extinguished. In the north, the Lombard republics became merged in the duchy of Milan. In 1434, Florence fell under the dominion of the Medicis. In 1464 Genoa became subject to Milan. The republics generally throughout Italy, yielded to the power of sovereign houses, and soon after the pretensions of the different powers of Europe to the

exercise of sovereignty over the north and south of Italy, particularly Milan and Naples, began to be put forth, thus leading to those desolating wars in which Italy was often the battle-field, and France, Austria and Spain the contending parties.

Thus that spirit of isolated individual liberty, consisting in the reign of the individual will, which had originated in the forests of Germany; which had overthrown that ponderous structure the Roman empire; which had culminated in a new political system, that of the feudal; found itself dying out with the waning years of the fifteenth century. With it, the ancient liberties of Europe were expiring. They had culminated in a political system which could guaranty neither security nor progress. It is for the accomplishment of both these purposes that governments are instituted among men. When they fail to effect either one of these, their continuance must be brief. And thus it was with the feudal system. It had fully performed its mission, and developed all the energies it ever possessed, or was capable of putting forth. Although the ancient liberties of Europe were bound up in it, it could stand no longer. The principal contest was between it and royalty, and the latter triumphed.

It now remains to examine the development of royalty, the monarchical principle, both in its modified form as exhibited in England, Poland and Hungary, and in its purer, more absolute form, in Naples and Sicily, Spain, the northern kingdoms of Europe, Austria, Prussia and France. Of these, England must be reserved to illustrate, along with this and the aristocratic force, the third estate, or commons. Poland and Hungary have already been briefly alluded to. The pure absolute form is found developed:

1. In Naples and Sicily.

These two kingdoms, the latter insular, the former continental, embracing the southern portion of Italy, have the most commonly been united under one crown. They were late in yielding to the sway of the Lombard, but the conquests of the latter under Autharis, who became their leader in 585, were pushed to the southern extremity of Italy. Under the Greeks and Latins, previous to the Lombards, the provincial government was by dukes and counts, who had the charge of smaller districts. This was also continued under the Lombards. Although the Lombard authority was never rigidly enforced, yet its plan of government and legislation form the foundation of the constitution which has generally prevailed.[1]

In the early part of the eleventh century, and six years only before the conquest of England by William the conqueror, occurred the Norman invasion of Sicily under Robert Guiscard, its final conquest being completed under Roger, his brother, in 1090. The Norman conquerors introduced the feudal system, and its usages and customs gradually undermined many of those which had grown up under the Lombard law.

The long reign of Frederick I (known as Frederick II, emperor of Germany), was spent in repressing baronial usurpations, and establishing regular and wholesome government over the country. He was the greatest legislator of the monarchy, contributing more than its founder to its regular establishment.

On the death of Frederick, in 1250, a period of anarchy succeeded which was finally terminated by ending the Suabian, and establishing the Anjou dynasty in the person of Charles, the brother of St. Louis, who was crowned king in 1266. This latter continued until 1282, when the op-

[1] *Brougham*, 1, 586.

pressive government of the French aroused the inhabitants to a terrible massacre, known as the Sicilian vespers, upon which the Spanish or Arragon dynasty was established in the person of Peter, which ruled over Sicily and Naples for two hundred and fourteen years. They then, for a very brief period, fell under the dominion of France under Charles VIII, but finally again returned under Spanish rule and so continued during the sixteenth and seventeenth centuries.

After a short separation at the beginning of the eighteenth century, both the Sicilian and Neapolitan crowns fell to a branch of the Spanish Bourbons descended from Philip V. They have remained in their possession ever since, with the exception of the occupation of Naples by the French in 1799, and afterwards from 1806, to the fall of Napoleon in 1815.

The only constitutional element which could interfere with the exercise of absolute power by the sovereign was the parliament. From the conquest of Roger the Norman to the Sicilian vespers, a period of a century and a half, there was but one parliament for both kingdoms, sometimes meeting in towns on the Island, at others, in those on the continent.

After 1282 the separation of the two kingdoms rendered it necessary to have a separate assembly for each, and when in the sixteenth century they were again united, the parliaments were kept distinct.[1] That of Sicily had acquired a more regular form and greater consistency, than that of Naples. The latter had no regular time of assembling, its meeting being occasional, when the king had some new law to promulgate, or some aid in money to ask. They sometimes, as in 1257, exercised a judicial function. It was finally discontinued; and during more than a century

[1] *Brougham*, I, 606.

and a half from 1642 to 1808 it never had a session. During all that period the only semblance of a legislative body was the sedili or seggi of towns.[1] These consisted at first of the principal citizens, afterwards only of the nobles, who met in the porticoes of the towns to consult together. In the thirteenth century there were twenty-nine of these seggi. Afterwards they were reduced to five. They were chiefly used to obtain votes for money and for purposes of police, each seggio choosing a delegate, called eletto. Of these there were seven, and when the people chose one in their own seggio, they together formed a municipal body.

There were two councils of the crown, but as they were entirely under its control, the members holding their places during its pleasure, they constituted no check upon its power.

The courts of justice were no more checks than the councils, the judges being removable at pleasure. A most extraordinary and intolerable practice grew up, and for some time prevailed, of having special judges for districts, or particular estates, or even for particular cases, sent by the government, called delegates, whose proceeding was not according to the ordinary course of law, but was guided by the royal instructions, no appeal laying from their decisions except to the crown. These came at length to be pretty much confined to criminal cases of great delinquency.

The parliament of Sicily, which became a separate body in 1282, very much resembled that of Naples, but was held more regularly, and continued for over five centuries until supplanted by the new constitution in 1812. It consisted of three orders: First. Prelates. Second. Barons, and feudatories. Third. Deputies from the cities and towns.

[1] *Brougham*, I, 607.

The principal occasion of calling a parliament was the levying of new taxes, and it seems that the assent of the prelates with either one of the other orders was sufficient to enact a law.[1] They could discuss nothing but what the crown laid before them, but they were at liberty to annex what conditions they pleased to their grant of supplies. The grant of supplies formed a very important part of their legislation, but many of the old laws of the monarchy were made in the parliament.[2]

The feudal system prevailed both in Sicily and Naples, and with it the hereditary tenure of the highest offices.[3] In both, the rule of the barons was most oppressive. The feudal services, and incidents as fines, reliefs, marriage, labor, were severely exacted. This oppression was greater in Sicily than on the continent.[4] From the period of the conquest by Roger, one-third of the island was given to the church, one third to the officers of the army, the nobility, and the remaining third to the crown. In the kingdom of Naples three-fourths of the land were always in the possession of the priests, the monks, and the nobles.

The latter were tyrannized over by the crown, and in return were permitted to oppress the inferior classes. Thus the rule of the Spanish dynasty was oppressive to the last degree both in Naples and Sicily.

In 1799 the French occupied the Neapolitan kingdom and founded the Parthenopeian republic,[5] which lasted but a few months. In 1808 Joseph Bonaparte, when he resigned the kingdom gave it a new constitution, which his successor, Joachim (Murat) never carried into execution, but, following the example of his predecessor, he also, on leaving the king-

[1] *Brougham*, I, 611, 612. [2] *Idem*, 612. [3] *Idem*, 613. [4] *Idem*, 614. [5] *Idem*, 615.

dom, left a new and more liberal constitution. It provided for two chambers of parliament, and allowed the freedom of the press, but, like its predecessor, was a dead letter.

But the French rule was nevertheless immensely beneficial to the Neapolitan dominions. Not only were important changes made in the judicial and administrative system, but what was vastly more important, the feudal laws were abrogated, and feudalism itself, as a living institution, ended. A new body of laws was also promulgated in 1819 for the whole monarchy, island as well as continent, which was a great improvement upon the old, partly customary, partly written, and very confused system. The provinces were also divided into districts and subdivisions, and courts were established in each.

The king's council was made to consist of three ministers; but there was also a general council or chancery, under a secretary of state, consisting of twelve councillors, the presidents of the supreme court, and chamber of accounts and the intendant of Naples. Its division was into three chambers,[1] one for justice and ecclesiastical affairs, another for finance and police, and a third for the military and naval department.

The whole authority of the state in all the Neapolitan dominions was nevertheless vested absolutely in the king, who could make laws and impose taxes by his own edicts, and govern without any political check or limitation. The judges and all officers, both civil and military, were appointed by him, and removable at his pleasure.[2] The financial administration both under Joseph and Joachim was distinguished by great ability, and the reforms they introduced have had their beneficial effect upon the restored government.

[1] *Brougham*, I, 617. [2] *Idem*, 619.

Upon the French occupation of Naples in 1799, the Neapolitan court removed to Sicily, where Ferdinand, supported by British power, continued to reign. In 1812, the constitution was remodeled so as very nearly to resemble that of the British isles. The legislative power was vested in the parliament and crown, the latter having the power simply of accepting or refusing any bill tendered. All taxes were included in the same provision. The parliament consisted of two houses, one of peers, ecclesiastic and nobles; one of representatives chosen by the people. The general executive power was vested in the king, who was irresponsible, the responsibility, as in Great Britain, attaching to his ministers. The feudal system was abolished, all its services and incidents ceasing, all land being made allodial, and all baronial jurisdiction swept away.

The working of this new constitution entirely disappointed the expectations of its founders. The Sicilians, wholly unprepared for such rights, were totally incapable of exercising them. The new parliament assembled presented scenes of disorder, violence, and confusion, such as were never before witnessed in a deliberative body. Interminable disputes and controversies were engendered, until finally the liberal parliament was dissolved, the new constitution abandoned, nothing of it remaining except the abrogation of the feudal system.

The royal family were restored to the Neapolitan throne on the overthrow of Napoleon in 1815. General promises of improvement were made, and one important reform adopted, viz: the abolition of all feudal rights in every part of the monarchy was confirmed.

The reestablishment of the despotism led to the revolution of 1820, when the constitution of 1812 was adopted for both the Sicilies; but this was brought to a premature end by the holy allies in a few months, and the former

despotism restored. Some regulations have been adopted for the conduct of the government, but nothing that could place the least restriction upon the royal authority. The affairs of state were to be discussed in a council of twelve, and new laws in one of thirty at Naples and eighteen at Palermo in Sicily. The taxes were to be distributed by provincial councils.

But all these bodies were to be composed of persons nominated by the crown and removable at pleasure, and no pretense was ever used of any revival of the old parliamentary constitution, or even the seggi. Since that period the power of the crown has been completely absolute in every particular, and there is at the present time as severe a despotism pressing upon the two Sicilies, as upon any other country of Europe.

We are next to glance at the progress of the monarchical principle, and its ultimate establishment in the Spanish peninsula, comprising the kingdoms of Spain and Portugal. We have already noticed the fact that the Spanish peninsula, upon the downfall of the Roman dominion, came under the sway of the Visigoths, and so remained from the latter part of the fifth to the beginning of the eighth century. The feudal system was established there as in the rest of Europe. Under the Visigothic monarchy the crown was elective from the year 531, and during the whole period the king had a very limited power. A large share of the legislative power was in the hands of the councils, in which the prelates had almost the entire control.

The contests for the crown paved the way for the subjugation of the country by the Saracens or Moors, who, for several centuries, occupied the whole country with the exception of the mountainous tracts on the northern fron-

tiers. But safely secured among those mountains lay the growing and gathering forces that were ultimately to expand more and more, until the close of the fifteenth century saw the complete downfall of the Moorish dominion.

During the slow process of recovering the peninsula from the Moor, it is natural to suppose that the military character achieved the highest distinction, and that the lands,[1] as fast as their recovery would permit, were parceled out among the most warlike men who were bound to defend them against the infidels.

The northern provinces of Portugal belonged originally to the crown of Castile until near the close of the eleventh century, when they were separated by the gift of the Castilian king on the marriage of his natural daughter with a French prince, Henry of Burgundy.[2] The rest of the country still belonged to the Moors, but as the Spaniards were, by degrees, reconquering Spain, so the Portuguese princes expelled them from Portugal, which continued independent until the death of Sebastian, in 1578, two years after which it fell under the Spanish dominion. A revolt against the Spanish crown occurred in 1640, which was headed by the family of Braganza, descendants from the old kings of Portugal. The revolt was successful, and the Braganza family being placed upon the throne, have ever since retained it.

The development and growth, in the Spanish peninsula, of the third estate, the commons, the force residing in the people, which rose to its culminating point in the constitution of the cortes, will come up hereafter for consideration.

It is melancholy to trace the downward course of political history in the Spanish peninsula, and to notice how governments, the freest on the European continent, became

[1] *Brougham*, I, 611. [2] *Idem*, 611.

ultimately the most despotic.[1] The nobility and priests, commonly sitting in the cortes, holding all offices of trust, and forming the council of the king, were in the possession of great power. The crown subdued them partly by force, and partly by the aid of the towns. The encroachment of them was commenced by Ferdinand at the latter end of the fifteenth and beginning of the sixteenth century. It was completed by his grandson, Charles I of Spain and V of Germany. He possessed extensive German and Italian dominions, and by the large revenues he derived from these and from the mines of the precious metals in America, he was enabled to overthrow the ancient constitution.

The cortes, however, was still regarded as the source from which only the supplies could be legally obtained. But in 1520 force was, for the first time, resorted to in obtaining them from the cortes of Castile. This resulted in a civil war in which the crown was successful.[2] An attempt was again made in 1539 to obtain money, but so steady a resistance was made that the cortes was dismissed. The clergy and nobles were never afterwards summoned, and the few deputies of the towns being chosen by self-elected municipalities, fell under the absolute control of the crown. Although we may afterwards meet with remonstrances, yet the crown in effect became absolute in Castile.

In Arragon the cortes continued much longer. It was gradually shorn of its powers, but retained the longest the right of having its consent necessary to the imposition of new taxes. In 1713 the Arragonese cortes was convoked for the last time as a legislative body. Since that time those of Arragon, Catalonia, Valentia and Castile have

[1] *Brougham*, I, 620. [2] *Idem*, 620.

occasionally met as a matter of form when some act of ratification was deemed necessary, but they have possessed no greater real power than did the Roman senate under the Roman emperors.

The Portuguese cortes was always the feeblest legislative body of the Spanish peninsula. The three estates of nobles, clergy, and deputies of towns met as early as 1143, but the royal authority was never as much restrained by the states in Portugal, as in the other feudal kingdoms.

The crown very early acquired such power over the body that it was seldom convoked unless to sanction some infraction of the law and the constitution. It did exercise some power upon the separation of Portugal from Spain in 1640, but after 1697 there was no meeting until the troubles originating in the French invasion.

The political philosopher will naturally ask what causes were in operation sufficiently strong to change the political destinies of a whole people, and to sink an entire peninsula from a very high degree of political freedom to a despotism, political and religious, scarcely excelled in any other part of the world. To this question we may answer:

1. The power vested in the united crown of Castile and Arragon, in the persons of Ferdinand and Isabella for the purpose of expelling the Moors, was wielded, after their expulsion, to strengthen and increase the power of the crown at the expense of that of the people.

2. The personal character of Ferdinand, and the popularity of Isabella both conduced to such a result.

3. The energetic regency of Cardinal Ximenes during the minority of Charles I of Spain and V of Germany, by increasing the regular forces of the crown, and by seizing all occasions of humbling and weakening the nobility, elevated the crown at the expense of the nobles.

4. The same expedient was also resorted to here as in France and some other parts of Europe, viz: the weakening and depressing the nobles by means of raising and elevating the condition of the towns. Ximenes courted the towns by repealing taxes and revoking many improvident grants of crown lands to the nobles.

5. The same general line of policy being pursued by Charles V, led to the formation in Castile of the Holy junta, one of the objects of which was to strip the nobles of their exemptions, of all governments of towns, and all recent grants of land. This ranged the nobles on the side of the crown, while the junta, although hostile to both king and lords, was less so to the former than the latter. This led to a junction between the king and lords which, added to a want of union among the members of the junta, proved fatal. When, in 1539, Charles V dismissed both clergy and nobles from the cortes of Castile, the different classes of the community found it too late for either the nobles to claim the assistance of the people, whom they had just helped the crown to subdue, or for the people, now become insignificant, to combine with the lords, neither body being now able to resist, he destroyed the constitution of the cortes.

6. The vast extent of territory lying in the middle and north of Spain with few towns of any importance, thus affording few centres and rallying points to the people, afforded them fewer opportunities for acting in concert.

7. The introduction of the inquisition under the guise of a religious institution, and for the ostensible purpose of advancing the catholic faith, but having for one of its real objects the more subtle purpose of a state engine, to enforce obedience to the monarch's will, was an instrumentality of no inconsiderable importance in advancing the cause of despotism.

8. The extensive foreign dominions of the Austrian family, Charles V, and Philip II in Germany, and the Netherlands, together with the immense resources drawn from the new world, enabled these monarchs to concentrate all the power that was necessary for the annihilation of whatever political rights were still remaining in any of the provinces of the Spanish peninsula.

These causes, acting together, may perhaps be sufficient to explain the wonderful changes witnessed in the peninsula, and the ultimate establishment and perpetuation there of an absolute monarchy.

From the extreme south of Europe we will now visit the extreme north; and inquire into the progress and establishment of the monarchical principle in the Scandinavian kingdoms. Although the Norman and Danish element, particularly the former, has contributed much in moulding to its present form the English or Anglo-Saxon character, yet when we visit the homes of the Norman, the Dane and the Swede, we find nothing in their political institutions of any very marked or peculiar interest. What strikes one as very remarkable is, that although the Normans introduced the feudal system into Normandy, a province of France which they conquered and settled, and into Sicily and Naples in the southern part of Italy, and also into England on its conquest by William the Norman, in 1066, yet the system was never established in Norway itself. It prevailed both in Denmark and Sweden in both which the monarchy was extremely limited, the king originally succeeding by election, but the crown generally remaining in the same family. The Danish government was substantially in the hands of the senate, and the states; the executive power administered by the former;[1] the legis-

[1] *Brougham*, I, 683.

lative by the latter. The senate was named by the crown, but its members must be nobles, and the king presided over its deliberations. The states consisted of the nobles, clergy and deputies of towns, and met yearly. They had the whole legislative power, made peace, war, and entered into alliances; superintended the royal marriages, and appointed to the great offices of the kingdom. They imposed all taxes, and the king was little more than commander of the forces and president of the council and of the state.

In 1397, under Margaret of Denmark, was formed the league or treaty of Calmar, by which Norway, Denmark and Sweden, each having constitutions closely resembling each other, were united together, each, however, to retain its constitution, senate, and separate laws. Pursuant to this treaty, and at a general diet held under it, it was agreed that the senators and deputies should elect the successor to the throne at each vacancy, choosing in the family when any reigning prince left children, that the court should reside four months each year in each kingdom, that the revenues of each should be spent in it, and that the natives of each should alone be capable of holding office within its bounds.

This union, or league, was never faithfully observed, and the tendency was constantly towards despotism until about the beginning of the sixteenth century, when Christian II made himself absolute, and by his cruelty acquired the name of the northern Nero. His enormities raised the people of Sweden against him, where, by the election of the states, Gustavus Vasa was raised to the throne, in whose family the crown continued until 1818.

In Denmark, Christian II was formally deposed by the Danish states,[1] and abdicated in 1521. The introduction

[1] *Brougham*, I, 634.

of the reformed religion into Denmark was attended with important results. That event was there signalized by divesting the catholic church and clergy of all their lands and property, and the bestowment of them upon the crown and the nobles. This gave the aristocracy a vast increase of power, the senate becoming from that time the ruling power in the state.[1] Each successive king was named by the senate, and was bound by a capitulation to maintain, and sometimes to extend, the privileges of the aristocracy.

The rule of one power, the aristocracy, represented in the senate, was attended with effects more and more disastrous. In a little more than a century and quarter, a war occurred between Denmark and Sweden, which in 1660 resulted in the abandonment to the latter of the northern Baltic provinces. The finances were in a ruinous condition, the army without pay, the navy nearly annihilated, and the assembling of the states-general became clearly a matter of necessity. The three orders met, king, nobility, and clergy and deputies, composing the commons. After some disagreement between the commons and the nobility, the former withdrew to a separate chamber, and there opened negotiations with the king, proposing to surrender into his hands all political power. The nobles, unable to resist both king and commons, were compelled to acquiesce, and, making a virtue of necessity, proposed to make a voluntary surrender. On the 10th of January, 1661, was executed the act of surrender of all the rights and liberties of all classes of the people. This surrender was in three parts; one for each order,[2] the senators, representatives of the clergy, and deputies of the commons.

The result of this was that on the 14th of November, 1665, the king promulgated the most absolute constitution

[1] *Brougham*, I, 635. [2] *Idem*, 636.

known in Europe, declaring the king to be the only supreme ruler upon earth, above all human laws, having no superior but God. He alone possessing the power of making, altering, abrogating, and interpreting the laws, and of granting exemptions and dispensations from their observance. It provided that the sovereign should have the whole power, military as well as civil, naming all officers and functionaries, imposing all taxes, ordering and regulating all ecclesiastical matters and things. He provided that the crown should be hereditary, "After divine providence shall," says he, "have given us an eternal and heavenly crown instead of the one we now wear."

What constitutes a strange sequel to this anomalous act, is that Frederic III, the author of this constitution, was gentle, prudent, and prosperous in his reign, cultivating peace, and administering the government with moderation and justice, and that his successors, for a century after, generally followed in his footsteps.

With such a singularly despotic constitution Denmark has been truly fortunate in having good kings, and wise and liberal ministers. To these is owing, among other things, the abolition of the servitude of the peasants, and the cessation of slavery in the Danish West India Islands.

In Sweden anciently the states were composed of four orders: nobles, clergy, burgesses, and peasants. The senate was originally the council of the king, consisting of twelve of the higher nobles, who were named by the king, together with other members, and held their places for life.

When Gustavus Vasa threw off the Danish yoke, he introduced into Sweden the Lutheran religion, and the new clergy were more favorable to the crown than to the aristocracy. The states granted a law making the crown hereditary, and he was generally able, by influencing the election of deputies, to rule the diet.

The wars of Gustavus Adolphus increased the royal authority, and the commons and clergy, in 1680, enabled Charles XI to establish almost as absolute a government as Frederick III already had in Denmark.

Charles XII ruled absolutely, and exhausted the resources of the kingdom. Upon his death the states chose his sister Ulrica Eleanora his successor, exacting an oath to observe the ancient free constitution. The states for each vacancy in the senate were to present a list of three names, out of which, the king chose one. The number of the senate was twelve, and without its concurrence, no act of government could be done. The states were to meet once in three years, and oftener if convoked by the senate. A secret committee of the states revised all the determinations of the senate. The king had a double vote, and also a casting vote in case of equality. The states, while in session, were supreme, the functions both of the king and senate being suspended. The states alone had the power of making peace and war, and also that of removing any senator of whose conduct they disapproved. This government, more aristocratic than monarchical, continued for half a century from 1720 to 1772.

In the latter year Gustavus III, having won over to his interest the soldiery, by a few prompt and energetic movements, overturned the former constitution, and extorted from the states a new one, by which the senate, consisting of seventeen, was made a mere council, their decisions, unless unanimous, having no binding force. The king alone to name the senators, as well as all officers, civil, ecclesiastical and military, to call together the states, his and their consent being necessary in all legislative acts. The states to have a veto upon a declaration of war, and to impose new taxes, but if they failed to impose new, the old were to continue, and in case of war the king could impose

new taxes to cease on the return of peace if not confirmed by the states. The states, consisting of the nobility, clergy, burgesses, and peasants, the latter being representatives, chosen by all who occupy and cultivate lands held of the crown, were to meet only when convoked by the king, and to deliberate only on what he should propose to them. The king to name the speaker of each of the chambers except that of the clergy, which had the primate for its speaker. The chambers to meet and vote separately, but in any union of the whole, the four were to decide by a majority.

In 1776 some further alteration was made by which the senate was abolished, the power of the king rendered more independent, the power of making peace and war being vested in the king alone.

Upon the expulsion of Gustavus IV, a new constitution was adopted, providing that the administration of the government be carried on by the king in a council of nine named by him, at which each minister attends when the affairs of his department are discussed. The king constitutes the executive, and the consent of the councillors is implied unless they enter their dissent, with reasons, in the register. This latter, with the exception of such parts as relate to military operations, is always open to the select committee appointed by the states. The states regularly meet once in five years, and have the right to deliberate on any subject they think fit. No fundamental law of the constitution can be changed but by the consent of the whole four chambers; and the change proposed at one diet must be decided at the next. The king has the power to call an extraordinary diet if he thinks fit.

Such is substantially the present constitution of Sweden, which makes it far from being an absolute monarchy. In 1814, Norway was added to Sweden in order to compensate

for the province of Finland which was taken by Russia. A new constitution was then given to Norway somewhat resembling the one last mentioned as belonging to Sweden.

Austria and Prussia have been already considered under the great Germanic confederacy.

France only now remains to be considered as illustrating the development of the monarchical principle in Europe. I have already had occasion to trace the progress of the monarchical principle in France from an early period as it emerged out of the disorganizations of the feudal system, and continued to gain strength and power and supremacy until we reach the age of Louis XI, the last half of the fifteenth century. It only now remains to bring down our examination from that period to the present.

Louis VI left France a despotism, or very little short of it, but the mild character and want of capacity of his son Charles VIII, added to his financial embarrassment consequent upon his expensive Italian wars, all together disabled him from maintaining the tyranny of his father. Superadded to all this was a struggle for the exercise of political power on the part of the people, developed through the states-general assembled at Tours during the regency of his sister. The claim made on the part of the states-general was to repeal the taille and whatever other taxes had been imposed by the sole authority of the crown, and to have their exclusive right of taxing recognized. They would probably have proved too much for the crown, had not the nobles and clergy, who were exempt from taxation, united with the latter against the people.

His successor, Louis XII, although inoculated with the desire of foreign conquests, was, nevertheless, wise and judicious in his administration of the government, by which means he restored France to some enjoyment of domestic tranquillity and even freedom.

With him closes the fifteenth century. The sixteenth saw France the theatre of civil commotions and intestine wars, originating mostly, if not entirely, in religious differences. These prevailed through the reigns of Francis I, Henry II, Francis II, Charles IX, Henry III, and partly through that of Henry IV, until just about the close of the sixteenth century, viz: 1598, when he published the edict of Nantes, which secured to all the liberty of conscience and of religious worship. During this entire century the royal authority had been weakened by the civil and religious wars, which had so long distracted and exhausted the country, but nothing had been gained for the liberty of the people.

The reign of Louis XIII was distinguished by the administration of Cardinal Richelieu, one of the ablest ministers Europe ever saw. His favorite maxim was, that there is no such thing as fail, and his great foresight, vast knowledge, fertility of resource, and iron will, enabled him well to illustrate the maxim. His great mission seemed to be to humble the house of Austria; and long will that proud house have occasion to remember his terrible advent. Through the strong ascendancy the monarchical principle had achieved in France, he was enabled to wield all its mighty energies for the accomplishment of whatever he desired, and his great object was to humble Austria and render France the leading power in Europe. And that object he accomplished.

The reign of Louis XIV, continuing through the long period of seventy-two years, from 1643 to 1715, forms a remarkable era, not alone in France, but in Europe. He starts off at the very commencement of this long reign with the significant declaration, "I am the state," and well and thoroughly was that maxim illustrated down to the very close of it. We have already seen in the brief review of

the historical events of Europe, the great number and extent of the wars and remarkable events of a historical nature and value that crowd into his reign. As the royalty that rose upon the ruins of the feudal system finds its culminating point in this reign, we shall find it profitable here to take our stand point, and inquire into its distinguishing features, and the real nature of the government he administered.

One feature is found in the peculiar character of his wars. The early European wars were more generally great popular movements, affecting sometimes whole populations. Many of them were conducted without any well defined object in view, and the results were frequently different from any that were anticipated. These very seldom originated in political causes, although they sometimes had the effect quite unexpectedly of shaping political events. This continued till after the Crusades at the close of the thirteenth century.

Next we have distant wars. Here commences the era of standing armies. The wars were carried on not by nations but by governments. They were generally distant wars, wars originating in ambition and the lust of conquest. Instances of these were the wars carried on by Charles VIII in Italy, Charles V in Africa, and Charles XII in Russia. These were also very little political either in their origin or progress. These were the wars of the fifteenth and a part of the sixteenth century.[1]

Next comes the era of Louis XIV. Here we meet with new species of wars, wars of a regular government; of a government having its own plan and policy, endeavoring to extend its conquests, or to increase and consolidate its territory; wars, in fine, originating purely in political causes.

[1] *Guizot*, 880, 881.

The objects contemplated were not fanciful; they were to reach some natural boundary, some population who spoke the same language, and might be annexed to the kingdom, or some point of defense against a neighboring power. The motives were serious, although the personal ambition of the sovereign, no doubt, had a very important influence.

A second feature regards the diplomacy of Louis XIV, his relations with foreign states. The early diplomacy, like the early wars, was without any fixed purpose. Its objects were but partially seen. It had not learned how to shape great plans of policy. It was a creature of the present, rather than the future. Short-sighted, indefinite, aimless, inadequate, it accomplished comparatively little in securing or advancing national prosperity or glory. How very little was accomplished by diplomacy even in the age of Charlemagne compared with that of Louis XIV.

Diplomacy may be said almost to have been born with the sixteenth century. But then it required a long training, and it was not until the seventeenth, that it became regular and systematic. Then it was that it became directed by fixed principles, that it brought about long and important alliances, great combinations, and those of a durable nature. It was consistent in its operations, proposed to itself aims and ends to be accomplished, and set deliberately at work shaping the proper means adapted to their accomplishment.

It had gone through a long training to reach this point. Until the breaking out of the reformation diplomacy had belonged essentially to the church, and had culminated in the pope. The reformation raised up other powers, brought into the field new forces, and on to the stage new actors. The political affairs of Europe became more complicated. A new element was introduced to those already existing. This led to a disturbance of forces, and this to greater in-

tellectual activity. During the course of the religious revolution, the foreign relations of state had been almost completely under the influence of religious interests; the protestant and catholic leagues having divided Europe between them.

It was in the seventeenth century, and in the reign of Louis XIV, that diplomacy emerged from religious contests and entered the field of general politics. With the faculties of the mind quickened, enlarged, more energetic and powerful, and with the experiences through which Europe had passed, and the new objects, plans, and views everywhere presented and entertained, it is not certainly matter of surprise, that it should propose to itself the accomplishment of new purposes, and the entrance upon a new mission. The balance of power had long been a growing idea in European politics. It had at times exerted some influence in diplomacy, but it was not until about the age of Louis XIV, that it came to be controlling in European affairs.

At this period nearly all the forces of Europe ranged themselves on one or the other of two sides, either that of Louis XIV, having for its object the establishment of pure monarchy as a universal system; or that of William III, the prince of Orange, having for its object the establishment of civil and religious liberty, and the independence of states.

A more important inquiry perhaps than we have yet made, and certainly a more pertinent one, relates to the internal administration of Louis XIV. This internal administration may be defined to consist in "an assemblage of means destined to transmit,[1] as speedily and surely as possible, the will of the central power into all departments

[1] *Guizot*, I, 336.

of society, and under the same conditions, to make the powers of society return to the central power, either in men or money." Until the age of Louis great difficulty had been experienced in "causing the action of the central power to penetrate into all the parts of society, and to concentrate in the heart of the central power, the means of strength possessed by the society at large." To effect this successfully, in a pure monarchy, must require a highly organized central power, and that power essentially dependdent upon a single individual will.

As the principle of pure monarchy finds its culminating point in the reign of Louis XIV, we may here inquire into the origin and power exercised by the French parliament, as that, with the occasional meeting of the states-general, was the only check upon the power of the king.

The parliament undoubtedly had its origin in the ancient assemblies of the people. The name first occurs in the time of Louis VI, the Fat, near the commencement of the twelfth century. The first was the parliament of Paris, and that originally followed the king's person, not being fixed at Paris until the reign of Philip the Fair in 1302.

As to its composition, its members at first were the prelates and great barons. There were six lay and six clerical peers composing the parliament at the end of the twelfth century.[1] To these were added some knights and masters, supposed to have been originally the missi dominici.

The parliament seems originally to have exercised some judicial functions, and when this kind of business increased, lawyers were admitted at first only as assessors, but soon obtaining a deliberative voice.

[1] *Brougham*, I, 411, 412.

In regard to the manner in which places in parliament were filled, in 1467, Louis XI declared by an ordinance that all offices should be held for life, or until resigned or forfeited by some sentence of a court. It seems that soon after, all judicial and many other places were regarded as property. Louis XII sold the places in the finance department as they became vacant, and in 1522 Francis I formally established a department for the sale by the crown of all offices at a fixed rate.[1] In 1568 an ordinance of Charles IX permitted the sale by the holder or his heirs, upon the payment of a fixed sum. Even judicial offices, under some restrictions, were the subjects of sale.

All saleable offices, if also hereditary, or in fee, were regarded as property, and as such could be mortgaged, seized by creditors, and subjected to dower, and other rights. As to the privileges and functions of the parliament, its members acquired the right of nobility and transmitted it to their descendants in the first degree. In regard to its functions, they not only made and preserved records of their own judgments, but also the ordinances and edicts of the king, which had not the force of law until verified and registered. In this respect it obviously succeeded to a right of the general assembly, viz: that of discussing, and then of adopting or rejecting the measures proposed by the king. Had this power been retained it would have operated as a formidable check upon that of the king. But a struggle at length arose between the crown and the parliament in reference to the exercise of this right.

In 1562 ordinances were passed directing that if the parliament finds any objection it shall, without delay, present its remonstrance in writing or make it by a deputation. The remonstrance frequently succeeded, and caused the

[1] *Brougham*, I, 415.

ordinance either to be withdrawn or altered. In 1597 an ordinance was passed requiring all other business to be postponed when anything was sent by the king to be registered.

Thus the matter remained until the reign of Louis XIV. He issued an ordinance in 1667 by which he allowed only eight days within which the remonstrance must be presented, and after the expiration of that period registration was to be presumed. In 1673 he made another ordinance requiring that execution should be given to all his edicts upon the first demand of the procureur-general, but permitting a remonstrance within eight days as before.

Under these ordinances remonstrances ceased during the remainder of his reign, but after his death they were restored by the regent Orleans. During the reign of Louis XV, the right of remonstrance was exercised, with the important qualification that it must yield on all important occasions upon the king having recourse to the solemnity of what was called a bed of justice. This consisted in his coming in state with his court to parliament, and there holding a meeting; it being understood to be the law that his order to register, given under such circumstances, could not be disobeyed.[1] It belonged to the king's prerogative to banish the whole parliament, and this has been occasionally exercised.

Besides the parliament of Paris there were provincial parliaments which were originally constituted like that of Paris, and in early periods they were consulted on affairs of state. There were eleven of these provincial parliaments, and the principal difference between them and that of Paris was, that to the latter only belonged the right to remonstrate after registration.

[1] *Brougham*, I, 421.

The parliamentary check upon the crown, which was very slight but nevertheless of some value, came principally from that portion of it which was connected with the administration of justice, from the magistrates, and the legal profession. As the parliament was a permanent body, sitting every year, and, by reason of its judicial functions, much the greater part of it, the resistance it offered to absolute power was of some appreciable value.

Thus we have traced the power of the crown, and have witnessed it as it has advanced gradually, from being the most limited to its becoming one of the most absolute monarchies of Europe. From being absolutely powerless in the levying of money and the making of laws, except in its own domain, it has exercised the power of doing both, having occasionally a brief struggle with the parliament, which it generally succeeded in overcoming. There was, however, one means of attaining to the exercise of absolute power which was very efficient, but has not been alluded to. That was the unlimited power of banishment and of imprisonment, a power constituting a most formidable engine of tyranny. The mode in which this was exercised was the issuing of letters de cachet, or seal letters. These might order the banishment or imprisonment of any person who was under no sentence, or even proceeded against in any legal course. It was a power of arbitrary banishment or imprisonment, which was subject to no control, and exercised without any responsibility. Its effect was to drive away the element of safety from every subject in the kingdom. It was exercised from a very early period, and continued down to the revolution of 1789.

While the power of the crown had a constantly upward tendency, that of the nobility had a corresponding one downward. The origin of the nobility is involved in doubt and difficulty. Ultimately, however, and within the

true historic period, there may be reckoned four sources of nobility, viz: descent, military service of certain kinds,[1] judicial, and other offices of certain kinds, letters of creation.

The nobles were anciently the first order, though in that they were subsequently supplanted by the clergy. Their powers and privileges at first, and under the reign of feudality, were very extensive. From the period at which royalty began to rise into the ascendant, the powers exercised by the nobles declined, but their privileges, although restricted, continued very considerable down to the revolution.

They alone could hold fiefs, had the right of hunting, served on horseback, and had fifteen day's notice to serve the lord in war or at his court. The right to wear a sword, and have coats of arms, belonged exclusively to the noble. He was not subject to service in the militia, except upon invasion or rebellion. He could not be punished with flogging; and was beheaded and not hanged unless for treason, larceny, perjury or subornation. They also enjoyed several other minor privileges.

Creations of nobility came finally to be made for money. These are supposed to date back to the reign of Philip Augustus as early as 1095. The prices were various at various times.[2] At first they varied from twelve pounds to thirty-two pounds; but in 1696 Louis XIV created five hundred nobles at two hundred and forty pounds each. Even persons of means have been compelled to take a creation and pay for it. The crown also arrogated to itself the power of revocation, as Louis XIII, in 1640, revoked all titles of nobility granted for the last thirty years, and in 1715, Louis XIV revoked all that had been granted since 1689.

[1] *Brougham*, I, 461. [2] *Idem*, 463.

Nobility could be lost either by derogation or degradation. The first occurred when a noble engaged in retail trade, exercised a mechanic art, farmed another's land, or acted as a police officer. The last was effected when capital punishment was inflicted, except beheading.

Upon the gradual downfall of the feudal system as a governing power, consequent upon the rise of royalty, many of the old feudal rights based upon proprietorship, still continued, interfering with the comforts of the cultivator of the soil, abridging his enjoyment of property, impeding his use of it, and throwing obstacles in the way of its transfer. By these means the bulk of the country inhabitants had to sustain the power of the nobles without receiving any protection from the crown, and the inevitable consequence was the abject state of the peasantry and small land owners, and the domination of the lords.

Another heavy system of oppression resulted from the financial arrangements of the old monarchy. The kingdom was divided into thirty-one financial divisions, called intendances, and six for the colonies, each being placed under the administration of an intendant, who was an officer representing the sovereign in financial matters. Thus each province, apart from the military and general administration, had also a financial one, thus multiplying indefinitely the public functionaries, and exposing the people to a host of persons who were constantly preying upon them, and practicing, unrestrained, all kinds of partiality and corruption.

We have now traced the progress of the French monarchy. We have seen its gradual advance upon the downfall of feudalism, until its culmination under Louis XIV in the seventeenth century, when it stood at the head of European civilization. But it had no other principle than absolute power, and reposed entirely on this basis.

France under Louis XIV, made a brilliant exhibition of power and energy, but its existence was temporary, ephemeral. The great difficulty was, there were no institutions, no political powers, which could be independent and self-existent, capable of spontaneous action and resistance. Louis XIV had put the finishing stroke to whatever of the ancient French institutions that still remained. He completed their destruction. He did not replace them by new institutions, because they would have exercised over him a restraint which he could not endure. No government can long endure unless it is based upon institutions.

Thus the absence of sound political institutions, the substitution in their place of absolutism in its most offensive form, and the numerous political evils and abuses to which it gave birth, all conspired together to produce the revolution of 1789, which suddenly swept away king and nobles, feudal rights and financial exactions, clerical power and judicial institutions, consigning at once to annihilation all that a long course of centuries had been accumulating.

Out of the revolution emerged the empire, constructed, and for a time sustained, by the genius of Napoleon. This was entirely unlike the old monarchy. Instead of ruling the nation, it was its embodiment. It was the reproduction of the empire of Charlemagne, and of the Roman empire. It went forth in the name of their people, and was their exponent. Napoleon was the glory of France while decimating her population by his ceaseless wars. Although his government was a despotism, yet it was entirely unlike that of the Bourbon. It was the people's choice and they clung to it until it was overthrown by foreign bayonets. When in its place the old monarchy under the sway of the Bourbon was seated, the people, with the exception of the hundred days' reign of Napoleon on his escape from Elba, maintained a sullen silence until the revolution of 1830,

when they expelled the Bourbon and established the monarchy of Louis Philippe, which continued for seventeen years, when another revolution drove him from the throne, and, after several vicissitudes, led to the reestablishment of the empire under Louis Napoleon. This, although limited in form, is absolute in substance, and how long it may continue is one of the unsolved problems of the future.

We have now briefly traced through the governments of Europe the operation of four different forces. The first was that corporate religious force, which is embraced in the church; and this led to the consideration of that government of ecclesiastics which obtains in the states of the church.

The second was the aristocratic force, the remnant of the feudal system, which was found prevailing in a modified form, in the Italian republics, in Poland, in Hungary, in England, but exhibited the most fully in the Germanic constitution.

The third composed the burgher force, the democratic principle localized, first appearing in the free cities of Italy, France and Germany, in the middle ages, finally settling down in Holland, and Belgium, in Switzerland, in the free cities of Germany, and in a modified form in the borough system of England.

The fourth was the royal force, the monarchical principle, which we have witnessed struggling for existence through the feudal period, allying itself with the burgher force to overcome feudalism, finally prevailing, more or less modified in England, Poland and Hungary, and in a purer, more absolute form in Naples and Sicily, Spain and Portugal, the northern kingdoms of Europe, in Austria, Prussia, and finally culminating in France in the reign of Louis XIV.

V. We have now arrived at the fifth force, which is that embraced in the third estate, the commons; that residing in the whole people of any one nationality, boldly asserting its right to supremacy, as against both feudalism and monarchy, developing its power through the cortes in Spain, the states-general in France, the states in Germany, and the parliament in England; the great author and prime mover of revolutions in governments; acting through the medium of the representative system; acquiring for a time a modified supremacy in France and Switzerland, but reaching its culminating point in the British constitution.

We now enter upon a deeply interesting subject of inquiry. The middle class, composing the commons, or third estate, appear as a political power for the first time in modern European history. The history of civilization thus far has disclosed to us no such power. The governmental element of the ancient civilizations, has disclosed to us one of two great leading facts:

1. The despotisms of Asia and the eastern world, in which the will of one man has been the nation's law.

2. The rule or sway of the governing classes over those whom they had conquered, and either reduced to servitude, or deprived of almost all their political rights. We have instances of this in the commonwealth of Greece, the Athenians and their slaves; the Spartans and their helots. An example still more in point is presented at Rome in the existence and continued contests all through the history of the commonwealth, of the patrician and plebian orders. No strictly middle class, claiming for itself rights, privileges, and such a portion of political power as would enable it to defend itself against either extreme, has ever appeared until disclosed by modern European history. It is a new fact, a new development, and one that we shall find attended with very fruitful results. The future states-

man will study with immense interest everything connected with the onward march of the middle class.

The power of the commons may well be regarded as a remnant of that power originally possessed and exercised by the tribes amid the German forests, and the bands which, issuing from them, overturned the Roman empire. The spirit of unrestrained liberty, and the reign of the individual will, which so strongly characterized the early German nations, could not altogether perish from the minds of their descendants. The germ there existed, which, after many years of struggle, would make its appearance on the foreground of history, and carry with it the destinies of the race to their highest attainable point.

But the free and independent spirit which the German bands carried into the Roman dominions was that of the individual, not of any society or community. It was even hostile to any well regulated society or community, because in the same proportion as any such became regulated, that spirit became dependent, limited, circumscribed, and subordinated to the requirements of the society.

It will be readily perceived that there is a material difference between free individuals and a free society. The latter can only exist in the absence of the former; or when that individual freedom is so restrained as to be rendered subordinate to the general order.

A partial or limited development of the force residing in the commons is witnessed in the rise and prosperity of the free cities which we have already traced in Italy, Spain, France and Germany. The burgesses, developing the burgher force in those cities, may also be cited as affording on a limited scale, examples of the reign of the commons.

But the burgher force, the development of which gave rise to the borough system, effectually died out in France,

and in fact in about all Europe, except Belgium, Holland, and some portions of Germany. This was mainly owing to the triumph of royalty. The burghers entered into the service of the king. They became royal provosts, judges, members of provincial parliaments.

This was productive of two results, both, however, ultimately terminating in the same. The one was the extension and strengthening of the central power, the monarchical principle. The other was the destruction of the boroughs; the attacking and abolishing the charters and communal independence.

The borough system had, in France, performed its mission. It had been instrumental in enabling the king to subdue the feudal lords, and thus to evoke order and centralization out of disorder and localization. It had taught the people that there was such a thing as self-government, municipal regulations; the enforcement of rights and redress of wrongs through their own agency. This knowledge was never entirely lost. The commons emerge from the tottering boroughs with increased strength and power. About the end of the thirteenth and commencement of the fourteenth century, the commons were in a state of progress. They superadd to the ideas acquired from the municipal government of the borough, all those derived from the movement towards centralization, and the order and reign of law thence arising.

In addition to these it should be remembered that the new impulse given to industry during the thirteenth and fourteenth centuries, through the operations of the Italian cities and those of the Hanseatic league, tended strongly to arouse all the energies of the individual man, and thus to put into operation forces in the commons beyond what they were dreamed of possessing. Thus we may be prepared to witness the development of this force through

cortes, states-generals and parliaments until we arrive at the British constitution.

It will hardly be expected that Spain is to furnish the first instance of the reign of the commons; and yet in the original Gothic monarchy their established national affairs were decided in national councils. These early assemblies consisted of nobles, prelates, and the distinguished individuals of the realm. There was at first no representation of the commons.[1] Deputies from the Castilian towns first appear in A. D. 1169. These general assemblies or councils were called cortes or courts, and they came to exist in every province of the peninsula. The number of towns sending deputies varied at different times. In the beginning of the fourteenth century more than ninety towns sent deputies to the cortes of Castile.

At the cortes of Burgos, in 1315, one hundred and ninety-two representatives were in attendance from more than ninety towns. There was little regularity observed as to the number of towns sending, or the number sent, from each. In this respect the Spanish constitutional history is more irregular than the English. By the year 1480, only seventeen cities retained the privilege of representation in the Castilian cortes.

Alphonso XI of Castile, near the commencement of the fourteenth century, restrained the government of corporations to an oligarchy of magistrates.[2] This limited the right of electing members of cortes to the ruling body, the bailiffs or regidores, whose number seldom exceeded twenty-four, and whose succession was kept up by close election among themselves. The result was that here the people had no direct share in the choice of representatives.

[1] *Hallam*, 206. [2] *Idem*, 207.

The number of nobles and prelates summoned to the cortes in all the provinces or petty kingdoms of the peninsula diminished as well as the number of town deputies. There was never any election of representatives among the nobles or clergy,[1] as in the states-general of France; each bishop or noble sitting in cortes in his own right.

The cortes of Arragon consisted of four estates, viz: the ecclesiastics, the nobles, the cavaliers or gentry, and the corporations or towns; the second and third being only two branches of the same body, the nobility. In all the other kingdoms there were only three estates, viz: ecclesiastics, nobles, and deputies of towns. In 1538 the cortes of Castile consisted solely of deputies from the towns.

The right of assembling the cortes belonged generally to the crown; but in case of incapacity on the part of the king the cortes might assemble themselves.[2] The Castilian cortes were summoned by a writ very similar to that issued to convene an English parliament. The forms of proceeding were analogous to those of an English parliament in the fourteenth century. The session was opened by a speech from the chancellor or other chief officer of the court. The attention of the deputies was called to the special business of the session. The principal business being dispatched, the members were in the habit of conferring together, and drawing up their petitions. These were separately answered, and from both petition and answer, if favorable, either laws were drawn up and promulgated,[3] or promises of redress given. In their mode of action the estates sat separately like the two houses composing the British parliament.

The general functions of the cortes in the different peninsular monarchies were nearly the same.[4] The funda-

[1] *Brougham*, I, 613. [2] *Hallam*, 211. [3] *Brougham*, I, 615. [4] *Idem*, 616.

mental right, and that which of all others was the most tenaciously adhered to, was that of imposing taxes, and directing the distribution and expenditure of the revenue. This exclusive right of taxation was rightly regarded as laying at the foundation of every other. "Once infringe upon this," says the remonstrance of the cortes of Castile in 1420 to John II, "and all the other liberties of the subject become an illusion." Many of their sessions were mostly made up of contests on this point with the demands of the crown.

The contributions granted by cortes were assessed and collected by individuals of the several towns and villages.[1] As connected with their right of raising revenue, they also claimed that of examining public accounts and checking the expenditure. They were careful to grant no money until assured that their previous grants had been properly employed. They did not hesitate, when they deemed it necessary, to address the sovereign in a respectful manner, remonstrating against profuse expenditure even in his own household.

The cortes possessed also the power of general legislation. It was a constitutional principle boldly asserted and maintained, that laws could neither be made nor annulled except in cortes. In 1506 this was claimed as an established right. John I admitted that what was done by cortes and general assemblies could only be undone by cortes and assemblies similarly constituted, and not by letters missive issued by the king.

The Castilian cortes were often assembled for other purposes besides legislation and making grants of money. In every reign they were summoned to acknowledge and confirm the succession of the heir apparent,[2] and to swear

[1] *Hallam*, 210. [2] *Idem*, 212.

allegiance upon his accession. During the fourteenth and fifteenth centuries they exercised very ample powers, even beyond those of the English parliament. On the occurrence of questions of regency they assumed the right even of limiting the prerogative, as well as of designating the persons who were to use it.

It is thus rendered clear that during the fourteenth and fifteenth centuries the power of the commons may well be ranked as the dominant power in the Spanish peninsula. It was the energetic exercise of that power that gradually recovered every portion of it from the dominion of the Moors. At the middle of the fifteenth century no country in Europe enjoyed institutions more free, or whose promise of the future was more glorious, and yet Spain has become the heaviest despotism in Europe.

Ferdinand the Catholic, fresh from his victories over the Moors, and armed with all the power and influence which those successors naturally gave him, made use of all his new accessions of power to oppress his subjects. But the accession of the Austrian branch in the person of Philip I, and his successors, very soon annihilated all vestige of real power in the cortes. Their large dominions elsewhere enabled them to bring all the force necessary to bear upon the peninsula, and the result was despotism in its worst form, combining the religious with the civil.

Philip I, and Charles V of Germany and I of Spain, began to legislate without asking the consent of the cortes. Philip II was still more despotic, and under his successors all rights of the commons and constitutional privileges were abolished. The form of the cortes was long kept up, but its real power had gone, and with it all the constitutional rights of the commons.

Another institution, which has embodied the force animating the commons, has been the states-general and

particular of France. The former were those of the whole kingdom; the latter those of provinces, districts, or single towns. The provincial states met more regularly, having local matters to settle. Their meetings were sometimes yearly, sometimes biennially, and sometimes triennially.[1] But the states-general were only called occasionally and upon great emergencies. The constitution of both was about the same. They were the remains of the feudal courts and the national assemblies of earlier times. The provincial states the most generally attended to the distribution of the ordinary public burthens, such as the taille among the different districts, and directing the mode of its collection.

The first assembly of the states-general under that name was in 1302, and was convened by Philip the Fair to aid him in his controversy with Pope Boniface VIII. Their earliest grant of a subsidy was in 1314.

This was a vastly important step as regarded the rights of the nobles. It was a surrender up by them of the last privilege of territorial independence. By it their own dependence came in direct contact with the crown, and a new body, the third estate, rose up almost coordinate with themselves,[2] being endowed with new franchises, and bearing to the monarchy new relations.

About the middle of the fourteenth century the French nation became subjected to a series of disasters arising out of the English invasion. In 1355 the Black Prince was making rapid conquests of French territory. The states became much alarmed.[3] They granted supplies to raise and pay troops, but took the precaution of appointing persons to superintend the expenditure, and fixed a subsequent time for auditing the accounts of it.

[1] *Brougham*, I, 426. [2] *Hallam*, 102. [3] *Brougham*, I, 428.

The year following occurred the battle of Poictiers, at which the French army was defeated and their king, John, taken prisoner. The states-general was convoked at Paris. The right of levying and regulating the collection of taxes was recognized. The principle had already been established as a fundamental one,[1] that no resolution could be adopted as the opinion of the whole unless concurred in by each of the three orders.

The states-general assembled upon this occasion went great lengths in the reform and control of the government, and although many of their reformations tended to liberty and the public good, yet their sessions were characterized by turbulence and violence. The main privilege upon which reliance was placed for securing redress of grievances was that of granting money and of regulating its collection.[2] The latter seems to be incident to every assembly in which the right of taxation resides. The means by which it was there effected was by the appointment of a committee chosen out of the three orders, which was to sit after their separation, and which the king bound himself to consult, not only as to the internal arrangements of his administration, but upon every proposition of peace with England.

It appears, however, that both John and Charles V imposed taxes without the consent of the states-general. The latter seldom convoked that assembly, but upon his death the contention between the crown and representative body was renewed,[3] and in the first meeting held after the accession of Charles VI, the government was compelled to revoke all taxes illegally imposed since the reign of Philip the Fair. This was a great, and perhaps the greatest, triumph in French legislation, and ought to have

[1] *Hallam*, 12. [2] *Idem*, 103. [3] *Idem*, 1, 105.

been the basis of a free constitution, so far, at least, as regards immunity from arbitrary taxation.

But the states-general were very limited in their exercise of political power. They had no right of redressing abuses except by petition. They had strictly no share in the exercise of sovereignity, that being inseparable from the exercise of legislative power, hence even in the imposition of taxes they were deemed incapable of binding their constituents without specific assent. This was a material vice in their organization, as the subsidies granted were often rejected by their electors when submitted to them, the king found a reasonable pretense for dispensing with the concurrence of his subjcets when he levied contributions upon them.

But the kings of France had a resource in the assessment and collection of taxes which those of England had not. The states particular or provincial assemblies, as we have seen, were constituted with much the same powers and in the same way as the states-general. They had also the power of assessing and collecting taxes, and the king could usually obtain more money from them than from the states-general, and with less of petition and remonstrance. Thus during the intervals of the states-general, and these were undoubtedly increased from this circumstance, the crown not unfrequently obtained money from the provincial assemblies. This was one of the great points of difference between England and France, the latter being deprived of the unity of the former, in consequence of the provinces having originally been more strongly feudal in their political organizations, and hence becoming more separated from each other in their interests and domestic governments.

About the year 1484, in a controversy relative to the regency during the minority of Charles VIII, an assembly of the states-general was convoked. The minority of the

king, and the dissensions then prevailing at the court, rendered this a favorable opportunity to enable the third estate to achieve a political standing in the government of France.[1] But a scheme was contrived which succeeded in breaking the force of the popular assembly. The deputies were classed in six nations, who debated in separate chambers, and consulted each other only upon the result of their respective deliberations. The court could easily foment jealousies between these different nations. Two of these, the Norman and Burgundian, asserted the right of the states-general to provide for the regency during the king's minority. The contests between the different nations, growing out of this claim, wasted the time and energies of the states-general, and led in the end to no profitable result.

The states-general continued to be occasionally, although very seldom, convoked, until the year 1614, when the queen mother, regent during the minority of Louis XIII, assembled them for the last time before the revolution of 1789.

At this time the three orders were directed to meet separately, and in different parts of Paris; but the nobles and third estate obtained permission to meet in the same place with the clergy. The three orders made many demands, some in which they united, and others which were urged principally by the orders making them. This assembly lasted upwards of four months, and gave rise to so many discussions of a difficult and delicate nature, that the government ever after manifested an extreme reluctance to another convocation. It was only the provincial states that were afterwards summoned, and these met regularly and upon ordinary occasions. They were also sometimes called together upon extraordinary emergencies,

[1] *Hallam*, 107.

when it became necessary to apply to them for money or other assistance. And, at times, the arm of power, to the extent of banishment, was exercised towards them when they proved refractory.

The manner of electing the states-general was fixed by no certain rules. The course often taken was to divide the kingdom into twelve great districts,[1] or governments, and each of these chose a number of deputies specified in the writ issued to call the assembly. But unfortunately there was no ascertained rule as to the elective proceedings, or even as to the numbers of the deputies. And when the states assembled together, they had no fixed and settled rule to govern their course of proceeding. They usually met the first time in one hall where the king declared to them the cause of their being called together. After the speech they generally retired, each estate to its own chamber, where the deputies were divided into twelve bodies answering to the twelve governments from which they came. The votes of the chamber were taken by those twelve divisions; but in only three of them was the vote of the body ascertained by the majority of its members.[2] In the other nine, the votes were first taken by towns and districts, the deputies from each having one vote, determined by their majority; the vote of the division or government being determined by the majority of those subdivision votes. The vote of the whole chamber or order was the majority of the votes of those governments thus taken. Thus constituted, it presents a body fettered, and rendered almost powerless through the defects and vices of its own organization.

Notwithstanding, however, it was feared by the government, and was an engine, the uncertainty of whose action

[1] *Brougham*, I, 431. [2] *Idem*, 432.

rendered it the dread of almost every one, still it was regarded as an ultimate remedy, and one which the necessities of the body politic might render it a matter absolutely essential to invoke.

During the long period intervening between the assembling of the states in 1614, and the revolution, the parliament of Paris was the only body standing between a despotic king and an oppressed people. We have already seen its agency in the government. It showed a spirit of opposition to the crown's measures down to the period when its complaints were silenced by the arbitary will of Louis XIV. It, however, revived under the regency, and from that period to the revolution continued to grow in strength and power, manifesting its weakness under strong princes, and its strength under weak ones.

The total exhaustion of the entire kingdom which followed the expensive operations of Louis XIV, and the desolating wars he waged, could not but lead to very great embarrassment in the financial affairs. This was sought to be averted by Louis XVI by calling an assembly of notables, consisting of persons of consideration from different parts of the kingdom and all named by the king. This proved entirely inadequate for the purpose for which it was intended.

The call then became imperative for the convocation of the states-general, and the necessity for an extraordinary remedy became finally so great that its meeting could be no longer delayed. The elections for it took place in assemblies of the clergy,[1] nobles, and commons. The numbers of the latter were to be somewhat more than equal to those of the other two estates together. While the order of clergy consisted of two hundred and ninety-

[1] *Brougham*, I, 430, 431.

one deputies, that of the nobles was two hundred and seventy, while the third estates consisted of five hundred and seventy-eight.

The remedy, thus invoked, proved too strong for the body politic as then constituted, to sustain. The three estates, seeking to avoid that division which had frittered away their power, and shorn them of their influence in 1484, now manifested a determination to unite together and to form one body. The ordinary clergy finally united with the commons,[1] with whom they had much stronger sympathies than the higher dignified clergy and the great bulk of the nobles. The result was a warfare, first against the higher clergy and the nobles, and ultimately against royalty itself; until the priesthood, the nobility, and the king, successively sunk beneath the tremendous power of the commons, which, in its terrible visitations of vengeance, disclosed a strength and energy all the more fearful for having been pent up through long centuries of wrong and oppression.

The meeting of the last states-general of France took place on the first of May, 1789. From that time to the present, with a few exceptions, which have been apparent rather than real, France has been the theatre of revolutions. More constitutions have been there made and abandoned within that period of time than in all the rest of Europe. In all these, however, the commons, middle classes, bourgeoise, as they are sometimes termed, are conspicuous. Incessantly supplied by recruits from the bulk of the population, they have ever continued to maintain a respectable ascendancy.

The old system of government found its grave in the revolution. That peculiar royalty which had emerged

[1] *Brougham*, I, 431.

from the feudal system, and found its culminating point in the reign of Louis XIV, perished on the threshold of the revolution, never probably to become again a living vital system.

Upon the ruins of the old system were established successively five different forms of government. All these possess some features in common. They destroy the old abuses, and along with them many ancient institutions which were essential to the old monarchy. These have never had a restoration in sufficient force to be able to perpetuate themselves.

Among these was the abolition of ranks,[1] hereditary peerage, nobility, titles of honor and of knighthood. No office could pass either by inheritance or purchase. By this achievement the commons struck a death blow at the privileged classes, annihilating all that the accidental circumstances of birth or fortune could bestow. All feudal and proprietary rights were abolished, and no exclusive corporate rights were suffered to affect either arts, or trades, or professions. These abuses, many of which had a gigantic growth, have been swept away, probably never to return. Thus, although France has suffered much by her revolutions, yet it should not be forgotten that in some respects they have been productive of much good.

The first constitution was that framed by the constituent assembly of 1791. This vested the supreme power in a chief magistrate, termed the king of the French, and a national assembly, to consist of seven hundred and forty-five members, composing a single house or chamber.[2] A part of these represented numbers, and a part taxes. The choice of these representatives was vested in electoral assemblies, who received their appointment from the people

[1] *Brougham*, I, 343. [2] *Idem*, III, 344.

voting in their primary assemblies. The age of twenty-five years and payment of a small tax were the voting qualifications.

The executive power was vested in the king, who was required to take an oath to observe the constitution. All females were excluded from the succession. That principle in the English constitution which declares the person of the king to be inviolable, and his ministers alone responsible for his acts, was adopted. The sole power of appointment and removal of ministers belonged to him. He had the command of the forces both by sea, and land. He could only propose the declaration of war to the assembly. The latter must decree it, and no treaty of peace was binding without its approbation. He named embassadors, conducted negotiations, and disposed of the national forces. He had a veto upon the assembly, but two successive legislatures passing a bill could make it a law. He had no power to adjourn, prorogue, or dissolve the assembly.

All the powers of the government, not expressly vested in the crown, were intrusted to the assembly, including the exclusive right of regulating its own police, of making acts relating to ministerial responsibility, and also of the imposition and collection of taxes. The real power of the government was vested in the assembly.

The judicial system was also very imperfect under this constitution. The judges were all chosen by the people in the electoral assemblies, and their services were gratuitous.

This constitution lasted less than a year. A convention, chosen by all persons of twenty-one years of age, convened in 1792, and on the twenty-first September abolished royalty; on the twenty-fifth, proclaimed the republic; on the twenty-third January, 1793, condemned to death the king Louis XVI; and on the sixth April, created the committee of public safety, a revolutionary tribunal in-

trusted with almost absolute power, and under whom was inaugurated, and fearfully carried out, the reign of terror.

On the twenty-fourth June, another constitution was proclaimed, which, however, was never carried into effect. The committee of public safety continued the reign of terror until 1795, when, on the twenty-second of August, another constitution was proclaimed.

This was the government of the directory. By it, the executive power was lodged in five functionaries, called the executive directory. The supreme legislative power was vested in two chambers, called councils; the one called the council of five hundred, the other the council of the ancients, consisting of one hundred members. Both were elected by the people through a double election. Annual primary assemblies were to choose electors who were to elect the members of the councils and other functionaries.

The proposing of laws belonged alone to the council of five hundred, the adoption or rejection to that of the ancients; but it had no power of altering or amending. The concurrence of both gave to a bill the force of law.

The five members composing the directory were elected as follows: First the council of five hundred presented by ballot a list of fifty names, and out of these the council of the ancients also by ballot made choice of five.

The entire command of the national forces devolved upon the directory, but no director could himself be a commander. They appointed all military and naval officers, and all ministers, and, with certain exceptions, other public functionaries. They could propose any legislative measure to the five hundred. They superintended the police, and the execution of judgments or sentences. The judges were elective and performed gratuitous service.

The power of taxation was with the councils, the collection and superintendence of the revenue with the direct-

ory. The councils could decree war on the proposition of the directory. The latter named embassadors, and conducted all negotiations; but no treaty could be valid until ratified by the councils.

Such is an outline of the directoral constitution which, with some modification, continued in force from 1795, until overturned by Napoleon on the 18th Brumaire, November, 1799.

We now come to the consular constitution which inaugurated the reign of Napoleon.

The principal body in the state was the conservative senate, composed at first of sixty members, all named by the three consuls, two to be added yearly for ten years, making the ultimate number eighty. The places were held for life. The vacancies, as also the annual additions for ten years, were to be filled by its own body from three candidates presented by the first consul, the tribunate, and the legislative body.

This senate made choice of all the national functionaries, whether tribunate, legislative, consular, or judicial; and had the power of annulling all acts of other bodies made in violation of the constitution.

The tribunate consisted of one hundred members, a fifth going out annually. The legislative body consisted of three hundred, one-fifth going out yearly. Both these held public sessions.

The process of legislation was both original and curious. All laws were first propounded by the executive government to the tribunate, and, by the latter, were reported to the legislative body. There was then a hearing before the legislative body, the tribunate being represented by three of its members, and the council of state. After such hearing the legislative body could only be decided by ballot. It had no power of debating.

There were courts of reconcilement to prevent litigation, the judges of which were chosen by the electors in each district. There were also for each department a civil tribunal and court of appeal. The government named the judges of these courts, as also the general or central court of error, the court of cassation, and the public prosecutor.

The executive department was composed of three great magistrates, called consuls, each appointed for ten years and each reeligible. The first consul was the chief magistrate of the republic, with very ample powers. All the forces of the state were at his command. He was only bound to consult his colleagues, and without such consultation, could appoint all the officers of the army and navy. He named all the judges except those of the courts of reconcilement. He also named, and removed at his pleasure, the members of the council of state. All negotiations were conducted by him. All embassadors and ministers of state received their appointment from him, as also did other public functionaries, even the members of local and municipal administrations. Except in the appointments and disposal of public forces, the other two consuls were to join him in all acts of government, but if they differed from him all they could do was to record their dissent and their reasons.

The consuls proposed all laws, but could withdraw them at any time before they were passed upon by the legislative body. They also superintended their execution. War, peace, the ratification of treaties, were proposed by the consuls to the legislative body, which decreed or refused them at its pleasure. The consuls had the power of arrest, and the disposal of the national guard.

This constitution, with the exception of very slight checks, indeed, vested all real power in the first consul. It

was adopted by a majority of over 3,000,000 votes. But in about three years afterwards, these checks, slight as they were, were found inconvenient, and a decree of the conservative senate, termed an organic senatus consulte, was promulgated, making a change in the constitution. The senate, from its power of annulling all acts made against the constitution, assumed to make variations in the instrument itself.

Several variations were made, all having the effect of undermining the independence of the senate and members of the tribunate, and strengthening the power of the first consul.

In the senate the number of eighty was to be filled up immediately, the consul to propose three times for each vacancy, and his third proposal to be binding in case of rejection of the two first. He might also add others, increasing the whole number to one hundred and twenty. The senators might also hold any high offices in the state.

The senate, thus made an instrument in the hands of the first consul, its powers were much enlarged. It could prorogue or dissolve the tribunate and legislative body; annul all judgments inconsistent with the public safety; suspend the functions of juries in any department, declare any department under military law; and make any senatus consulte for giving constitutions to the colonies, regulating matters not provided for by the constitution at home, and resolving doubts as to the construction of the constitution. To make any such organic law required a majority of two-thirds.

The tribunate and legislative body were reduced in the number of their members, and on each being dissolved by the senate, must be recomposed of entirely new members.

An important change was made in the consulate. The first consul was appointed for life, with the right to name

his successor. All treaties to be made and ratified by him alone.

In less than two years after the empire was proclaimed, the power as emperor being already possessed by Napoleon, a new senatus consulte made some new changes in the constitution. The senate was still further increased and its powers enlarged. It could reject a law proposed by the legislative body, but the emperor had the power not only of vetoing a law passed by the senate, but also the extraordinary power of adopting and passing a law rejected by the senate.[1] The tribunate was divided into three sections, for legislation, police, and finance, and could no longer discuss any laws in a general assembly of its whole body. The tribunes were to continue only ten years in office, one-half retiring every five years. In 1807 another senatus consulte abolished utterly the tribunate. Thereafter the emperor was essentially absolute.

The allied powers, upon the overthrow of Napoleon, and the restoration of the Bourbon dynasty in the person of Louis XVIII, on the 4th of June, 1814, gave to France a new constitution, called the constitutional charter.

This constitution is modeled upon that of England. The king commands the public force, makes war and peace, and negotiates treaties, nominates to places of public trust, and executes the laws. He alone propounds laws, but the legislative chambers may, after discussing any measure in secret committee, ask him to propose it. He alone can call, prorogue, and dissolve the two chambers.

The legislative chambers are two in number. The chamber of peers is formed upon the king's nomination. The peerage was at first created hereditary, but in 1830 its hereditary character was taken away. The sittings of

[1] *Brougham*, III, 362.

the peers were at first secret, but in 1830 open. They can only be tried by order of their own chamber.

The deputies composing the other chamber, are chosen for five years, one-fifth retiring yearly. The electors in the different districts must be thirty years old, and pay annually three hundred francs in taxes. The vote is by ballot. In this chamber only can taxes originate. Both chambers must be convoked by the king once a year.

The ministers may have seats in either chamber, although not members. They are responsible for all acts adopted on their recommendation. The judges are all named by the king, and, except those of the court of reconciliation, are irremovable. The right of pardon belongs to the king.

The feeble attempt of Louis XVIII to render royalty the source of all concession of privilege, thus ranking the charter as a royal gift, and other acts evincing an intention to revive the ancient despotism, lost him the affections of the people, who hailed the return of Napoleon, and drove him from Paris.

Upon the second restoration of the Bourbon family, further acts of oppression occurred, which finally terminated in the revolution of 1830, by which the Bourbon branch was expelled from France, and the Orleans branch, in the person of Louis Philippe, was placed upon the throne. With him the charter was restored to its full vigor.

After a reign of seventeen years a new revolution, that of 1848, expelled the Orleans dynasty, proclaimed a republic, established a provisional government, and ultimately led to the choice of Louis Napoleon, the heir of Napoleon Bonaparte, as president of the French republic. Pursuing, although in a different manner, and by different means, the same end as Napoleon, he has succeeded in getting elected emperor, and in governing, under republican

forms, with nearly or quite the same absolute sway as characterized that of the first Napoleon. What may be the next movement of the revolutionary spirit which for the last seventy years has almost constantly agitated France, lies among the possibilities of the future.

We have now traced briefly the power of the third estate, the middle classes, the commons, as it has developed itself through the cortes of Spain, and the states-general, and constitutions strewn along the political pathway of revolutionary France. The demonstration of that power in Switzerland, and the states of Germany have been already sufficiently considered.

We have still before us the British constitution. Here is a subject worthy the most attentive study. The student of political philosophy will here heap rewards richly compensating for any amount of labor and research. The joint result of Saxon and Norman wisdom, it has traveled through its centuries of experience, only to add continually strength to its foundations, beauty to its proportions, harmony in the action of its different forces, and the still increasing promise of perpetuity in the blessings it confers. It is the largest monument of worldly wisdom which the centuries have to bequeath to us. The science of government itself has little to offer which is not embraced in its past history, or its present organization. No one can contemplate this stupendous and beautiful fabric, standing out in all its colossal proportions, and realize that at least thirty generations of men have been the architects that have reared it upward story by story; without being deeply impressed with the great truth, that all time-lasting structures can exist and be perpetuated only through those powers and energies which are common to the race, and actually exercised through its organic life. It is thus that

the deficiencies of one man, or one generation, are made good by the excess of power developed through another or others, so that, in the end, institutions are generally the work of the race, of man, and not of the individual.

The British Constitution.

The British constitution is to be considered:

I. In its past history.

II. In its present workings.

In its past history our attention will mainly be directed:

1. To its sources the Anglo-Saxon institutions, in connection with the modifications introduced by the Norman conquest.

2. The charters of rights successively wrested from the king by his principal barons.

3. The origin and growth of the English parliament, including the successive steps or stages by which the two houses attained their political power, and the principle of representation became firmly established.

The Anglo-Saxon institutions were the growth of several centuries. Brought there originally by the hardy followers of Hengist and Horsa, they were essentially modified, and new ones originated in consequence of the peculiar position under which their dominion was established, and the circumstances by which they were always surrounded. They were compelled to sustain themselves among a conquered people, the Britons, and that fact no doubt created new, or greatly modified existing institutions.

In respect of property and condition, there were three classes. Of these the first were slaves, who were probably mostly or wholly made up of the conquered Britons. The second were ceorls, who were freemen, and formed the

bulk of the population. The third were eorls or thanes, who formed the nobility or gentry,[1] the former having reference to birth, while the latter derived his title through the possession of landed property. It was the ownership of landed property that mainly gave to the Saxon his standing, and political rights. There was an aristocracy, but not limited to hereditary descent. It was not the birth, but the acquisition of a defined amount of landed property, that transformed the ceorl into the thane.

The lowest and simplest political division among the Saxons was the township,[2] which had its reeve or elective chief officer, and also four good and lawful men, who with him represented the township in the courts of the hundred and the shire. These were elected by the commonalty, who also had the regulation of their own police. If any crime was committed in their district they were bound to pursue and apprehend the offender. Each township generally had its own local court, which was subordinate to the hundred court, and also to the shire, moot, or county court. These Saxon townships have very generally given way to the Norman manors, and the modern parishes.

The Saxon hundred was a mere territorial division, and was subdivided into tythings. Each hundred had its court, held monthly, and subordinate to the shire or county courts, which were held once a year, and were presided over by a bishop or earl.

Independent of the institution of slavery, there were two oppressive customs among the Saxons. One was the system of frank pledge, by which every man was bound to be enrolled in some tything, the members of which, being to a large extent, mutually responsible for each others' good conduct.[3] The other was that every member of the com-

[1] *Creasy*, 40, 41. [2] *Idem*, 43. [3] *Idem*, 44.

monalty was bound to place himself in dependence upon some man of rank and wealth as his lord. Otherwise he was liable to be slain as an outlaw. The result of this was that many of the ceorls were legally annexed to the lands of their lords, but in other respects were personally free.

A large proportion of the population was devoted to agriculture. There were, however, some towns that had already acquired importance. These were called burghs, fortified places. In these, also, the free Anglo-Saxon spirit was manifested. The citizens elected from their own number their local officers, those necessary for the purposes of municipal government, at the head of whom was their borough reeve, who presided over their local courts, and in time of war, led the armed citizens to the field.

The trial by jury is an institution attributed to the Anglo-Saxons, and certainly its rudiments are traceable to Saxon jurisprudence.

In regard to the government, the constitutions in the several states composing the heptarchy, and subsequently in the united kingdom, appear to have been much the same.

At the head of the state was the king, but the descent of the crown was irregular. The form of an election seems to have been observed, and a coronation and acceptance by the people necessary.[1]

When crowned and received, he was the national executive, and an essential part of its legislature. He received and expended the revenue; was the centre and source of all jurisprudence; the chief of the nation's armies;[1] the head of its landed property; the lord of the free and of all burghs except such as he had granted to others.

Coexisting with the king, if not anterior, and his elector, was the witenagemote, the great council or assembly of the

[1] *Brougham*, III, 197. [2] *Turners Anglo-Saxons*, III, 217.

barons, who convened together on the summons of the king, and over whom the king himself presided. This great council of witan, or wise men, consisted of nobles, holding land, the superior thanes, archbishops, bishops, abbots and priors, and milites, or those who were afterwards called knights. There was in this council nothing like representation, and hence nothing strictly resembling the modern parliament. It was an independent council, deriving its strength from the individual power of its members, not from their acting in a representative character. The English monarchy has always had about it this interesting feature, viz: it has been the government of the king in council. Thus from the earliest periods the witan, or wise men, composed the council of the king, and the laws were made in the joint names of both.

The witan elected the king from among the members of the blood royal; sometimes deposed him for misconduct; formed the supreme court of justice in civil and criminal cases; and advised the king on questions of war or peace, and also on all important measures of government.

The regular revenue was chiefly derived from the royal domains, and the direct taxes raised by the witengemote.

There was a regular church establishment, and a body of nobles, some of whom were distinguished by their birth, others by their office.

Thus the Anglo-Saxon government was an aristocratic monarchy, a kind of feudal aristocracy, in which the whole political power was shared between the sovereign and the nobles, clerical and lay.[1] The third estate, the commons, had no share whatever in the Anglo-Saxon form of government.

[1] *Brougham*, III, 202.

We are now ready to contemplate the Norman. This constitutes the fourth element, foreign in its nature, which enters into the composition of the English nation. The first in order was the Roman; the second, the Anglo-Saxon; the third, the Dane; and the fourth, the Norman. Each of these successively subdued, and for a time ruled in England. Of these, the Danish was the least fruitful in results, while the Saxon was the most important and the most lasting; and the Norman, the next in order, as regards both its present and future consequences.

The year 1066 was signalized by the overthrow of the Saxon monarch, and the accession of William the Conqueror to the English crown. A few days only transferred him from the Norman dukedom to the English throne.

Normandy was a large province in France, bordering upon the English channel. A century and a half had rolled away since the Normans under Rollo, their first duke, had conquered, and obtained by treaty, this province, which they called Normandy. Here their stern northern nature had become modified and considerably changed by the new civilization that surrounded them, the new influences under which they were brought, and the circumstances under which they had existed for so long a period of time. Their national character had its bright and dark side. In the first we discern that orderly and intelligent spirit, "which made them establish and preserve in their province a regularity of government, system and law, which contrasted strongly with the anarchy of the rest of France. The Norman had a steady fixity of purpose, a discernment of the necessity of social union and mutual self-sacrifice,[1] of free will among the individual

[1] *Creasy*, 55.

members of a state for the sake of the common weal. In the second we perceive in the Norman nobility, pride, statecraft, merciless cruelty, and a coarse contempt for the industry, rights, and feelings of all whom they considered the lower classes of mankind."

The institutions of continental Europe, as we have already seen, took their shape, in the outset, from the conquest of the Roman provinces by the hordes of wandering barbarians; the settlement in those provinces; the new circumstances under which they were placed; the new relations arising between the conquerors and the conquered; and the modifying influence exerted by the institutions of the one over those of the other. The barbarians brought with them no fixed and determinate form of social life,[1] and on the side of the Romans that life was actually dying of inanition. Hence we have seen long disorders arose, the reign of force and dismemberment of sovereignty.

The Norman conquest of England brought with it no such results. Between the Normans and Saxons existed many points of resemblance. They had the same origin, analogous manners and language, almost identical civilization and warlike spirit. There could not, therefore, be as on the continent, a general and permanent abasement of one race before the other. Nothing short of entire annihilation of the Saxon race could prevent its exerting an active and powerful influence upon the Norman.

Again, the political institutions of the two, although not identical, were extremely analogous.[2] Absolute power never existed in England as on the continent. Oppression existed in fact, but was never established by law.

The Norman and Saxon professed the same religion, and one, too, the Roman Catholic, that everywhere had the

[1] *Guizot, Representative Government*, 281. [2] *Idem*, 282.

same hierarchy, the same orders of clergy, the same faith and forms of worship. There was this important difference which led to fruitful results. On the continent the clergy were Romans; in England, Saxons and Normans. In the former, they were more on the side of kings; in the latter they assumed a place among the landed aristocracy, and in the nation. Their political power, in the latter, has always been on the decline.

It naturally resulted from all this, that each people having institutions analogous to each other, and pressing them forward with an almost equal energy, their coexistence and conflict would serve to modify each other, and to give such modified result a character of greater strength and permanence.

The institution which marks most strongly the establishment of the Norman in England, was the feudal system. Some traces of this system may be found in Saxon jurisprudence, but its oppressive weight never bore strongly upon the nation previous to the conquest.

This system was completely established in Normandy. The comparatively small extent of the province; the establishment there of the conquering Normans over the subject race which they subdued; the peculiar elements of the Norman character; all combined to perfect that system, and thus give to Normandy whatever of benefit or injury could legitimately be derived from it. William, having had his birth, education, and experience as a ruler, all within the operations of this system, could not rest quietly until its firm establishment upon English soil. The circumstances, formerly adverted to, which favored its introduction and growth in the Roman provinces on the continent upon the conquest and settlement of the barbarians, would apply with much greater force to the Norman conquest and settlement in England. The subject races on the continent were

incapable of much resistance, and their uprising, under oppression, could be little feared. Hence the feudal system was not driven to expend all its energies in preserving a quiet conquest.

But the settlement of the Normans, and the preservation of their authority, were to be effected among a people as brave and warlike almost as themselves. Hence the early introduction, and rigorous enforcement, among the Saxons of England, of that system as it then existed in the province of Normandy. The result afforded a full illustration of this fact. On the continent, after the conquest and settlement of the barbarians, we hear very rarely of any insurrections of the original inhabitants. The wars and conflicts are between the conquerors themselves. But in England we find them between the conquerors and the conquered people.

The results of the establishment of this system, with all its rigors in England, were twofold:

1. The little less than slavery of the laboring population. I allude to the state technically termed villeinage. The terms villein, serf, or slave, originally meant nearly the same thing, although the slave always differed from the other two.

Some serfs or villeins, termed villeins regardant, were annexed to certain lands, passing into the dominion of heirs or purchasers, whenever such lands changed owners. Others termed villeins in gross were bought and sold, without any reference to land. The latter of these were never very numerous, but at the commencement of the thirteenth century, the former are supposed to have embraced the larger part of the laboring agricultural population of England.[1]

[1] *Creasy*, 86.

The villein was subjected to the following: 1. His service was uncertain and indeterminate, depending upon the master. 2. He was liable to beating, imprisonment, and every other kind of chastisement. 3. He was incapable of any property acquisition. 4. He passed to each successive owner of the land, like other chattels. 5. He might be severed from the land, and sold in gross by a separate deed. 6. This condition descended from parent to child, and thus became inheritable.

But from this extreme state of degradation, where the Saxon ceorls and the Saxon thralls, or slaves, were reduced to about the same level, we behold a gradual emancipation effected through the wise, strong, humane, liberty loving provisions of the common law of England. A few of its provisions only can be noticed.

a. An illegitimate child, born in villeinage, being nullius filius,[1] and having no inheritable blood, could not inherit the condition of villeinage.

b. A villein remaining unclaimed for a year and a day in any privileged town, was freed from his villeinage.

c. The lord might at any time disfranchise his villein.

d. There were many acts of the lord from which the law itself would infer disfranchisement whether designed or not. These embraced all those acts by which the lord treated the villein as a freeman. Such as: 1. Vesting in him the ownership of lands. 2. Accepting from him the feudal solemnity of homage. 3. By entering into an obligation under seal with him. 4. By pleading with him in an ordinary action.

The second result which the enforcement of this system disclosed was in the securing more order and regularity, and the creation of a stronger central power in the

[1] *Creasy*, 89.

monarch. To this latter various things contributed, as: 1. The immense wealth of the crown independent of any contributions from its subjects. 2. The readiness with which the Saxon part of the population ever served the king against any of the rebellious Norman barons. 3. The great intellectual capacity and energy of the Norman kings down to the time of John. 4. A change made by William in the allegiance of the vassals. Previously to the conquest the vassals swore fealty absolutely to his baron.[1] His oath to the sovereign excepted his duty to his liege lord. As a result to this he was bound to follow the latter in any rebellion against the sovereign. The conqueror would suffer no divided allegiance. He required the oath of fealty to be made to himself without any reservation or exception, and he forfeited as well the lands of the sub-vassal as those of the vassal himself, if the tenant followed his liege lord in rebellion against the king.

Thus viewing England at the commencement of the twelfth century, aside from some peculiar laws, customs and institutions of both Saxons and Normans, we have three great facts out of which to work out the problem of English constitutional freedom. These were: 1. An enslaved laboring population, but along with it, the unceasing efforts of the common law, finally successful, at emancipation. 2. A strong body of nobles bound together by a sense of common danger, and constituting altogether a powerful aristocracy. 3. A strong central power centering in the crown; much stronger than anywhere else is found coexisting with feudal institutions.

The political power, at this period, is all lodged with the king and the barons. There was then, in a political sense, no people in England. The power exercised by the

[1] *Brougham*, III, 206.

barons, as we have seen in our account of the feudal system, was partly political and partly proprietary. The latter, however, was very much impaired by the new provision, just noticed, made by the conqueror, as to fealty. The prospect certainly then was that the English government would settle down into an unmitigated despotism.

2. We are now ready to glance at the second general point presented for consideration, viz: the charter of rights successively wrested from the king by his principal barons.

It has been well remarked by Guizot that "liberties are nothing until they have become rights, positive rights, formally recognized and consecrated.[1] Rights, even when recognized, are nothing so long as they are not entrenched within guaranties. And lastly, guaranties are nothing so long as they are not maintained by forces independent of them, in the limit of their rights. Convert liberties into rights, surround rights by guaranties, intrust the keeping of these guaranties to forces capable of maintaining them, such are the successive steps in the progress towards a free government.

"This progress was exactly realized in England. Liberties first converted themselves into rights; when rights were nearly recognized, guaranties were sought for them; and lastly, these guaranties were placed in the hands of regular powers. In this way a representative system of government was formed."

No inconsiderable a portion of the rights, and guaranties, and even forces that maintain them, embraced in the British constitution, have been wrung reluctantly from the monarch; have been wrested, sometimes, not without violence, from the proud prerogatives which were claimed to be inherent in the kingly office. This commenced even with William the Conqueror.

[1] *Guizot, History Representative Government*, 302.

Although the fear of the Anglo-Saxons served to bind closely together the king and his Norman barons, yet the former, constituting the great body of the English population, and struggling to preserve their Saxon laws, could not be disregarded with impunity. William felt bound to respect these, and in 1071, gave a charter, giving assurance that these laws should be maintained. But this was a mere recognition of a right without even the semblance of a guaranty to enforce it. The consequence was, that the right recognized was often violated.

A charter was granted by Henry I, containing a solemn promise to respect all ancient rights. The promises were large and liberal, but they were incessantly violated.

Stephen, the successor of Henry I, granted two charters to his subjects; the one confirming the liberties granted by Henry I, and the laws of Edward the Confessor; the other promising to reform the abuses and exactions of his sheriffs.[1]

Even the charter of Henry II, in 1154, expresses nothing more than a recognition of rights, containing no new promise, and no concession of guaranties.

No concession or charter ever proved of much avail until we come to the reign of John, the period of magna charta, in 1215. Here, a number of things combined together to produce a result, one of the most momentous anywhere recorded.

a. The title of John to the crown was defective, Arthur, the son of an elder brother being the real heir, and who is supposed to have been murdered by John.

b. The licentious acts and cruelties of John had rendered him an object of hatred, loathing, and deep aversion to the English barons.

[1] *Guizot, History Representative Government*, 305.

c. The loss of Normandy deprived English barons of their Norman homes, and rendered them more purely English. The Norman and Saxon hereafter are found amalgamating together, and instead of mutual hostility an union is gradually forming between them.

d. There was as yet no standing army, the raising of forces still depending upon the principles embraced in the feudal system.

e. Stephen de Langton, both cardinal and primate, was an Englishman, having English sympathies, and heartily united with the English barons in their struggle with the crown.

f. The existence of the commons, the people, began to be an established fact in England. The barons were the first to make this discovery, and to invoke their aid against the tyrant. Besides, as they demanded concessions from the king, they were also willing to make like concessions to their own vassals, so that the feudal fetters bound with far less severity.

g. The character of John, his dissimulation, rashness and pusillanimity, his treachery and weakness, all conspired to render him just the very king, to all appearances, sent for the purpose of granting the great charter.

After various negotiations and acts of hostility between the king and barons, the parties finally met on the 19th June, 1215, on the plain of Runnymede, a grassy plain of about one hundred and sixty acres, on the south bank of the Thames, between Staines and Windsor. Here was wrested from John, magna charta, the great charter of English rights, devoted almost exclusively to the settlement of the rights, and confirmation of the privileges claimed by the laity.

This charter seems to have been the first document establishing a distinction between the greater and lesser

barons,[1] and the higher and lower clergy, leading to the fact of separation between the two houses of parliament. It also determines, with great accuracy, what had been obscure and ambiguous in the feudal laws, modifying and mollifying, to a great extent, their operation. It fixes the amount of relief; it provides that with certain trifling exceptions, no escuage, or extraordinary aid, shall be imposed except by the national council of the kingdom, thus furnishing the germ of the principle that no tax shall be imposed without the consent of those who are taxed, or their representatives.

The barons by no means limited their demands to the obtaining of privileges for themselves. Almost all the immunities granted to them, with respect to the king, the vassals obtained with respect to their lords.

Very important provisions were introduced regulating the administration of justice.

By article thirty-nine, it is provided: "No freeman shall be arrested or imprisoned, or dispossessed of his tenement, or outlawed, or exiled, or in anywise proceeded against; we will not place or cause to be placed, hands upon him, unless by the legal judgment of his peers, or by the law of the land."

And by article forty: "Justice shall not be sold, refused or delayed to any one."

It makes the king grant and assure to the city of London, as well as to all the other cities, boroughs, towns and harbors, the possession of their ancient customs and liberties.

It provides for holding the general council of the kingdom concerning the assessment of aids, as follows: "We shall cause to be summoned the archbishops, bishops,

[1] *Guizot, Representative Government*, 314.

abbots, earls, and greater barons of the realm, singly by our letters. And furthermore we shall cause to be summoned generally by our sheriffs and bailiffs, all others who hold of us in chief, for a certain day, that is to say, forty days before their meeting at least, and to a certain place; and in all letters of such summons we will declare the cause of such summons."

It also provides that all merchants shall have full and free liberty of entering England, of leaving it, of remaining there, and of traveling there by land and by water; to buy and to sell without being subject to any oppression according to the ancient and common usages.

The foregoing embrace the principal provisions contained in the great charter. They are, thus far, nothing but promises, concessions of rights. The barons, however, had now seen sufficient to be satisfied that, without adequate guaranties, there could be nothing to insure the performance of these promises. They accordingly provided the following as such guaranty, viz: the election by them of twenty-five out of their own number, who should be charged to exercise all vigilance, that the provisions of the charter may be carried into effect, their powers to be unlimited. Their duties were the following: In case the enactments of the charter were violated by the king in the smallest particular,[1] they should denounce the abuse, before the king, and demand that it be instantly checked. If the king fail to comply with this demand, then the barons were vested with the right, forty days after the issuing of the summons, to prosecute the king, to deprive him of his lands and castles until the abuse should be reformed to their satisfaction.

This was undoubtedly as complete a guaranty as the spirit of that age required, or its comprehension could under-

[1] *Guizot, Representative Government*, 315, 316.

stand. The great defect was, the want of constitutional forces to enforce its observance. The only forces it provided were a civil war, a resort to physical force. This was in harmony with the spirit of the age. The embodiment of political force in the constitution itself, and its quiet, peaceful production of effects without a resort to the calamities of war, had not then entered the conceptions of men. But even this forcible guaranty was of great value, as it centralized the feudal aristocracy by organizing the council of barons.

John afterwards procured the great charter to be annulled by the pope, Innocent III, and the barons excommunicated; but Archbishop Langton refused to pronounce the sentence. John had scarcely got his army on foot when he was called away by death.

The evil of relying upon physical force, a civil war, to secure the observance of guaranties, was soon perceived and strongly felt. Even under the reign of John's successor, Henry III, efforts were made for other securities than force. In the early part of it, a new charter was granted, corresponding mainly with that granted by John, but in it the right of resistance by armed force, in case the king should violate his promises, was not included.

Repeated violations of the charter took place, and in order to obviate these the expedient was adopted of appointing twelve knights in each county, who should inquire what, according to ancient usages, were the rights of the king and the liberties of his subjects.

Henry, on coming of age, revoked all the charters he had granted. This gave rise to great discontents, and these to new confirmations of charters, which were again violated. Civil war was now declared. Rebellion occurred, but its aim now was less to obtain the renewal of charters than to found practical guaranties of recognized rights. The

result was a general renewal of the charters, granted on the 14th March, 1264. This was little other than a treaty of peace between the king and the barons.

The struggle continued with unabated force under Edward I; but neither party appealed to arms. The day of physical force had, for the present, gone by. The contest was continued, but its theatre was changed. So long as material forces were looked to for the enforcement of guaranties, it is clear that the higher triumph of political forces peacefully accomplishing their results through the constitution, can never take place. Both parties cannot fail in time to grow weary of a constant resort to physical force. It impoverishes and destroys without leaving any equivalent. The spirit it engenders is only one of hatred and hostility. Its mission, therefore, is well and wisely limited.

Edward was a conqueror, and much engaged in wars. The prosecution of these required large sums of money, to obtain which he did not scruple to adopt violent and arbitrary measures. This resulted in complaints and dissatisfaction. During his absence on the continent, his representative in England, the prince regent, assembled a parliament in October, 1297. There a general confirmation of the charters, with several additions, was demanded, which the prince regent granted, and Edward some time after sanctioned. On his return to England the barons demanded that, in his own person, he should confirm them. After considerable evasion, he finally granted a new confirmation, but with a restrictive clause which really annulled the grant.

This raised against him a storm of public opinion which threatened a resort to force. Being severely pressed, he finally convoked a parliament in March, 1300, at which he confirmed, without any restrictions, all the concessions he

had already made, superadding to them new guaranties. These latter principally consisted in the provision that the charters should be publicly read in the county courts four times every year,[1] and that there should be elected in each county court, from among the knights of the court, three justices, sworn to receive all complaints of infractions of the charters, and to pronounce penalties against the offenders.

So also in a parliament held in 1301, Edward again confirmed the charters.

These repeated oaths of confirmation hung heavy upon the conscience of Edward. They subjected him to a restraint which he but illy endured. Towards the close of the year 1304, he applied to Pope Clement V, for a release from these oaths. By a bull, dated January 5, 1305, the pontiff declared that all the promises and concessions made by Edward were abrogated, null and void.

This bull he, for a long time, kept secret, resorting to secret manœuvres to overthrow the charters. But it was now too late. Almost a century had elapsed since the great charter had been wrested from king John on the plains of Runnymede. Since that time almost a constant warfare had been kept up between the king on the one side, and the barons and growing power of the commons on the other. This had been waged on battle-fields and in parliamentary discussions. The eye of the nation had seen the one, and the ear of the nation drank in the other, until a public opinion began to be formed, before which, in the absence of large standing armies, monarchs themselves were becoming impotent. Hence, the confirmation by Edward in 1301, was the last confirmation ever made. The rights which it proclaimed were definitively recognized.

[1] *Guizot, Representative Government*, 329.

From that period the charters, notwithstanding all attacks made upon them, have remained as the immovable basis of public right in England.[1]

We now close the consideration of that part of the British constitution derived from charters. The rights thus acquired have not come up from the people, and been by them maintained, but they have come down from the throne, through the agency of the barons. They have been wrested by force, physical and moral, from that which, at one period, concentrated almost all political power, the crown. England owes much, if not all, her constitutional freedom and power to the stern integrity, inflexible purposes, and steady onward progress of her baronial aristocracy. And we shall presently find that the same power so efficient in wresting rights under the form of concessions from the crown, constitutes, in the working of the constitution, that element of conservatism, strength and stability, that affords the promise of perpetual endurance.

3. We now proceed to the third branch of inquiry relating to England's constitutional history, viz: the origin and growth of the English parliament, including the successive steps or stages by which the two houses attained their political power, and the principle of representation became firmly established.

This assumes directly the contrary position from that just considered. That assumed that all political power centered in the crown, and that all rights were nothing more than concessions from prerogative. This, that the people were the great source of power, and that all authority legitimately came from them. The first brings power from above; the second summons it from below. The

[1] *Guizot, History Representative Government*, 330.

point at which they meet is the central, focal one, around which revolves the forces that together compose the British constitution.

It is essential here to understand the different functions of that general power which governs society.

First, we have the legislative, which imposes rules and laws upon the mass of society, and even upon the executive power. It is in its legislative capacity that the sovereignty of the state receives its highest development.[1]

But the law making power can be of little effect without that necessary accompaniment, the law-executing power. Next, therefore, appears the executive, and this takes the daily oversight of the general business of society, war, peace, revenue, general execution of the laws.

But this law-executing power must be guided aright in its action. Hence the necessity of the judicial, which ascertains the law, defines it, puts upon it a construction, applies it to the many purposes of business and of life, and adjusts all matters of private interest between individuals and the state and its citizens.

In addition to these, is the administrative power, which is charged under its own responsibility, with the duty of regulating matters which cannot be anticipated and provided for by any general laws. The centralization of these four powers, and their union in one man creates a despotism. Their separation, and distribution in such a manner as that they shall severally operate as mutual restraints and checks upon each other, creates a free government. It is in their union and their separate action that we find most of the distinctive differences between the monarchical governments of the continent, and the mixed, free government of Great Britain.

[1] *Guizot, Representative Government*, 288.

On the continent centralization has destroyed all localization, absorbed all local powers, and resulted in a more or less strongly unqualified absolutism.

In England, fortunately, local powers have never been destroyed. They have been preserved through a thousand vicissitudes. They have been harmoniously developed, have regulated and defined their own action. The central government, as we now behold it, has been a gradual emanation from them. Its formation has had a commencement, a progress, a history, all replete with interest and instruction.

The Saxons, as we have seen, had their witenagemote, or council of wise men, who were advisers of the king. The first Norman kings had their council of barons, an assembly of nobles who treated of affairs of state or assisted the king in the administration of justice. The legislative and judicial powers were united, and belonged to this assembly. The ancient usage was that the nobles should meet at Christmas either for a celebration or deliberation concerning the affairs of the kingdom. They were occupied in legislation, ecclesiastical affairs, questions of peace and war, imposition of taxes, or other matters of government.

As to the constitution of these assemblies it was undoubtedly feudal, and composed of the king's vassals who owed him service both at court and in war. But these could not all have attended, as the vassals of William I exceeded six hundred in number. There is here no trace of election or representation. Under the first Norman kings two forces composed the government: royalty and the council of barons. The history of England's chartered rights reveals the struggle between these two forces. It was during the continuance of this struggle that the commons commenced rising into importance. The fact that,

more than any other, proves the rise of the commons, is the introduction of county deputies into parliament.

The first clear trace of this is in 1214, in the assembly convoked by John at Oxford. Some writs then issued, ordered that the followers of the barons should present themselves at Oxford without arms,[1] and enjoined besides that the sheriffs should send to Oxford four approved knights from each county "in order to consider, with us, the affairs of our kingdom." Here, for the first time, is representation, that is, the admission of certain individuals, who should appear and act in the name of all. The object undoubtedly was to attach the knights to the royal interest in the contest with the barons. The same struggle and policy ran through the reign of Henry III.

Forty years later, in 1254, in convoking an extraordinary parliament in London, Henry III addressed a writ to the sheriffs enjoining them to cause two knights to be elected in the county courts "in the stead of each and all of them,"[2] to deliberate on the aid to be granted to the king. Here is real representation. It is the entrance of the commons into parliament in the persons of the two knights who represent them.

Ten years later still, in 1264, a parliament was convoked to consist of peers, county deputies, and also borough deputies, thus giving it the extent it has since preserved.

The difference between county and town or borough deputies was, that the former came in right of being the immediate vassals of the king, while the latter came not upon any principle of right, but depended entirely upon isolated facts bearing no relation to one another. No general principle was invoked applying to all towns or boroughs. The grant of representatives to one did not in-

[1] *Guizot, History Representative, Government*, 353. [2] *Idem*, 355.

volve any similar concession to another,[1] or others. Here, thus early, we discern the radical vice in the electoral system of England, which gave rise to the rotten borough system, so much complained of until the passage of the reform bill in 1821. It arose from the privilege first conferred upon boroughs or towns, which finally ripened into rights. The borough changed sometimes, almost totally disappeared in the progress of time. But the right to send representatives still remained, and hence, in some cases, where the entire borough was owned by one individual, he alone was entitled to send the representative. At the same time other places had grown up into importance where no such right existed. Thus the representation of boroughs grew to be, in the extremest degree, unequal.

The regular parliaments embodying the principle of representation, having found their origin in the troublous times of John, and Henry II, became more thoroughly formed and consolidated during the reign of Edward I.

Two kinds of parliament appear during this reign; the one composed only of the higher barons, the other of deputies from counties and boroughs. The attributes of these were almost identical, the same powers being often exercised by each. The first mentioned met much more frequently, the last only upon extraordinary occasions, when some general impost was to be obtained from the freeholders.

In 1295, a complete parliament was convoked at Westminster, the writs being addressed to the bishops and archbishops, ordering them to cause a certain number of deputies for the chapters and for the clergy to be nominated,[2] also summoning forty-nine earls or barons individually, and also enjoining the sheriffs to cause two knights to be

[1] *Guizot, History Representative Government*, 366. [2] *Idem*, 372.

elected for each county, and two deputies for each borough in the county.

This parliament, at its meeting, was divided into two houses, one containing lay representatives, the other ecclesiastical; their place of meeting and votes being distinct.

In the beginning of the fourteenth century the parliament already rested on a fixed basis. It was composed

a. Of earls or lay barons which the king convened individually. Along with these were the principal functionaries of the king, such as the judges and members of the privy council.

b. Of archbishops, bishops, abbots, and priors, also summoned individually.[1] In regard to both these, and the earls or barons, no law or precedent defined who should be summoned. The king acted arbitrarily in this respect, summoning whoever he pleased. It had not yet settled into an hereditary right.

c. Of deputies, from the knights or freeholders of the counties. Here we meet with representation. The convocation of these deputies was more certain as it resulted from the right of every immediate vassal to a seat in the general assembly; and regular, because the county courts, whence they originated, were, all over England, composed of the same elements, and possessed of the same interests, constituting a uniform and identical whole, each being equally entitled to the privilege of representation.

d. Of deputies from cities, towns and boroughs. There was here no certainty or regularity. The admission of deputies from one city or town did not involve their admission from another, or even from the same at a future time. The number of town and borough deputies was not fixed, but determined arbitrarily by the king. But the

[1] *Guizot, History of Representative Government*, 374.

convocation of two for each county, and as many for each borough, finally passed into a rule. Neither the convocation of county nor borough deputies was originally a public necessity, but it became such when consent in all matters of impost was recognized as a right.

Who were the electors in the counties and boroughs, and what was the manner of election? In regard to the former two facts present themselves.[1]

a. The direct vassals of the king who, on account of their inferior importance, ceased to attend the general assembly, naturally made it their business to attend the county courts.

b. The great body of freeholders also attended the same courts, and the one became merged in the other, both exercising the same rights. This general assembly of freeholders, having local as well as general matters to attend to, fell into the habit of appointing some one or more of its members, to attend to their local or general business.

The boroughs have a different history. It was not there the freeholder but the citizen, who controlled its operations. It was the citizens who managed the affairs of the borough in virtue of their charter, upon whom devolved the right of naming its representatives.

The electoral rights were, therefore, entirely different in the counties and boroughs. In the former being regular they have adapted themselves to all the vicissitudes of property, and have become proportionally extended, while in the boroughs, until the late parliamentary reform, they have remained unaltered. The mode of election was by open voting, which became perpetuated.

The true principle of representation in relation to counties and boroughs was originally carried into parliament.[2] The representatives of each entering there re-

[1] *Guizot, Representative Government*, 379. [2] *Idem*, 393.

mained distinct. Those of the boroughs never deliberated with those of the counties, each treated with the government as to those affairs alone which interested itself; consenting on its own account to the imposition of taxes on its own constituency.

In process of time, however, this became changed, the county and borough members becoming united into one single assembly.[1] Towards the middle of the fourteenth century the parliament was divided into two houses, one the house of lords, in which the great barons were individually summoned; the other that of the commons, comprising all the elected representatives of counties and boroughs.

This was an important result, and one that has fixed the destiny of England. Had the representatives of the counties and boroughs continued to remain separate in their meeting, in their interests, and in their action, the power of the commons would have been divided, and thus necessarily weakened, and by creating divisions between the two, the king, in conjunction with the lords, might easily have overcome them. But the representatives of the counties and boroughs having the same origin; appearing in parliament by virtue of the same title, election; each alike in having in charge certain local interests, which were often identical;[2] by forming with each other a union so intimate as to form constituent parts of the same assembly, acquired for themselves such combined and concentrated power as to render them a coordinate branch of the English government, and vest in them the political supremacy which their real importance demanded. Thus, while the great barons, composing the house of lords, constituted the chief council of the king, and engaged in

[1] *Guizot, Representative Government*, 419, [2] *Idem.* 422.

public affairs in a permanent manner by reason of their personal importance, the representatives of the counties and boroughs, clothed with a power not personal but representative, interfering in public affairs only from time to time and in certain particular cases, were enabled by their combination and united action, to exert an influence, little less than controlling, in the administration of the government.

The great lever through which the commons rose into power, and ultimately compelled that power to be recognized by the crown, was in the grant of supplies. When once the point was conceded, that the only road to the pockets of the people lay through the house of commons; that their vote alone could replenish an exhausted treasury; they acquired a constitutional importance which cannot well be overestimated. This right, although early conceded, yet they were long in fully acquiring. But in the early part of the fourteenth century we find them possessed of so much strength in the exercise of it as to venture upon the annexation of conditions. In 1309 when granting to Edward II a twentieth part of their movable goods, they expressly attached the condition that "the king should take into consideration, and should grant them the redress of certain grievances of which they had to complain."

In 1322 a statute was passed declaring that "thenceforward all laws respecting the estate of the crown, or of the realm and people, must be treated, accorded and established in parliament by the king,[1] by and with the assent of the prelates, earls, barons, and commonalty of the realm." This amounts, thus early, to a clear recognition of the commonalty as a coordinate branch of the government, and of its right to interfere in legislation, and all great public affairs.

[1] *Guizot, Representative Government*, 461.

In perfect accordance with the principle thus early embraced in this statute, we find the action of the government. In 1328, a treaty of peace was made with Scotland, which was concluded with the consent of the parliament.[1] In 1331, Edward III consulted the parliament on the question of peace or war with France. In 1336, it urged the king to declare war against Scotland. In 1341, the parliament pressed Edward III to continue the war in France, and furnished him with large subsidies. In 1343, the parliament was convoked to examine and advise what had best be done in the existing state of affairs. In 1361, peace with France having been concluded, the parliament was convoked, and the treaty was submitted to its inspection, and received its approval. In 1368, the negotiations with Scotland were submitted to the consideration of the parliament. In 1369, the king consulted the parliament as to whether he should recommence the war with France, because of the nonobservance of the conditions of the last treaty; and the parliament advised him to do so, and voted subsidies.

These facts are all valuable as showing the constant practice of intervention by the commons in important national affairs at this early period, and during the strong reign of Edward III.

Another fact which it becomes important here to notice is the right of petition, its essence, origin and history. Its essence is a right to demand the reparation of an injury, or to express a desire. In the fourteenth century all petitions were addressed to the king. He governed, and possessed both the right and the power to redress grievances. But he governed in his council, the most eminent and extensive of which was the parliament. The regular practice was, that the king, by officers specially appointed for that pur-

[1] *Creasy*, 218, 219.

pose, received and examined all petitions, and afterwards called the attention of both houses to those with whose prayers he could not comply without their sanction. The interference of the houses of parliament was, therefore, only in certain cases, and then as a necessary council. All propositions in either house took the form of petitions to the king for his order, assent, or edict, which thus had the force of law; and at the close of each session, the clerks in chancery reduced the whole to the form of statutes. Thus, in its origin, the houses of parliament, and more especially that of the commons, were themselves the great public petitioner.

When the house of commons had achieved the position of a coordinate branch of the government, and acquired the possession of power as such, the right of petition to the two houses of parliament became regarded as a natural consequence of the right of petition to the king.

The importance of this consists principally in the creation of new avenues to the introduction of business. Formerly the government brought forward the questions which gave rise to the discussions in the two houses. Now the right of petition introduces a new initiative, and the humblest citizen, who forms no part of the public power, can, nevertheless, through the exercise of that right, introduce a subject of discussion, and thus set that power in motion.

It was during the long half century reign of Edward III that the parliament acquired much of its present constitution. We have already seen the numerous instances of its intervention in the affairs of government. Another fact characterizing this reign is the great regularity with which the parliament was convoked. During his reign there were forty-eight sessions, nearly one session in each year. It passed acts providing for the regularity of its own convocation, and also to insure the security of its deliberations.

Again, it is during this reign that we hear for the first time of the parliament being divided into two houses;[1] and quite at the end of the same reign, in 1377, the parliamentary rolls first make mention of the speaker of the house of commons.

Another important fact to be noticed during this reign is the voting of taxes. Many instances occur of the imposition of arbitrary and illegal imposts, but the perseverance of the commons in the maintenance of their exclusive right of taxation was steady and continuous. They, in two cases, even extended it beyond the concession of subsidies. In 1340, the parliament appointed certain persons to receive the accounts of the tax-collectors, and required them to give security for the payment of all they received. This is interesting as containing the germ of a right subsequently asserted and maintained, of demanding an account of the national expenditures. The first step in that direction was taken by making sure of the fidelity of the receipts. In 1354, the parliament, in granting a tax on wool, annexed to it a condition that the money so raised should be devoted to the war then carried on. This presents us with the rudiment of another parliamentary right, that of the appropriation of the public funds. The parliament appear during this reign to have participated generally in legislation. This is evident from the form of the statutes passed.

Besides taking an active part in things relating to wars and foreign affairs, the interference of parliament in the internal administration of the country was no less strongly marked. In 1342, the commons, profiting by an exhausted treasury, presented to the king two petitions.

"That certain by commission may hear the account of those who have received wools, moneys, or other aid for

[1] *Guizot, Representative Government*, 478.

the king, and that the same may be enrolled in the chancery." This, with some slight modification, was granted.

"That the chancellor and other officers of state may be chosen in open parliament, and at the same time be openly sworn to observe the laws of the land and magna charta." This also was granted with some modification. These, with their modifications, were immediately converted into statutes. Here again we find the rudiments of ministerial responsibility to parliament; the claim to exercise some influence over the choice of ministers, and also to hold them responsible for their conduct.

Thus the long reign of Edward III saw the English parliament established on a permanent basis. It has undergone but little real alteration since, only its functions have become better defined.

The power of the commons also increased under Richard II, so that at the accession of Henry IV, it might be said of the three following points, that the first was decided in their favor; the second admitted in principle, and the third confirmed by frequent exercise. These were:

a. That they alone could grant taxes.

b. That all laws enacted must be with their consent.

c. That the administration of government was subject to their inspection and control.

During the domination of the house of Lancaster, the parliament also made some progress. The want of a clear title in the princes of that house probably exerted an influence on the extent of their prerogative claims. The parliament exercised with much opposition:[1]

a. The voting of taxes.

b. The appropriation of the subsidies.

c. The investigation of the public accounts.

[1] *Guizot, Representative Government*, 510.

d. Intervention in the legislature.

e. Impeachment of the great officers of the crown.

Two additional rights were also claimed, and quite a progress made towards their complete recognition under the Lancastrian princes. These were:

a. Liberty of speech to the members.

b. The inviolability of the members, their freedom from arrest.

In 1407, in a debate as to which house should have the exclusive right to introduce bills for the raising of taxes, it was finally settled:[1]

a. That such right should belong exclusively to the commons.

b. That it was the right of both houses that the king should take no cognizance of the subject of their deliberations until they had come to a decision upon it, and could lay it before him as the desire of the lords and commons in parliament assembled.

It was at this epoch that the lodgment of the ultimate judicial power was settled. That power originally resided in the entire parliament. At the suggestion of the commons in 1399, it was declared to belong exclusively to the house of lords.

During the reign of Henry VI, an act was passed limiting the right of franchise,[2] and enacting that for the future, knights of the shire shall be chosen by people dwelling and resident in the counties, whereof every one of them shall have free land or tenement to the value of forty shillings, by the year at least, above all charges. Two years later was passed an act requiring the voter's freehold to be situate in the county for which he votes, and these contain essentially the basis for voting which has ever

[1] *Guizot, Representative Government*, 514. [2] *Creasy*, 231.

since been acted upon. During this long reign of Henry VI the power of parliament advanced, and almost absorbed the entire government.

During the century that occurred between Richard II and Richard III, there was a great diminution of England's feudal aristocracy. This was the era of sanguinary wars between the partisans of the houses of York and Lancaster; between the white and red roses. Many of the great barons of England fell on the battle-field, and others were stripped of a great part, or the whole, of their resources. Thus that sturdy baronial power, that wrested magna charta from king John, no longer existed. It was broken down, and royalty had little to fear of opposition from that quarter.

The commons, it is true, had acquired many constitutional rights and privileges of great value. But they also had been wasted by civil war, and besides, as against the crown, they were accustomed to follow the lead of the barons, and were not, therefore, in a condition to take their place in a struggle with royalty.

These were the circumstances under which the house of Tudor, in the person of Henry VII, acquired the crown in 1485. With an aristocracy so depressed, and well near annihilated, and with commons unaccustomed to take the lead in contests with the crown, and also laboring under great depression, we may naturally expect to see royalty again in the ascendant. We are not disappointed. The Tudors reigned with more absolute authority than their predecessors. Their better title to the crown, together with the circumstances just alluded to, enabled them to do this.

We find, therefore, Henry VIII, the successor of Henry VII, performing many acts which mark the worst of tyrants, and during his reign some parliamentary acts were passed

of a general character which appear to be wide deviations from any previous action. Of these we have:

a. An act passed in 1529, releasing the king from all debts he had contracted six years before, although his securities had in many cases passed into the hands of third persons who had purchased them for valuable considerations.[1]

b. That empowering the king, on attaining the age of twenty-four years, to repeal all acts of parliament made while he was under that age.

c. That declaring the proclamations of the king in council, if made under pain of fine and imprisonment, to have the force of statutes, provided they affected no one's property or life, and violated no existing law, and authorizing the king by proclamation to make any opinion heretical, and annexing death as the penalty of holding it.

These were each one, acts which disgraced the English parliament, and indicated the disposition to lay the liberties of the English nation at the foot of the throne. And what was worse, the oppression of the Tudors, although it was in fact less severe than that of many of the Plantagenets, was nevertheless exercised upon system. Under them, royalty laid claim to a primitive independent sovereignty. The powers of the prerogative were asserted as matter of right to have a legal supremacy. Under its fearful shadow, royalty declared itself absolute and superior to all laws.

What this might have led to a century earlier it might be difficult to say, but the sixteenth century broke upon England and Europe with a new light. The spirit of industry was abroad. It penetrated every department. Agriculture, the mechanic arts, maufactures, commerce, with all their stirring activities, pervaded the hearts of

[1] *Brougham*, III, 254.

men. To carry all these out required the exercise of bold, daring, and free minds. The habits of the age, therefore, were all in direct hostility to the exorbitant claims of prerogative.

The result of this industrial activity was to accumulate wealth. Property lost its fixedness. It readily changed hands, even baronial property could not stand against the spirit of the age. Landed property became divided, and between division and transfer the old feudal nobility wasted away. Persons who had acquired property by trade began to rise to distinction. At the beginning of the seventeenth century the high nobility, composing the house of lords, did not equal in wealth the house of commons.[1]

There was something more than this new spirit and change of property, accompanied by change of circumstances. There was inaugurated a new march of mind. The mind claimed its prerogative as well as the king. Thought was free, bold, and searching in its character. The principles of the puritans were taking root in the soil of England. Political liberty could not long be divorced from those who were willing to sacrifice all for liberty of conscience.

Again, we are to consider that under the reign of the Tudors there were numerous concessions to the importance of parliament. This body under the Plantagenets had been a means of resistance, a guaranty of private rights, but under the Tudors it was an instrument of government, of general policy. While, therefore, as in the very acts we have cited, it was the tool of royalty, yet even by that means its importance became greatly increased.

The reign of the Tudors lasted a little over a century, and ended with that of Elizabeth, about the close of the

[1] *Guizot*, 303.

sixteenth century. At this period the free institutions of England may be said to consist:

a. Of maxims, principles of liberty, acknowledged in written documents.[1]

b. Of precedents, examples of liberty, which were scattered over their previous history.

c. Of particular local institutions, such as trial by jury, right of holding public meetings, of bearing arms, etc.

d. Of the parliament, now more necessary to the kings than ever, as their independent revenues, crown domains, and feudal rights, having disappeared, they had become dependent on their parliaments for their household expenses.

The house of Stuart succeeded to the crown in the person of James I, about the commencement of the seventeenth century. And then began the real contest between the crown and the parliament, which ended in the triumph of the latter. The mutterings of the tempest were heard during the reign of James, but it was rather a discussion of principles. He claimed absolute power as a birthright. His conduct was fickle, weak and wavering, while the commons were firm and steady.

But under the second Stuart, Charles I, came the decisive conflict between the commons and the king, between free inquiry and pure monarchy. In the progress of the revolution three parties were very clearly developed. These were:[2]

a. The pure monarchy party, whose principles were entirely monarchical, but who advocated legal reform.

b. The political revolutionary party, who deemed the ancient guaranties insufficient, and sought to place the preponderance of power in the house of commons.

[1] *Guizot*, 305. [2] *Idem*, 308–9.

c. The republican party, who went for a radical change in the government, who sought to overthrow the old forms, and establish new ones; who wished to extend the power of the two houses, particularly of the commons, by giving to it the nomination of the great officers of state, and the supreme direction of affairs in general. Of these three, as is usual in revolutions, the last, which was the most radical, and animated with the most enthusiasm, was in the end triumphant.

The first act of warfare on the part of Charles was the imprisonment of members of parliament for words spoken in debate.[1] But the house compelled him to release them by refusing to proceed to business until their release. Next he dissolved the parliament, but this only led to the election of another still more hostile. Another dissolution led to a third parliament, and it was from this that the famous petition of right proceeded, which constitutes one of the pillars upon which reposes the English constitution. By this, the parliament compelled the king to declare illegal the requisition of loans without parliamentary sanction or the billeting of soldiers upon subjects, or commitment without legal process, or procedure by martial law. But when, in addition, they required him to give up the right of levying tonnage and poundage, he again dissolved the parliament and imprisoned the opposition leaders.

But to reign without a parliament was impossible, and another was summoned. This turned out to be what is termed the long parliament, which survived the king. This parliament passed a bill to secure the calling of parliaments every three years; prohibited their dissolution by the king until after a session of fifty days; declared illegal all levies of customs and imposts without consent of

[1] *Brougham*, III, 278.

parliament; and forever abolished the star chamber and high commission courts, depriving the privy council of all jurisdiction in criminal matters. They also passed an act to prevent a dissolution without their own consent, which, of itself, changed the entire constitution.

This parliament continued its session for eighteen years. Under its rule, war was waged against the king, who was ultimately taken, tried and executed. It abolished royalty, declared it treason to give any one the title of king without act of parliament, set aside the house of lords, thus leaving the whole power, legislative and executive, vested in the commons.

This parliament was succeeded by one of Oliver Cromwell's selection, called Barebone's parliament, which, showing some disposition towards independence in the exercise of its powers, was dissolved, and the protectorate proclaimed. The government was now little other than a military despotism. The real power all centered in the protector, Oliver Cromwell. He well knew the necessity of governing by a parliament, and endeavored to do so, but failed to get together one that would long satisfy his wishes. He had recourse, for this purpose, to all the various parties. He tried the religious enthusiasts, the republicans, the presbyterians, and the officers of the army. He got together and dissolved four parliaments, each one having endeavored to wrest from him the authority which he exercised, and to rule in its turn.

He finally reigned alone, the government he inaugurated being little other than a military despotism. But every measure of his was conceived in wisdom, prosecuted with energy, and crowned with success. His rule, although despotic, was one of the most important in the English annals.

On the death of Cromwell, his colossal power, the exercise of which had depended upon his own personal energy,

disappeared at once, and thereupon, in 1660, the nation welcomed back the house of Stuart, in the person of Charles II, the brother of Charles I. The revolution had taught at least three truths:

a. That the king could never again separate himself from the parliament. That the two must reign together, neither one being competent to reign alone.

b. That the house of commons was the stronger branch of the parliament.

c. That protestantism had achieved a complete and definite ascendancy in England.

Some important acts date their origin from the reign of Charles II. Two of these are worthy of note. The first was to prevent the legislature being overawed, and their votes coerced by riotous and seditious mobs, under the guise of petitioners.

The second was the celebrated habeas corpus act, which prescribed a remedy, prompt and efficacious, in all cases of arbitrary imprisonment, without process of law. It brought immediately before the judge, the prisoner, with the cause, if any, of his detention, and in case the imprisonment was illegal, discharged him.

But the reign of Charles presents a great contrast with that of Cromwell. He began with Lord Clarendon as prime minister, who represented the pure monarchy party. Next we have what was termed the cabal ministry, formed of profligates and libertines,[1] whose government, although evincing practical skill in its management, and considerable intelligence and liberality, was, nevertheless, profoundly selfish and immoral. The nation rebelled against this government of profligates.

[1] *Guizot*, 316, 317, 318.

A new ministry was formed, a national one; but that, with a corrupt king and court, could not gain possession of the moral force of the country. Charles, now having tired all parties, commenced a career of absolute power. But in the midst of it he was called away, and the crown descended upon the third Stuart brother, James II.

James, with his court-party, his power of patronage, his supple judges, and his subservient crown lawyers, succeeded in tearing away many of the barriers of the constitution, and in so extending the prerogative, as to create an absolute monarchy. And yet while seemingly having every political power at his disposal, the short period of a single week was sufficient to make him a throneless, crownless wanderer. This extraordinary result was, in great part, due to foreign politics.

The two great powers that were then dividing Europe between them in their conflicts were Louis XIV, and William, Prince of Orange. The former represented the catholic and monarchical principles, the latter the protestant and liberal. England, through her two kings, Charles II and James II, had been, for the most part, unknown to herself subserving the interests of Louis XIV. William was the nephew, and had married Mary the daughter of James I. He was both a statesman and a soldier. The English nation sympathized with him and his large, free, protestant principles. The revolution of 1688 occurred, which, almost without bloodshed, placed William and Mary upon the English throne.

A new parliament was assembled, which declared that King James had abdicated, and that the throne was vacant. Then followed the act of settlement by which, the throne being declared vacant, and James and his children being set aside, the succession to the crown was settled: 1. Upon William and Mary. 2. Upon their death without descend-

ants upon Anne, also a daughter of James I, and by a subsequent act. 3. Upon her death without descendants, then it was limited to the descendants of James I's daughter, Sophia, who had married the elector Palatine of Hanover.

This was, in every aspect of the case, a revolution. It changed the entire order of succession. James had never abdicated. Expulsion is not abdication. Then his descendants were set aside. It presents a clear example of a whole people, the commons taking the lead, rising against the head of the government, or at least a coordinate branch of it, expelling that head or branch and changing the entire order of succession, and that order of succession has ever since been followed. William and Mary, and Anne, successively died without leaving any descendants. Then came in the house of Brunswick, in the person of George I, the grandson of James I, and son of the elector Palatine. Ever since 1689 the king of England has only been such by virtue of this act of settlement. However other kings may claim to reign by divine right, the king of England clearly cannot. He reigns by virtue of an act of parliament. It is important to notice that the power of the people is the real source from which England's king can claim the exercise of any authority. Any other conclusion would render the English government a government de facto, and not de jure, for the last one hundred and ninety years.

Along with the act of settlement, and constituting a part of it, was also a bill of rights, which reasserted in clear, strong terms, all those great cardinal truths and principles in governments which the commons and generally the peers also, had been contending for ever since the grant of the great charter. Among these were the declaration that there existed no power, without consent of parliament, to suspend or dispense with laws or their execution; or to levy money for or to the use of the crown by pretense and

prerogative. That the right of petition should be enjoyed unimpaired. That without consent of parliament, no standing army should be raised or kept in the kingdom in time of peace. That protestant subjects may have arms for their defense. That elections of members of parliament shall be free. That freedom of speech and debate shall not be impeached or questioned out of parliament. That excessive bail shall not be required, or excessive fines imposed, or cruel or unusual punishments inflicted. That jurors be duly impaneled and returned, and those passing upon high treason be freeholders, and that for redress of grievances, parliaments be held frequently.

The provision in regard to a standing army has rendered it necessary to pass acts annually since that time authorizing the keeping on foot a defined number of troops,[1] and giving the crown the power of exercising martial law over them. So, also, in regard to the revenue, since the reign of William and Mary, the practice of the commons has been, not to vote to the crown certain large sums of revenue, to be subject to its application, but to appropriate specific parts of the revenue to specific purposes of government.

The revolution of 1688 closes the long line of contests between king and parliament. For about seven hundred years those contests had been going on. As a general fact, both the commons and the nobility had been found fighting together the great battles of constitutional freedom. As another general fact, although meeting with occasional reverses, they had always been ultimately successful. Always temperate in their claims, wise in their means, steady and energetic in their course of action, they had always proved faithful to the great trusts confided to them;

[1] *Creasy*, 293.

and as the last crowning evidence of their triumph, had bestowed the English crown upon two of their own selection, prescribed the direction it should take, and annexed the proper limitations to the exercise of its power. Since that period, the English constitution has moved on uninterruptedly, its workings eliciting the admiration of all thinking men wherever they might be found. The reform bill of 1832 was called for by the great changes which time had wrought in the borough system.[1] By it, fifty-six boroughs were wholly disfranchised, and thirty-one partially. Forty-three new ones were created, twenty-two of which return two members, and the remainder one member each. By these salutary changes, and others relating to property qualifications for voting, the power of the crown, and of the different members composing the aristocracy, has been very much diminished in procuring the election of members, while the middle classes have risen to greater importance, and become vested with a larger proportion of political power. Thus greater equality is given to the principle of representation, and its more perfect results produced.

II. Having traced the history of the British constitution: 1st. In its sources. 2d. In its charters. 3d. In the origin and growth of that great national council which ultimately became its parliament, we are now prepared to examine its present workings.

In speaking, however, of the British constitution we are not to understand that, as in the United States, and in the different states, there is any written instrument which arranges and defines its different powers. England's constitution, like her common law, is unwritten. It is the

[1] *Creasy*, 312.

gradual growth of centuries. Both that and the common law have been so many developments of human reason in its most practical forms; as the necessities of human progress, and the exigencies of advancing society have from time to time demanded. In America, the written constitution is the fundamental law in subjection to which all legislation takes place. In Great Britain the great charter, the petition of right, the declaration of rights, and certain great principles acknowledged as lying at the foundation of all governmental action, altogether constitute what may be termed the British constitution. Although, therefore, the king and parliament are omnipotent; and an act which receives the sanction of both lords and commons, and the assent of the king becomes in form a valid and binding statute; yet if it contravenes any of those great principles, and thus sins against the genius and spirit of the government, it is unconstitutional and void.

The following are the points to be kept in view in the working of the British constitution:

1. The distribution of political power in reference to localization and centralization.

2. The coordinate branches of which the central power is composed.

3. The powers lodged in each.

4. The checks which each one is capable of exercising against the others.

1. The distribution of political power in reference to localization and centralization. We have seen already upon continental Europe the disorganizing effects of localization as connected with the reign of feudalism. We have also noticed the contests between royalty and the commons as the feudal aristocracy declined, and in most governments the ultimate triumph of royalty, attended by a more or less complete centralization. The establishment and

exercise of pure royalty is consistent only with a high degree of centralization.

By this term is meant a government proceeding entirely from the central power. It is not necessarily a despotism, or a monarchy. An aristocracy, or any other form of government, in which all political power centres in one common head, whether in a cabinet or a general council, is a centralized government. Not only is the political power felt and exercised through the whole society, but all the officials also, are appointed by, and derive all their power from, the same source. The most intensely centralized government is the severest despotism. In such, no local power exists to counteract the exercise of the central power.

On the other hand, the exercise of well defined local powers is an important, perhaps an essential, element in the composition of a free government. They operate as a most salutary check upon the unrestrained oppressive action of the central power. They essentially modify it in its exercise, and within constitutional and well defined limits, are in the highest degree beneficial. In this country the political power exercised in the school districts, the towns, villages, cities, and counties, affords a salutary modification to that exercised by the state; and, higher still, that possessed by the state, to that exercised by the United States.

In England local power was early in asserting its claims. It was bequeathed to western Europe by the German races. Among the Saxons each local district had, in local matters, the government of itself. The county court, so early established in England, so purely local in its officers and jurisdiction, so independent in its sphere of action, has contributed largely to restrain the action of the central power.

The object, however, is not alone to restrain, or even to modify. It is to devolve upon local authorities, the exercise of those powers that are purely of a local character, and effecting local objects. The relief of the poor, the repair of roads and bridges, the preservation of the peace, the administration of justice, and a multitude of other local acts are effected through these means. Among these are also included the judicial and administrative powers confided to justices of the peace, and the executive power exercised by the sheriff. The county courts, with a few exceptions, must try all causes not exceeding £20.

"There are almost innumerable other spheres of political action, each comparatively humble and limited in itself, but collectively, of infinite importance, on account of the universality of their operation,[1] and the daily and hourly duties and interests of every man's life which they affect. Every parish has its vestry; that is to say, an assembly, where the inhabitants of a parish meet together for the dispatch of the affairs and business of the parish. Every borough has its town council, every poor law union has its board of guardians. Each of these is a deliberative, a legislative, and a taxing body. In each of these, the elections of various functionaries are conducted; and many of them are themselves representative bodies, varied and renewed by generally annual elections."

In the election and service of these local officials, generally two facts strike us:

1. The electors of all such are required to have some property qualification.[2]

2. With few exceptions, the local authorities, both in town and county, receive no salary. It is understood to be every man's duty to aid in the maintaining of good

[1] *Creasy*, 328. [2] *Idem*, 339.

order, and in sustaining the social economy of the district in which he resides.

Several results flow from these local organizations:

1. It is a government within a government, both in its administrative and judicial functions.

2. It affords opportunities to ambitious aspirants, to expend, on a small scale, those energies which would otherwise be unemployed, or exert a hurtful influence.

3. It gives opportunities to boisterous spirits, to expend themselves without harm, and thus operates as a safety valve to conduct away innocently, what might otherwise produce explosion and destruction.

4. It serves as a school in which are constantly kept in training, those who may ultimately be transferred to higher spheres of usefulness, and display themselves on the nation's theatre.

5. It keeps alive and nourishes in the homes of the English people that knowledge of political transactions, and those feelings of freedom and independence that impart such strength and power to the English character.

6. It affords ready facilities to organization, and aggressive resistance to all tyrannical exercise of power.

7. It constitutes so many independent centres in which are discussed the proceedings of the central power, and so many distinct tribunals sitting in judgment upon such proceedings.

8. It is, therefore, one and the principal source of that public opinion, which in England is so omnipotent on all political questions.

9. It is a development of that self-governing spirit of the English people which enables them to administer correctives to misgovernment, and even to continue on their accustomed course, when by the resignation of the

ministry, the machinery of the central government stands still.

These several local administrations are directly connected with the general government by their representation in the house of commons. This leads to the consideration of the elections to that house.

The reform bill of 1832, as we have already seen, corrected many of the evils growing out of the old rotten borough system. There is still, however, by no means an equality of representation of the commons in parliament. But the approach towards it is so considerable, the rotten boroughs so many of them disfranchised, and the base of representation so widened, that the power of the crown in procuring the election of members, and thus controlling the action of parliament, is very much diminished.

Another fact we have also to notice, and that is, the property qualification necessary to constitute an elector. The right of voting for borough representation is limited to the householder who takes and resides in a ten pound house, while that of voting for a county representative requires only a forty shilling freehold. The practical result of this has been that in the general election of 1852, it is estimated that something more than one man in every five in England and Wales exercised the elective franchise.[1] The number elected and composing the house of commons amounts to the large number of 658. But of this number there are seldom over five-sixths who attend.[2]

The central power in Great Britain, in its executive, legislative, administrative, and ultimate judicial functions, is exercised through the king, lords and commons. These are the great coordinate branches of the government. It

[1] *Creasy*, 317. [2] *Brougham*, III, 317.

is in the powers lodged in each of these respectively, and the checks which each is capable of exercising against the others, that we are to find the solution of the problem so long sought for, and here for the first time found, how it is possible to confer powers and energies of unlimited extent, and yet throw around them such safeguards as entirely to protect human freedom from the severity of their exercise.

Of these coordinate branches, the crown may well claim the first place. The crown is supreme. Its wearer and owner is an essential constituent part of the sovereign legislative power. It is the king who issues his writs to the sheriffs of the different counties, commanding them to cause a return of members to parliament. That body convenes in obedience to his call. He is the nation's chief magistrate and all other magistrates act by his commission.

With the king is lodged the executive power. As executive he has the appointing power. In each county he appoints:

1. The lord-lieutenant, who represents the sovereign in his rights and powers as chief of the old common law military force of each county.[1]

2. The sheriff, who is the civil executive officer of the county.

3. The justices of the peace, who are charged with the performance of both judicial and administrative duties. All these we have just mentioned act without pay.[2]

He also appoints to all offices in the army and navy. He has the entire disposition, as commander in chief of all those forces.

He is also externally, in dealings with other states, the visible representative of the majesty of the state. He ex-

[1] *Creasy*, 328. [2] *Idem*, 332.

ercises the sole prerogative of making war or peace. He enters into, and carries on, all negotiations, and forms all alliances. In judicial matters he has ever been regarded as the fountain of justice. He superintends the administration of the civil and criminal law, and confirms, or remits all sentences.

His first business, upon receiving the crown, is to surround himself by constitutional and responsible advisers. These carry on the entire administration in the name of the sovereign. They are about fifteen in number, and are called ministers of state. They are privy councillors, and together form the cabinet.[1] The chief is the first lord of the treasury, called by way of distinction the premier, or prime minister.

Another important cabinet officer is the chancellor of the exchequer, who is charged with the finances of the empire. There are also four secretaries of state, the home, foreign, colonial, and war.

Another member of the cabinet is the lord chancellor, who is intrusted with the great seal, and is the keeper of the king's conscience.

Theoretically all the members of the cabinet may be selected by the king from among any of his subjects.

But practically his choice is quite limited. His ministers can only conduct the government and rule through majorities in parliament. They must, therefore, belong to the party which is dominant in parliament. They must be at least several of them, members of parliament, and gifted with powers adequate to securing majorities there. The moment the ministry are outvoted in parliament, they have no other alternative than to resign. Another cabinet must be formed, composed the more generally by those

[1] *Creasy*, 327.

of the opposite party, who in their turn, must keep with them the parliamentary majority.

The parliament, exclusive of the crown, consists of two houses, the lords and commons. The latter is elective, and its power reposes on the representative system. When a new parliament is to be summoned, a writ, under the great seal, is issued to the sheriff of each county,[1] requiring him to cause the election of the county representatives, and also of those of each city and borough within his shire that returns members. The sheriff then issues his precepts to the head of each of these municipal constituencies, who return the same to him with the names of the persons elected, of all which a general return is made to the lord chancellor.

The lords, composing the upper house, constitute a permanent branch of the legislature, subject to little fluctuations or changes. They sit in their own right,[2] but may be considered as representing their powerful families and immediate connections, as also all the great land owners in the country. The house of lords consist of peers, both spiritual and temporal. The prelates, equally with the barons, are entitled to sit in the house, the former by virtue of the sees which they respectively hold.

The crown possesses a prerogative, in reference to the house of lords, which may be somewhat dangerous in its exercise. This relates to the power of creating peers to an unlimited extent. This may, and indeed on several occasions has been exercised to influence the proceedings in parliament.[3] The sudden creation of twelve peers in the reign of queen Anne carried a question of importance in the house of lords. So it would be possible to carry any question through that house, by the creation of a necessary

[1] *Creasy*, 330. [2] *Brougham*, III, 304. [3] *Idem*, 307.

number of new peers. That necessity, however, could only arise where the king and commons were on one side and the upper house on the other. The passage of the reform bill of 1832 came very near requiring the exercise of this extraordinary prerogative. It has, however, never been exercised to the injury of the country.

The commons alone possess, or rather exercise, the right of originating supply bills, or any involving the necessity of taxation. The upper house has never abandoned its claim to originate and alter money bills, as well as the lower; but in practice the right has never been there asserted, the commons alone having originated every measure of supply. As the lords originate no money bills, so they exercise no power to alter or amend those sent up from the commons,[1] but either wholly accept or reject them. This all important instrument of power and remedial agent, the commons keep exclusively to themselves.

There is also another point on which the commons claim the exclusive right of originating measures,[2] and that relates to the election of its own members. They assert this as an inherent right, and also as inalienable, maintaining that the house cannot convey it to any other body.

The laws are administered by the different courts, and with the exception of the judges in the ecclesiastical courts, and some other trifling exceptions,[3] the crown has the exclusive power of appointing all the judges. Their tenure is for life or during good behavior. They are irremovable except by a joint address of the two houses of parliament, and as this requires, in addition, the assent of the crown, it is practically a statute, having the concurrence of the whole three branches of the legislature.

[1] *Brougham*, III, 305. [2] *Idem*, 306. [3] *Idem*, 310.

Thus the common law judges, although named by the crown, are, nevertheless, independent in the tenure of their office.

The lord chancellor, who has only civil jurisdiction, and who as keeper of the great seal, and the king's conscience, forms a member of the cabinet,[1] holds his place only during pleasure, but the other equity judges, the master of the rolls, the vice chancellors, and the masters in chancery, all hold their offices during life or good behavior.

To guard still further the purity of the bench, the judges are disabled from sitting in the house of commons.

"Thus" says Lord Brougham, "the judicial power, pure and unsullied, calmly exercised amidst the uproar of contending parties by men removed above all contamination of faction, all participation in either its fury or its delusions, held alike independent of the crown, the parliament and the multitude, and only to be shaken by the misconduct of those who wield it, forms a mighty zone which girds our social pyramid round about, connecting the loftier and narrower, with the humbler and broader regions of the structure, binding the whole together, and repressing alike the encroachments and the petulance of any of its parts."

With the commons alone lies the power of impeachment, but that body has no power to try it. Its trial is before the house of lords, and its ultimate decision rests with that body. And so other judicial powers rest with the house of lords. It is the court of last resort, of ultimate appellate jurisdiction in all cases of law and equity from the whole united kingdom. This house always contains peers who fill, or have filled, the highest stations in both the courts of law and equity. These are commonly called the law lords, and practically it is those who

[1] *Brougham*, III, 871.

have the entire decision of the cases brought before the house.

Thus of the three estates of the British realm we have:

1. The crown, which, whatever may in former times have been claimed of its existing by divine right, by the grace of God, can certainly, since the act of settlement in 1689, lay claim to no higher warrant than the joint will of the aristocracy and people of England. In this we have centered the executive power a large proportion of the administrative, which is exercised through the ministry composing the cabinet.

The crown is also a necessary element in the composition of the legislative power. No act of parliament can claim the force of a law before it receives the sanction of the crown. It has thus a veto upon all the legislation of the lords and commons.

The king's person is inviolable. No legal proceeding can be instituted against him. The received maxim is, that the "king can do no wrong." But the king only acts through his constitutional advisers, his ministers. And although he is not responsible yet they are; and through them his administration is made accountable.

2. The house of commons, a representative body, standing in the place, and wielding the political powers of the people of Great Britain. Their function is chiefly legislative. They may originate every legislative measure. They must originate all supply bills, requiring the necessity of taxation. They have also the power of impeachment. They are the changing element.

3. The house of lords, the permanent element in British legislation. Its habits, interests, prejudices, all tend to render it a conservative body. It stands between the crown and the people, ready to throw its weight into either scale that may be required to adjust aright the balance.

In the individuals composing this body, is to be found the highest style of culture; the most illustrious rank united with vast possessions, and when to these are added great capacity, enlarged statesmanlike views, a power of originating all legislative measures except money bills, and the highest judicial power in the nation, we must recognize in it an estate in the highest degree important in the British constitution. These three together compose the parliament, "that parliament of Great Britain, which," says Edmund Burke," sits at the head of her extensive empire in two capacities, one, as the local legislation of this island, providing for all things at home, immediately, and by no other instrument than the executive power. The other, and, I think, her nobler capacity, is what I call her imperial character, in which, as from the throne of heaven, she superintends all the several inferior legislatures, and guides and controls them without annihilating any."

The judicial exists independent of the legislative and executive, charged with functions, of all others perhaps the most necessary for the preservation of the state, the administration of the law; and looked to in times of storm and peril as the ultimate conservative power in the state.

A brief allusion to the evils to be guarded against, and the checks which the constitution provides as the safeguards against their occurrence, is all that now remains for our consideration.

These evils are threefold:

1. The subversion of the upper and lower houses resulting in the supremacy of the king, the establishment of a despotism.

2. The subversion of the crown and the commons, and the supremacy of the lords; the establishment of an aristocracy.

3. The subversion of the crown and the lords, and the supremacy of the commons; the establishment of a democracy.

To comprehend fully the force of the checks by which each and all these evils may be constitutionally averted, we must understand that acts of parliament constitute the fundamental law of the British empire. That they are omnipotent, and are to Great Britain what both constitutional and legislative provisions are to us. We must also understand further that no act of parliament can be deemed complete, and have conceded to it the force of law unless it has received the assent of the three estates, the king, lords, and commons. Now let us proceed to inquire what checks each one of these three coordinate branches has upon the others; what means of defense the constitution has placed in the power of each, so that that integrity of each can be fully preserved.

The crown is amply protected:

1. By its large executive and administrative powers; its power of appointments, its command of all armies and navies.

2. By its power of increasing the house of lords by the creation of new peers, thus, if necessary, giving the upper house a preponderance over the lower.

3. By its veto, thus arresting and destroying in its progress towards maturity every act which it deems essentially prejudicial to itself, or to the country, although it may have passed, and received the sanction of both houses.

4. By its power of proroguing or dissolving parliament at any moment when it deems that the public exigences so require.

The house of lords is sufficiently protected:

1. By the immense personal influence of its members, arising from their great wealth, commanding talents, and powerful connections.

2. By its constituting the high court of impeachments, and the highest appellate court in the realm.

3. By its constitutional negative, or veto, which it may interpose upon any and all acts which come up before it from the house of commons.

It must be admitted, however, that the house of lords has a less amount of constitutional power, can put into operation less effective checks that are purely constitutional, than either one of the other coordinate branches.

The commons are amply protected:

1. By their power of impeaching every member of the king's cabinet.

2. By the negative, or veto power, which they can put upon every act which comes up before them. This is now considered only in reference to their own protection.

3. By their power of changing the entire policy of the crown, and compelling it to adopt a different policy, or to resort to the hazardous measure of dissolving the parliament, by voting down any government measure, thus leaving the ministers in the minority, and compelling a a change in the cabinet, or stopping the wheels of government until such change shall be made.

4. By refusing all supplies to carry on the government until all the grievances they complain of shall be redressed.

In full view of the gradual growth of the British constitution; of its localizing and centralizing forces; of the arrangement of its coordinate branches; of the powers assigned to each branch; and of the strong checks possessed by each as against the others; it may be safely pronounced that of all efforts hitherto made by the race in so creating and arranging the political forces that enter into the governmental element as to secure their greatest harmony of action, no other ever devised has evinced such deep sagacity, such profound forecast, and such wealth of

wisdom. To it must come the great statesmen of all countries, and of all times, to study the science of government. Under its strong guaranties repose in perfect safety those indomitable forces that in all quarters of the world are swaying the sceptre of universal empire; that colossal power whose morning drum-beat, following the course of the sun, and keeping company with the hours, encircles the globe daily with the martial airs of England.

Our task relative to the governmental element in Europe might here end. We have traveled through its different nations, and evolved the political forces that enter into the composition of its various governments. It remains briefly to allude to the different systems of law under which the peoples of the principal European governments are now living.

As a general fact, laws have their origin in one of two sources:

1. In positive ordinances proceeding from the supreme power in the state. This embraces all sovereign decrees and legislative enactments.

2. In all those forms, customs, and well settled observances, which by immemorial usage have become inwrought into the life of a people, and enter essentially into all their business transactions. This latter ordinarily constitutes the great body of the people's laws.

So far as concerns this latter source, there are two great systems of law, which, with various modifications, control the action of the civilized world. These are the civil and the common.

By the civil law is understood the embodiment of the Roman jurisprudence. This was derived:

1. From the laws of the twelve tables digested by the ten decemvirs.

2. The leges, passed by the senate and people of Rome; the plebis cita passed by the plebians, and the senatus consulta, passed by the senate.

3. The edicta prætorium, edicts of the prætor.

4. The responsa, or interpretationes prudentum, the opinions of learned men. To these, upon the establishment of the empire, were added:

5. The imperial decrees.

These growing numerous and complicated were from time to time digested and codified, and hence we have the Gregorian code, the Hermogenian code, and subsequently the Theodosian code.

Under Justinian, a thorough compilation was made, and the whole body of the civil law was included in

1. The code in twelve books, which is a collection of the imperial statutes.

2. The institutes, in four books, containing the fundamental principles of the ancient law.

3. The pandects, an abridgment in fifty books of the decisions of the prætors, and the writings and opinions of the ancient sages of the law; "containing the embodied wisdom of the Roman people in civil jurisprudence for near twelve hundred years."

4. The novels, a collection of new imperial statutes, embracing ordinances passed subsequent to the date of the code.

The great merit of the civil law lies in that part which relates to private rights and personal contracts, and the duties and obligations flowing from them. Its minute distinctions and refinements of reasoning go very far beyond those of the common law. It is, however, a massive and splendid system of law, but is marred by the absolutism with which it is everywhere pervaded. It expressly avows the doctrine of the absolute power of the emperor, and

that all the right and power of the Roman people was transferred to him. It falls, therefore, far short of the common law in all those questions relating to the connection between the government and the people, or in provisions for personal security in criminal cases.

But although these objections render it less agreeable to the Anglo-Saxon taste, which has been modeled upon the larger and more liberal principles of the common law, yet to much of continental Europe it has recommended itself by these very qualities.

Over Italy, Spain, Gaul, and all those European countries, which were fully subdued, and thus formed a part of the Roman empire, the civil law had entire control. Wherever it was introduced, no other was suffered to come in conflict with it.

But the German nation, the Saxons, the Riparian and Salian Franks, the Lombards, and the Burgundians when they inundated the provinces of the Roman empire, and made them their own by conquest and settlement, brought with them forms, usages and customs, having with them the force of laws, which varied entirely from the civil. These laws were rude customs, breathing a savage freedom scarcely consistent with such a degree of subordination as was essential to keep society together.

The two features that strike the most strongly in the customs of most, or all, the German nations, relate to composition and judicial combat. By the former, homicide could be atoned by payment by the manslayer to the relatives of the person slain, of a certain sum of money, and the amount of this sum was regulated by the standing and importance of the person slain. So that a person could estimate very nearly his value in society by referring to the price which had been affixed as the ascertained value of his life.

By judicial combat the attempt was made to legalize and systematize what otherways would have been unregulated war. Both were an advance upon the right of private vengeance; an attempt to draw society from a state of war among its different members to either a settlement of differences, or, if that was impossible, to a regulation of their warfare. Accordingly, the custom, having the force of law, prescribed in the first place that a composition, a sum graduated according to the value of the life destroyed should be paid as the equivalent. But in other cases where there was no provision for the composition, or in some cases where it was declined, then came the judicial combat, which was regulated in all its minute particulars, and to take place before witnesses, who should see that all the regulations were duly observed.

This latter was an exceedingly popular mode of terminating controversies during the dark ages. It came afterwards to be dignified by the name of an appeal to the judgment of God, on the supposition that God always gave victory to the right, but this was after religion came in to modify the rough character of the German races. On the same principles were trials by ordeals, such as those by fire and water. So the law of tenure, relating to real estate, became essentially modified, indeed in a great measure created, by the peculiar principles and customs growing out of, or constituting the feudal system.

There is, however, one great point of difference between the application of the barbarian customs and the Roman law. The former was limited to the barbarians themselves. They never sought to bring the Romans or subject inhabitants under the dominion of the same customs. They were their own customs, their own laws, made by themselves and for themselves, and their own sense of justice precluded their subjection of others to their pressure. The

subject people were still at liberty to be governed by the principles of the civil law, under which they had previously lived. Thus two systems of law, distinct in their origin, and essentially different in their principles, were in operation at the same time within the same territory.

But while this state of facts was prevailing north of the Pyrean and Alpine walls, which then, far more than now, served to shut out the Spanish and Italian peninsulas from the rest of Europe, a different state was presenting in those peninsulas. The Goths seem to have been far less tenacious than other German nations or races, of their primitive institutions and manners. Of these, the Ostrogothic wing settled in Italy, and the Visigothic in Spain.

The Ostrogoths in Italy, under Theodoric, allowed the Roman habits to prevail among them, and even permitted their kings to arrogate to themselves, the plenitude of imperial power. Among the Goths of Italy are found but few traces of the existence of the old national assemblies, and the participation of the people in the affairs of the state.

But the Spanish peninsula, under the Visigoths, presents, in this respect, a point of great interest. While the Franks, Burgundians, and other German races, were governed after their conquest and settlement in the Roman provinces, by their old customs, usages and laws, the Visigoths, after their establishment in the Spanish peninsula, had a code of laws regularly drawn up and promulgated. This fact alone would go to show that the code was not alone the work of the barbarians. The truth was, that the influence of the clergy was more powerful among the Visigoths than any other of the barbarian nations. This is sufficiently evidenced by the fact that among them, political supremacy did not lay in a great national council, but in the councils of Toledo, which were so constituted as to

be controlled by high ecclesiastical functionaries. The forum judicum, or Visigothic code, emanated from the sixteenth council of Toledo.

This code was a very remarkable one, and no doubt exerted great influence upon subsequent Spanish history. It differed from the generality of barbaric laws or customs:

1. In its application. It was not limited to the Visigothic portion of the population. It governed, as well the original inhabitants as the new settlers, the conquered as well as the conquerors.

2. Roman maxims prevailed over Germanic traditions. Theocratic doctrines lay at the foundation, and lent their willing aid to the arbitrary power of the barbarians. Power was constituted under a more absolute form, and despotism was enlightened, but not limited in the exercise of its power.

3. The code of the Visigoths was more provident and complete, more wise and just in its provisions than any other barbarian code. The social relations were better defined, and their nature and effects more carefully analyzed. In civil matters the Roman civil law was essentially adopted, while in those of a criminal nature punishments were affixed to crimes evidencing quite an advance upon other barbarian customs.

The forum judicum was made up:

1. Of laws either made by the kings alone, or by them with the concurrence of their privy council.

2. Of laws made by the national councils of Toledo, in conjunction with the bishops and grandees, and sometimes with the assent of the people.[1]

3. Laws copied from previous compilations.

[1] *Guizot, Representative Government*, 216.

4. Laws borrowed mostly from the Roman laws.

Thus we find the Roman system of jurisprudence, with some small modifications, continuing to prevail in the Spanish and Italian peninsulas, and also over the conquered population of what had been Roman provinces in continental Europe. Thus this great system of law was kept alive until the downfall of the feudal system enabled royalty to gain the supremacy on continental Europe. With it this system had a natural affinity, and from the thirteenth century it was made a matter of much study upon different parts of continental Europe. With some modifications, such as the code Napoleon in France, it has continued to be, and is now the prevailing system of law, in Scotland, Holland, Spain, Germany and France.

But while this great system has been thus preserved, and is thus extensively controlling the business operations and worldly destinies of millions of men, another system, that of the common law, presents itself to us maturing for centuries under the Saxon, and Norman-Saxon rule in England. This had its source in the barbarian customs of the German races, and hence is probably to be attributed that spirit of freedom, and horror of slavery, that animates its entire structure.

This includes all those principles, usages, and rules of action, applicable to the government and security of person and property, which do not rest for their authority upon any expressed legislative will. "It settles the course in which lands descend by inheritance;[1] the manner and form of acquiring and transferring property; the solemnities and obligation of contracts; the rules of expounding wills, deeds and acts of parliament; the respective remedies of civil injuries; the several species of temporal offenses,

[1] *Blackstone*, I, 45, 68, margin.

with the manner and degree of punishment; with an infinite number of minuter particulars, which diffuse themselves as extensively as the ordinary distribution of common justice requires."

Most of its rules and maxims grew into use by gradual adoption. They originated as new exigencies arose requiring their application. Its great body of principles possess a flexibility which enable them to accommodate themselves to the onward progress of society. When new kinds or forms of business arise, requiring to be brought under the dominion of law, new rules or principles arise out of the necessity of the case to meet the requisition. When old kinds, or forms, cease to be carried on, then the principles that govern them cease to be applied. Thus the common law has an adaptation to a civilization that is ever advancing. Its rules, and principles, and distinctions depend not so much upon refinement of reasoning, as upon the stern necessities in which they had their origin. To it, and not to the civil law, belongs that peculiar feature that assigns the ultimate decision of all questions of fact to a jury of twelve disinterested men, while all questions of law are referred to the court. By this means courts are enabled to make records of their legal decisions, and thus the ascertainment and adjudication of legal principles in one case becomes a precedent and authority, which will control the decision of all future cases depending upon analogous facts. This sufficiently indicates where the law is to be found, viz: in the reported cases which from time to time have come up before the courts for decision.

Thus we perceive the common law to be the application of the dictates of natural justice and of cultivated reason to particular cases. As Sir Matthew Hale remarks, "It is not the product of the wisdom of some one man, or society of men, in any one age; but of the wisdom, counsel, expe-

rience and observation of many ages of wise and observing men." He further goes on to say: "Where the subject of any law is single, the prudence of one age may go far at one essay to provide a fit law; and yet, even in the wisest provisions of that kind, experience shows us, that new and unthought of emergencies often happen, that necessarily require new supplements, abatements or explanations. But the body of laws that concern the common justice applicable to a great kingdom, is vast and comprehensive, consists of infinite particulars, and must meet with various emergencies, and therefore requires much time, and much experience, as well as much wisdom and prudence, successively to discover defects and inconveniences, and to apply apt supplements and remedies for them; and such are the common laws of England, namely, the production of much wisdom, time and experience."

Under the benign influence of her common law, the condition of the English people has been constantly improving. Its great principles, always leaning towards human freedom, have gradually elevated the serf into the copyholder, and given to the latter the rights of freemen. The security it has thrown around human rights; its prompt and effectual redress of wrongs; the ample guaranties it affords to life, liberty, reputation, and the prosecution of all legal pursuits; the equal and exact justice which it dispenses to the whole people, have urged forward the Anglo-Saxon as if governed by destiny in his march over the world. And wherever he goes, he takes with him, as his unfailing legacy, the common law. And at this very hour it is dispensing its richest blessings to the millions of human beings who dwell upon the banks of the Thames, of the Ganges, and of the Mississippi. Well might the English constitution, and the English common law, claim to be the twin sisters who are rightly entitled to weave

a fadeless wreath to encircle the brow of our common humanity.

We will close what we have to say upon the element of government, as developed in Europe, by considering the different ideas which the Englishman of the present day, and the ancient Grecian attached to the word liberty. This difference is clearly brought to light by Benjamin Constant, when he says:

"Do you ask what an Englishman of the present day means by the word liberty? It is for every one to be subject only to the laws; for it to be impossible for him to be either arrested, imprisoned, or put to death, or maltreated in any way by the arbitrary will of one individual, or of many. It is for every one the right of expressing his opinion, of choosing his occupation and pursuing it, of disposing of his property, even of making a bad use of it; of going and coming without asking permission, and without giving an account of his motives or his proceedings. It is for every one the right of assembling with others, either to confer in relation to common interests, to worship in those forms which he and his associates prefer, or simply in order to pass their time in a way more agreeable to their inclinations and fancies. Finally, it is the right of every one to exercise an influence in the administration of government, either by the appointment of all, or of certain functionaries, or by representations, petitions, or demands, which authority is obliged, in a greater or less degree, to take into consideration.

"Now compare this liberty with that of the ancients. The latter consisted in the collective, but, at the same time, direct exercise of a number of the functions of complete sovereignty; in deciding, in the public assemblies of the people, upon the question of peace or war; in con-

cluding treaties of alliance with foreign nations; in passing laws; in pronouncing judgments; in examining the accounts, the conduct and the administration of the magistrates; in obliging them to appear before the people; in accusing them, and in condemning or absolving them. But while this was what the ancients called liberty, they admitted, as compatible with this collective liberty, the most complete subjection of the individual to the authority of the whole. * * * * All private actions were under the strictest surveillance. Nothing was allowed to individual independence, either in opinion, pursuit, or, especially, religion. Freedom of choice in the matter of worship, held by the moderns as one of their most precious rights, would have appeared both a crime and a sacrilege to the ancients. In matters which seem to the moderns of the most trivial nature, the authority of the social body interfered for the purpose of restraining the will of individuals. Terpander could not add a string to his lyre without causing offence to the Spartan magistrates. * * * * The laws regulated the manners and customs, and, as these are connected with every thing else, there was nothing which was not regulated by law."

Thus on this point the ancients and moderns are brought into strong contrast. In Greece and Rome the citizen existed for the state. In England and America, the state for the citizen. In the one liberty was the property of the state, in the other of the individual. In the first, it consisted in the right of the state to do anything that lay within its power; in the second, in the right of the individual to exercise, with perfect freedom, every power and energy he possessed, and which he could exercise within the limits of the law. In the first, the citizen was a slave to the state; in the second, the state threw its protecting

mantle over the citizen. In the first, the human soul, even in its entirety, belonged to the state. Hence the murder of Socrates, and persecutions of the Roman emperors against the Christians. In the second, conscience asserted its rights, and maintained its claims in the person of Luther. The reformation awoke men to the sense of a new liberty.

The view of liberty taken by the ancients maintained itself during the Greek and Roman eras. The barbarians who subdued the empire brought with them new ideas. They represented the future. With them, liberty was allied to landed possessions. The power, the liberty, freedom of thought and action, rested with the baron. With the serfs, or villeins, were dependence, oppression and misery. The state, if it existed at all, was only in fragments. On its reconstruction it borrowed largely from Roman ideas, and hence, in many cases, adopted the Roman view of liberty. This is more especially noticeable in the church of Rome. Even now, we observe in each one of the great nations on the continent of Europe a vast centralized power constituting the state and absorbing into itself the individual man. Look at France, for instance, muzzling the press, out of fear lest its invasion of individual rights might, if proclaimed to the people, awake in them a sense of their wrongs. The state, the personification of the nation, the representative of the French people, would be the supreme master of all. Protector of recognized churches, it would banish schism and heresy as turbulent elements; presiding over education it could instruct the coming generation, and fashion the young mind to a dull, unvarying uniformity; dispenser of charity, it would be the one only almoner, replacing free association by regulated administration; guardian of the communes, it would take care of all local interests; the only preserver of order, it would organize a universal police, and thus watch over,

and regulate the steps of its citizens as its children, assuming the responsibility of their happiness, and asking of them only to live and peacefully obey.

On the British isle, and among the homes of the British people, the modern view of liberty the more generally prevails. It is there felt that "the life of nations, like that of man, is the reign of diversity; that liberty alone is capable of satisfying all the various and complex needs which present themselves in ceaseless succession." It is found that all liberties are connected together, for they are all, although under different names, only the play of our activity, the effort of our minds at developing the various powers of which we are possessed. Religious liberty, freedom of education, freedom of association, industrial liberty, freedom of the press; or, to sum up all, the entire liberty of feeling, thinking, worshiping, speaking, working, and acting, in all things, as we would, within the limits which the law prescribes, are the true conditions under which man will ever make the greatest possible advance in every variety of civilization. England, however, is far from having made the greatest possible advance in carrying out this higher modern view of liberty. Her merit is very great in inaugurating the means by which industry, in accordance with this view, has been carried out into its great variety of applications; by which religion has been enabled to secure essentially, the liberty of conscience, by which government has been constantly approaching the governed, and more and more taking its hue from their individual peculiarities; and by which society, philosophy and art have each been advanced, through the sense of freedom enjoyed by the individual mind. But it is left to Anglo-Saxon America, to sound the depths of this mighty principle; to work it out in all its possible applications; and to give to the world the full demonstration, that "power,

wealth, intelligence, morality, faith, all are in proportion to individual liberty." This is the mission of the great republic; the work which has been confided to it to accomplish.

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