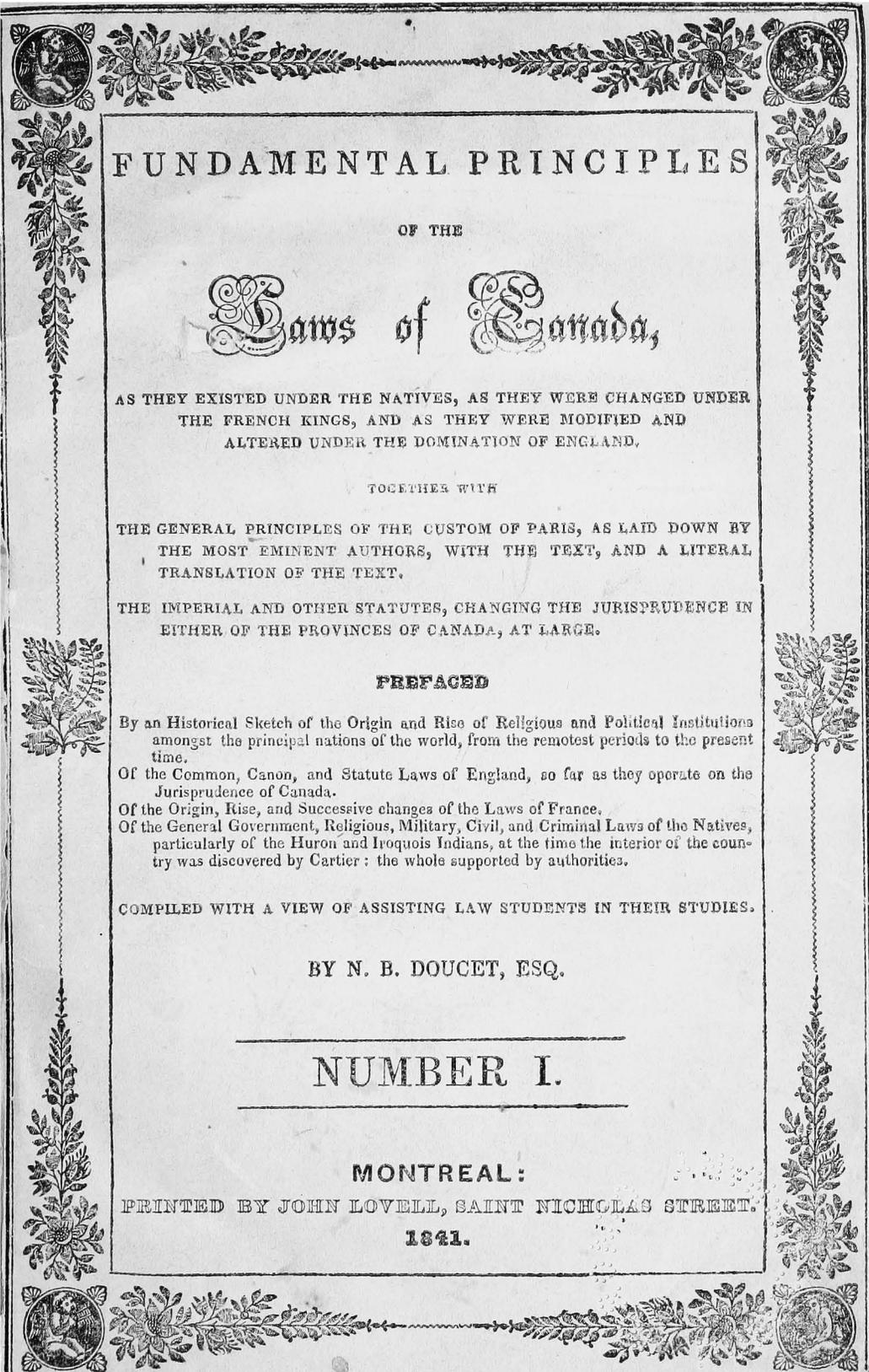




TORONTO PUBLIC LIBRARY.

Reference Department.



FUNDAMENTAL PRINCIPLES

OF THE

Laws of Canada,

AS THEY EXISTED UNDER THE NATIVES, AS THEY WERE CHANGED UNDER
THE FRENCH KINGS, AND AS THEY WERE MODIFIED AND
ALTERED UNDER THE DOMINATION OF ENGLAND.

TOGETHER WITH

THE GENERAL PRINCIPLES OF THE CUSTOM OF PARIS, AS LAID DOWN BY
THE MOST EMINENT AUTHORS, WITH THE TEXT, AND A LITERAL
TRANSLATION OF THE TEXT.

THE IMPERIAL AND OTHER STATUTES, CHANGING THE JURISPRUDENCE IN
EITHER OF THE PROVINCES OF CANADA, AT LARGE.

PREFACED

By an Historical Sketch of the Origin and Rise of Religious and Political Institutions
amongst the principal nations of the world, from the remotest periods to the present
time.

Of the Common, Canon, and Statute Laws of England, so far as they operate on the
Jurisprudence of Canada.

Of the Origin, Rise, and Successive changes of the Laws of France.

Of the General Government, Religious, Military, Civil, and Criminal Laws of the Natives,
particularly of the Huron and Iroquois Indians, at the time the interior of the coun-
try was discovered by Cartier : the whole supported by authorities.

COMPILED WITH A VIEW OF ASSISTING LAW STUDENTS IN THEIR STUDIES.

BY N. B. DOUCET, ESQ.

NUMBER I.

MONTREAL:

PRINTED BY JOHN LOVELL, SAINT NICHOLAS STREET.

1841.

Fundamental Principles

OF THE

L A W S O F C A N A D A ,

AS THEY EXISTED UNDER THE NATIVES, AS THEY WERE CHANGED UNDER THE
FRENCH KINGS, AND AS THEY WERE MODIFIED AND ALTERED UNDER
THE DOMINATION OF ENGLAND.

The general principles of the Custom of Paris, as laid down by the most eminent authors, with the Text, and a literal translation of the Text.
The Imperial and other Statutes, changing the Jurisprudence in either of the Provinces of Canada at large.

PREFACED

By an historical sketch of the origin and rise of religious and political institutions, amongst the principal nations of the world, from the remotest periods to the present time ; of the origin, rise, and successive changes of the constitutional laws of France ; of the common, canon, and statute laws of England, so far as they operate on the jurisprudence of Canada, and of the general government, religious, military, civil and criminal, laws of the natives, particularly of the Huron and Iroquois Indians, at the time the interior of the country was discovered by Cartier : supported by authorities.

Compiled with the view of assisting Law Students, in directing them in the course of their studies.

INTRODUCTION.

SECTION I.—STUDY OF THE LAW.—*II. Criminal Law. III. Jurors. IV. Justices of the Peace. V. Judges. VI. Members of the National Councils. VII. Profession of the Law. VIII. Advocates. IX. Plan of Studies.*

SECTION II.—GENERAL DEFINITIONS.—*I. Of the Law. II. Customs. III. Statutes, Capitularies, Ordinances, Edicts, and Arrêts. IV. Division of Statutes. V. Personal Statutes. VI. Real Statutes. VII. Universal Statutes. VIII. Special Statutes. IX. Jurisprudence. X. Justice. XI. Division of Law. XII. Law of Nature. XIII. Law of Nations, in time of War, in time of Peace. XIV. Several Rules of the Law of Nations. XV. Public Law. XVI. Civil Law. XVII. General Rules of the Roman Law, to make and expound Written Laws. XVIII. General Rules to be observed in the construction and in expounding Statutes in the English Constitution. XIX. Summary of the British Constitution. XX. Summary of the Constitution of Scotland.*

I.—Study of the Law.

THERE are books, instructive and easy to be understood, written upon all sciences, even upon some that are useless. There are none in Canada which present in a familiar manner to its inhabitants the rules they are to follow in the application of the laws under which they live, and what they are to do in the intercourse they have with their debtors, their creditors, their neighbours, and how they ought to act when unjust demands, or insidious accusations, are made against them. Their ignorance in these matters compels them to commit their dearest interests into indifferent, mercenary, and sometimes deceitful hands, and to see by the eyes of others, things that they ought to see with their own. Although a blind man may have nothing to fear from the one who leads him, it is natural to suppose that he would derive some advantage, at least some satisfaction, in seeing some of his road by himself.

II.—Criminal Law.

With regard, in particular, to the criminal law, a knowledge of it is of the utmost importance to every one; for no rank or elevation in life, no uprightness of heart, no circumspection of conduct, no prudence, should tempt a man to conclude that he may not, at some time or other, be deeply interested in discovering what is the criminal jurisprudence of his country.

The thorough comprehension of the laws, in all their minute distinctions, is perhaps too laborious a task for any one but a lawyer by profession; still an understanding of the leading principles is absolutely necessary to every one, so as to guard against gross and notorious impositions, and to be protected from committing acts of injustice in the decisions he is in the common course of life by law compelled to give. (1)

III.—Jurors.

Almost every man is liable to be called upon to establish the rights, to estimate the injuries, to weigh the accusations, and sometimes to dispose of the lives of his

(1) Blackstone's Study of the Law, page 7, § 8.

fellow subjects, whilst serving upon juries. In this situation he must decide, and that upon his oath, questions of nice importance, in the solution of which some legal skill is requisite, especially when the law and the fact are blended together. The incapacity of jurors to do this, unavoidably throws more power into the hands of the judges than the constitution intended, and thus allow others to dispose of fortunes and lives, which, by law, are committed to their care.

IV.—Justices of the Peace.

When we consider the profound learning, and the practical knowledge, which the magistrate, in conscience and decency, ought to possess, we cannot help being surprised to see with what facility the commissions of the peace are filled up.—The magistrate is bound to maintain good order in his neighbourhood; protect the peaceable and industrious; heal petty dissensions, which is so desirable; prevent vexatious prosecutions, which are so common; to point out to jurors the course they are to follow in their investigations of points of law, and points of fact.—How will he perform his task? Should he not be like other justiciaries, not only the best, but also the most learned;(1) else when he has mistaken his authority, through passion, through ignorance, or absurdity, he must become an object of contempt for his inferiors, and of censure for those to whom he is accountable for his conduct.(2)

V.—Judges.

Should a judge, in the most subordinate jurisdiction, be deficient in the knowledge of the law, it would reflect infinite contempt upon himself, and disgrace upon those who were instrumental in his appointment. But how much more serious and affecting is the case of a superior judge, if, without any skill in the laws, he will boldly venture to decide a question, upon which the welfare and subsistence of whole families may depend; where the chance of his judging right or wrong is barely equal; and where, if he chance to judge wrong, he does an injury of the most alarming nature, an injury without possibility of redress.(3)

VI.—Members of the National Councils.

Most men, at some period or other of their lives, are ambitious of representing their country in its national councils; those who are ambitious of receiving so high a trust, would also do well to remember its nature and importance. The constitution has profusely bestowed protection, privileges, and honours upon their members, freedom of speech, exemption from arrest, protection of domestics, mode of address; all is combined to make them appear what they ought to be—the most honourable and the most learned men of the commonwealth.(4) They are not thus distinguished from the rest of their fellow subjects merely by favour, and so that they may privilege their persons or domestics, that they may enlist under party banners, that they may grant or withhold supplies, but upon considerations far more

(1) See Magna Charta, ch. 22.

(2) Blackstone's Commentaries, vol. 1 of the Study of the Law, page 8, § 9.

(3) Blackstone's Study of the Law, vol. 1, page 11, § 9.

(4) *Infra*, see British Constitution.

interesting. They are the guardians of the constitution ; the makers, repealers, and interpreters of the laws ; delegated to watch, to check, and to avert every dangerous innovation ; to propose, to adopt, and to cherish every solid and well-weighed improvement ; bound by every tie of nature, of honour, and of religion, to transmit that constitution and those laws to their posterity, amended if possible, at least without any derogation. And how unbecoming must it appear in a member of the legislature, to vote for a new law, who is utterly ignorant of the old. What kind of interpretation can he be enabled to give, who is a stranger to the text upon which he comments ? Indeed it is perfectly amazing that there is no other state in life, no other occupation, art or science, in which some method of instruction is not looked upon as requisite, except only the science of legislation, the noblest, but the most difficult of any.(1)

VII.—Profession of the Law.

Many aspire to the honour of becoming the guides and advisers of their fellow citizens in their difficulties, but apparently few do reflect that, even with the most upright views, they will expose themselves to become the instruments of fraud, should they not acquire a profound knowledge of the laws of their country, and sufficient skill to interpret and apply them, and that it requires the studies of their whole life to attain these objects.(2)

The laws of every nation are more or less mixed with the laws of nations that have passed away, but none more than the laws of Canada, which have for their basis the jurisprudence of France and England. The laws of France being composed of the laws and customs of Celtic and other Asiatic tribes, of the Romans, of Germanic hordes, and of the Franks.(3) Those of England, of the customs and laws of the Britons, of the Romans, of the Saxons, of the Danes, and of the Normans.(4)

In the jurisprudence of both France and England, as in almost every system of jurisprudence, the Roman law holds the most dominant place ; it is the great source whence they have been derived, and they still recognize the influence of its principles and doctrines.(5)

As to Canada, as late as 1535, it was covered by numerous Indian nations, having their forms of government, their religion, and their laws. More than ninety languages were counted in the interior : some of them were mixed with Galic and Welsh dialects. The north was occupied by the Esquimaux, Têtes de Boule, Sioux, &c. ; the Iroquois, Hurons, Algonquins, the borders of the Saint Lawrence. The government of the Iroquois and Hurons was modelled on that of the Lycians ; their religion partook of the Mosaic code, of paganism, of the doctrines of Confucius and of Zoroastre ; their military mode of warfare that of the Scythians.(6) Of these laws and customs almost nothing remains, but they are still a monument interesting in the history of the revolution of empires.

(1) Blackstone's Commentaries, vol. 1, pages 7 and 8, § 9 and 10.

(2) Massé, Science des Notaires, préface.

(3) Histoire de France.

(4) Crabb's Preface to the History of the English Law.

(5) Burges' Commentaries on Colonial and Foreign Laws.

(6) Lafitau des Mœurs des Sauvages Américains, comparés aux mœurs des premiers temps.

The laws of Canada are now composed—first, of the Roman jurisprudence, when the other laws are silent; second, of the laws of the kingdom of France, with the practice of the court of the parliament of Paris, as they were in 1663; third, of the edicts and royal ordinances of the kings of France, relative to Canada, recorded in the registers of the superior council of Quebec; fourth, the *arrets* and regulations of this council, together with the ordinances and judgments of the intendants, from 1663 to the conquest, 1759;(1) fifth, of the criminal laws of England, as they existed in 1774;(2) sixth, of the jurisprudence of Canada in civil matters, except on land held in free and common soccage, where the civil laws of England rule as to inheritance, dower, matrimonial rights and alienation of lands, from 1829;(3) seventh, of all the statutes of Great Britain relative to Canada, of the ordinances of the governors and legislative council of the province, from 1774 to December, 1791,(4) when the province was divided; eighth, of the statute law of both provinces, in Upper Canada to this day, and in Lower Canada to 1838; ninth, of the ordinances of the special council of Lower Canada to the 10th February, 1841, the provinces being re-united.

Nor is this all, the combined influence of Christianity and commerce, and the facility of communications having established such free intercourse amongst almost all nations of the earth, that an utter confusion of all rights would have ensued, had not some common principles been adopted by all nations to expound and decide upon contracts, marriages, nuptial settlements, wills, successions, foreign guardianships, foreign administrations, foreign judgments, &c., questioned amongst persons whose domicils are in different countries, having different and even opposite laws on the same subjects. Hence, new rules, resting on the basis of general convenience and of national duty, promulgated by jurists, and supported by courts of justice, have gained ground, and now command universal confidence and obedience; and when the professional man is consulted on these questions, to use the language of Daguesseau, he should answer so as to make his foreign client believe that he is his countryman, and that he studied none but the laws of his country.

VIII.—*The Advocates.*

Whoever sets limits to the science of an advocate, has not a perfect idea of the sublimity of his profession. To the qualifications necessary to be acquired in the other branches of legal knowledge, he must add those of the orator, and the orator is not perfect if, by the continual study of the purest morals, he doth not penetrate into the nature of the human heart. History must have given him an experience and anticipated old age. He must exhibit the genius and the character of the ancient orators, and that more than their ideas and their expressions; imitation must have become to him a second nature; he must speak like Cicero when Cicero imitates Demosthenes, or like Virgil, when that poet, by a difficult but noble larceny, enriches himself with the spoils of Homer. With these acquirements, the advocate may take pride in his profession, reflecting that with the thunders of

(1) Edict creating a Superior Council at Quebec, 1663.

(2) English Statute, 14 Geo. III. ch. 33.

(3) Imperial Statute, 7 Geo. IV. ch. 59, and Provincial Statute, 9 and 10 Geo. IV.

(4) English Statute, 31 Geo. III. ch. 31, 1790.

eloquence, Cicero protected kings, and that Demosthenes caused the father of Alexander himself to tremble.(1)

The want of some assistance in the rudiments of legal knowledge was felt both in France and England, as it is now here, and rules to be followed by the law students were laid down by two of the most eminent legists of the time, Daguesseau(2) and Blackstone(3), following them the students of the law in Canada will derive great advantage.

“ You have,” says Daguesseau to his son, “ completed the ordinary course of your studies with success ; but greater labours must succeed, and a larger career is opened before you. What you have done is but the first step to studies of a superior order. You have learned various languages, which are the key of literature ; you have been exercised to eloquence, as far as the tenderness of your age would allow ; you have perfected yourself in the science of mathematics and philosophy, so as to acquire the rectitude of imagination and the clearness of ideas necessary to separate argument from fallacy, by the rules of unsophisticated logic, and to acquire the solidity of reasoning, the order and method which are so necessary in the discovery of the truth for ourselves, and to present it to others with perfect evidence. Happy is the one who possesses these advantages ; but he is not learned ; all his studies have only been preparatory to study the law.”

IX. *Plan of Studies.*

This plan may be reduced to three principal points : First—The study of religion, not with the view of being enabled to dispute upon it, and to dogmatise, but as being a study absolutely necessary to every man who has the desire of obtaining an enlightened faith, and to render to God that spiritual worship and homage that a rational being owes to his Creator. Second—The study of history ; without which, the study of jurisprudence is tedious and disheartening.(4) Third—The study of law and jurisprudence. To obtain this knowledge, it is important to read some books that will teach to ascend to the first principles. The treatise of Grotius *De religione* is the most learned work on the subject ; from it the clearest conclusions are drawn of the truth of the Scriptures, taken from the religion of paganism. Bossuet's discourse on the universal history is as precious. And on the laws, Domat is their equal. None have more profoundly established the true principles on which they rest, in a manner more worthy of a philosopher, an historian, a jurist, and a Christian. From the first sources, he descends to the remotest consequences ; he developes them almost in a geometrical order. His work is the general plan of the civil society ; the most complete that has ever appeared.(5)

A few words of the English Jurist will complete these dictates :—(6)

(1) Bernardin de St. Pierre, *Études de la Nature*, vol. 1. Rollin Hist. An.

(2) Daguesseau, *Instructions à son Fils*, 27 Septembre, 1716 : *œuvres choisies*, vol. 2. Edit de Paris, 1776, page 1 à la 26ème.

(3) Blackstone, of the Study of the Law, *academical lectures delivered at Oxford*, 1753.

(4) See Terrasson *Histoire de la Jurisprudence Romaine*, first page.

(5) *Les Loix Civiles dans leur ordre naturel*, and *Le Droit Public*, by Domat, has been the foundation of Pothier's treatises.

(6) Blackstone of the Study of the Law.

If the student have enlarged his conceptions of nature and art, by a view of the several branches of genuine experimental philosophy ; familiarized himself with historians and orators ; if he have impressed on his mind the sound maxims of the law of nature, the best and most authentic foundation of human laws, reduced to a practical system in the laws of Imperial Rome ; if to the qualities of the head he has added those of the heart, affectionate loyalty to the king ; a great zeal for liberty and the constitution, and well-grounded principles of religion—the student, thus qualified, may enter upon the study of the law with advantage and reputation. But if, what is much the custom every where, the common routine of business and the daily practice is all that he has learned, routine and practice will be all that he will ever know, and the least deviation of the common practical rules will bewilder him, and make him lament all his life that he has begun by the wrong end ; and his clients will have, at their own cost, to join him.

The magnitude of the task must not deter us, for sciences are of a social tendency : they flourish best in the neighbourhood of each other ; nor is there any branch of learning but may be helped and improved by assistance drawn from others.(1) And besides there are in nature certain fountains of justice, whence all civil laws are derived but as streams ; and like as waters do take tinctures and tastes from the soils through which they run ; so do civil laws vary according to the regions and governments where they are planted, although they proceed from the same fountains.(2) To discover these fountains, and to follow their streams in their ramifications over the soil of Canada, is the object of this work.

SECTION II.—GENERAL DEFINITIONS.

Law.

Law, in its most general and extended sense, is the will of the Supreme Being : its seat in the bosom of God ; its voice the harmony of the world. All things in heaven and earth do it homage—the very least as feeling its care—the greatest as not exempt from its power.(3) Restricted to nations, it is the result of their mutual consent ; and to commonwealths, the solemn declaration of their legislative power.(4)

Under the first French dynasties, the laws received various denominations. The principal were called laws—as, *loi gombette*, *loi repuaire*, *loi salique* ; some capitularies, or *capitulaires*, from the small chapters, or heads, into which they were divided ; other edicts, when they regarded civil matters, or constitutions or canons in religious affairs. These laws were all made by the prince, with or without the

(1) Blackstone's Study of the Law.

(2) Bacon's Digest : Advancement of Learning, vol. I. page 101.

(3) Hooker's Ecclesiastical Polity.

(4) Domat, Droit Civil, premiers principes.

assemblies of the nation. These assemblies were composed of the nobles and the bishops: there were no commons in those times. The free men who were present in these assemblies, in March or May, in open fields, called *champ de mars*, or *champ de mai*, were only allowed to give their advice, and to applaud their lords.

III. *Arrets.*

The *arrets* were judgments pronounced by the supreme sovereign courts of the realm, from which there were no appeals. These judgments in other courts, or other cases in the same courts, could only be argued as a written reason, but not as a motive of decision.(1)

The same general definition may equally apply to the laws of England. Before the Norman conquest, all public acts were called laws and ordinances, if they related to secular matters; and constitutions and canons, if they related to ecclesiastical matters. They all emanated from the king; after which they were laid before his witan, or wise men, and nobles, for their concurrence. Wherefore these codes were commonly prefaced in this manner: *Rex consilio, sapientum suorum et procerum instituit*—(the king has decreed, by the advice of his sages and nobles). These laws were simple, concise, and comprehensive.(2)

In the reign of Edward III. a distinction was made between a statute and an ordinance. If a bill did not demand *novel ley*, (a new law), it acquired by royal assent, given in these words, *le roi le voet*, (the king wills it), all the force of law, before it had passed the great seal, or was entered on the statute roll, in which case it was called an ordinance, and was considered a measure of temporary nature, that might be altered at the pleasure of the king.(3)

Customs.

Customs, which make part of the law, are established by a series of acts, constantly repeated, and derive their binding power from long and immemorial usage, coupled with the express sanction or tacit consent of the legislature;(4) in general, customs are reputed to be real statutes.(5)

Statutes.

A statute, in its general and extended sense, is every act of the legislative power, which serves as a rule for the conduct of the community: every disposition of a law is a statute, which commands, forbids, permits, rewards, or punishes.

Division of Statutes.

The statutes are divided into personal statutes and real statutes, and into universal and special statutes.(6)

Personal Statutes.

The personal statutes are those which have principally for their object the person, and treat of property only accidentally; such are those which regard birth,

(1) Repert. Jurisprudence, Guyot and Merlin, Verbo Law, Arrets.

(2) Spelman cod. Vet. L.L. Anglo Saxons; Crabb, English Law, ch. 17.

(3) See Infra, English Law, under the reign of Edward III.

(4) Domat, Droit Civil, premiers principes.

(5) Pothier, Coutume d'Orleans, ch. 1, art. 6.

(6) Wood's Institutes on Imperial or Civil Law, ch. 2, p. 35; Code Just., tit. 1.

legitimacy, freedom, the right of instituting suits, majority as to age, capacity to contract, to make a will, to plead in proper person. The civilians hold them to be of general obligation and force every where.(1)

Real Statutes.

Real statutes have for their object property; they do not speak of persons, except in relation to property. Such are those which concern the dispositions which one makes of his property, either during his life or by testament.

Universal Statutes.

Universal statutes regulate the capacity, state, and condition of persons; such as their minority, majority, emancipation, &c.

Special Statutes.

Special statutes create ability or disability to do certain acts.(2)

Jurisprudence.

Jurisprudence is the science of the law, or a collection of principles which serves to distinguish what is just from what is unjust: the art directing to the knowledge of justice.(3)

Justice.

Justice is the constant and perpetual desire of giving every one his due.(4)

Division of Law.

Law is generally divided into four principal classes:—the law of nature; the law of nations; the public law, and the civil law.

Law of Nature.

The law of nature is formed of rules which God himself has established, and which he has taught to man by the simple dictates of reason. It is an immutable justice, always and every where the same; no human power can alter it.(5) It is the impression of eternal reason which governs the universe.(6)

Law of Nations.

The primitive law of nations is as ancient as the society of mankind, and is essentially as invariable as the laws of nature. The duties of children towards their parents—the love of citizens to their country—good faith in the fulfilment of contracts—have, or ought to have, been always fulfilled. Ambition, interest, and other causes of dissention between nations, have occasioned wars and personal servitude, and have given rise to a secondary law of nations. Humanity first

(1) Louet et Brodeau, ch. 12; Boulenois, Questions Mixtes; Lacombe, Recueil de Jurisprudence; Merlin et Geyot Verbo Statutes; Story, Conflict of Law, introductory remarks; Rodenburg de Statut divers, ch. 2, page 7; Froland's Memoirs de Statuts, ch. 7, page 1 to 10; Pothier, Coutume d'Orleans, ch. 1, art. 1 to 21.

(2) Ibid.

(3) Guyot et Merlin, Repertoires de Jurisprudence; Verbo Jurisprudence.

(4) Institutes, liv. 1, l.

(5) Domat, Traicté des Loix Civiles, liv. 1, § 3; Institutes, § 11 de Juré, Nat. Gent. et Civ. liv. 9.

(6) Inst. 2, l.

caused it to be introduced between contending armies, and rules were established in sending embassies, in entering and in concluding negociations, treaties of peace, in declaring war, in the keeping of hostages, &c. &c.

The law of nations has in many of its parts acquired among nations much of the precision of positive law.

The modern phrases of law of nature and law of nations have a very different import than those of law of nature and law of nations of the Roman lawyers.(1)

The same rules of morality which hold together men in families, and form families into commonwealths, also link together these commonwealths as members of the great society of mankind ; and though nations acknowledge no common superior,(2) they are yet under the same obligation mutually to practice towards each other honesty and humanity.

The reduction of the law of nations to a system was reserved to Grotius. It was by the advice of Lord Bacon that he undertook the task.(3)

In the present and last century, a slow and silent, but very substantial, mitigation has taken place in the practice of war, and in proportion as that mitigated practice has received the sanction of time, it has raised from the rank of mere usage, and became part of the law of nations.(4)

Montesquieu, in his own language, says : “ Le droit des gens est naturellement fondé sur ce principe, que les diverses nations doivent se faire dans la paix le plus de bien, et dans la guerre le moins de mal qu’il est possible sans nuire à leurs véritables intérêts.

“ L’objet de la guerre, est la victoire ; celui de la victoire, c’est la conquête ; celui de la conquête, la conservation. De ce principe et du précédent doivent dériver toutes les loix qui forment le droit des gens.

“ Toutes les nations ont un droit des gens ; les Iroquois mêmes, qui mangent leurs prisonniers en ont un. Ils envoient et reçoivent des ambassades ; ils connoissent les droits de la guerre et de la paix. Le mal est que ce droit des gens n’est pas fondé sur les vrais principes.”(5)

The law of nations is naturally founded on the principle that the divers nations who compose the great society of mankind ought in peace to do each other the most good, and in war the least harm possible, without injuring their real interests. The object of war is victory ; that of victory, conquest ; that of conquest, preservation. From that principle and the preceding derive all the public laws of nations.

Every nation possesses the general principles of that law ; the Iroquois, who eat their prisoners, have them. They send and receive embassies ; they know the rights or duties of peace and of war. The mischief is, that theirs is not founded on a true basis.(6)

(1) Sir James M’Intosh’s Discourse preceding his Lectures on the Law of Nature and Law of Nations, pages 4, 5, 6, and 7.

(2) Boulenois,

(3) M’Intosh ; Ibid, page 20.

(4) Story Conflict of Laws ; see also, Domat de la Nature et de l’Esprit des Loix ; Droit des Gens, page 19 ; Institute 1, 1, 1,

(5) Montesquieu, de l’Esprit des Loix, liv. 1, ch. 3 ; Story Conflict of Laws ; M’Intosh ; Ibid.

(6) Ibid.

Public Law.

The public law embraces the relations of the government with those that are governed, or the relation of each individual with the body of the commonwealth.(1)

Civil Law.

The civil or municipal law regulates the state of persons, the rights of families, and governs their contracts. Every nation has its civil law, for the government of its own people.(2)

General Rules of the Roman Law to Expound Written Laws.

It is dangerous to depend on general rules by reason of limitations and exceptions.(3) Subsequent practice is a good interpreter of an ambiguous law.(4)

Laws are made with reference to cases that shall happen for the future only, unless the law is made to explain a former law. In which case, such law rules form the date of the law it explains.

Laws ought to be made upon cases that often happen, and not on rare and accidental occurrences.(5)

The proper sense of a law is not so much in the literal wording of it as in its general design, and the reason which caused its enactment.(6) New constructions must not be put upon ancient laws.(7) Former laws must give place to the latter, and are to be enacted and determined by them.(8)

Though there is a difference betwixt a law that prohibits only, and the law that makes the act void, inasmuch as that the prohibition may exert its force by penalties, yet no act is valid that is against a law, but utterly void, though not declared to be so by special words.(9)

Doubtful Cases.

In doubtful cases the most merciful interpretation is to take place.(10)

Disjunctive Words.

Where words are in the disjunctive, it is sufficient if one part is true.(11)

A restraint to particular things destroys general words.(12)

A law that pardons what is past forbids it for the future.(13)

Of two evils or inconveniencies, the least is to be chosen, or that which is least prejudicial.(14)

Laws made for the public good cannot be set aside by private agreement.(15)

(1) Institutes, 1, 2, 1.

(2) Domat's Introduction to the Civil Law de la Nature et de l'Esprit des Loix.

(3) Digest, 15, 17, 202.

(4) Code, 1, 24, 7.

(5) Digest, 1, 3, 8.

(6) Digest, 1, 3, 17.

(7) Digest, 1, 3, 23.

(8) Digest, 1, 3, 26.

(9) Cod. 1, 11, 5.

(10) Digest, 50, 17, 56.

(11) Digest, 50, 17, 110.

(12) Digest, 50, 17, 80.

(13) Digest, 1, 3, 22.

(14) Digest, 50, 17, 200.

(15) Digest, 50, 17.

He that makes the law ought to interpret it if doubtful.(1)

It is not sufficient that laws are made, but it is necessary that they should be promulgated.(2)

In England and in all other representative governments it is not necessary that the laws should be promulgated, for to an act of parliament every man, in judgment of law, is party, as being present by his representative.(3)

General Rules to be considered in the construction of Statutes in the British Constitution.

There are three points to be considered in the construction of remedial statutes: the old law, the mischief, and the remedy. That is, how the common law stood at the making of the act; what the mischief was for which the common law did not provide; and what remedy the parliament have provided to cure the mischief. It is the duty of the judges so to construe the act as to suppress the mischief and advance the remedy.(4)

A statute which treats of things or persons of an inferior rank cannot by any general words be extended to those of a superior.(5)

Penal statutes must be constructed strictly. Thus the statute 1 Edward VI, ch. 12, having enacted that those who are convicted of stealing horses should not have the benefit of clergy. The judges conceived that this did not extend to him that should steal but one horse.(6)

Statutes against frauds are to be liberally and beneficially expounded. These are generally called remedial statutes, and it is a fundamental rule of construction that penal statutes shall be construed strictly, and remedial statutes liberally. This principle is founded on one of the laws of the twelve tables of Rome, that whenever there was a question between liberty and slavery the presumption should be on the side of liberty.(7)

One part of a statute must be so construed by another, that the whole may, if possible, stand.(8)

A saving totally repugnant to the body of the act is void.(9)

When the common law and a statute differ, the common law gives place to the statute, and an old statute gives place to a new one.(10)

Of Repealing Statutes.

If a statute that repeals another is itself repealed, the first statute is thereby revived without any formal words for that purpose.(11)

(1) Cod. I, 14.

(2) *Novelles*, 66, and *Woods' Institutes*, page 66.

(3) *Woods' Institutes*, page 97.

(4) *Blackstone's Commentaries*, vol. 1 page 87, sec. 88.

(5) *Ibid*.

(6) *Blackstone's Commentaries*, vol. 1, p. 87; see also the note containing Lord Hale's opinion.

(7) *Ibid*, page 88, § 89.

(8) *Ibid*, page 88.

(9) *Ibid*, page 89.

(10) *Ibid*, page 89, § 90.

(11) *Ibid*, page 90.

Acts of parliament, derogatory from the power of subsequent parliaments, bind not.(1)

Acts of parliament that are impossible to be performed are of no validity.(2)

SECTION III.—OUTLINES OF THE BRITISH CONSTITUTION.

The British constitution, or government, is composed of the King, in whom the executive power is vested; of the House of Lords, which consists of peers and bishops; and of the Commons, the members of which are, or ought to be, elected to represent the people, either by freeholders of the different counties, or by the freemen and householders of cities and sufficient boroughs.

The king is the organ of the law, the head of the church, the director of the public forces, the fountain of honour, and the medium of communication with foreign nations.

At his coronation, the king pledges himself, by oath, to govern according to the statutes of parliament, and the laws and customs of the realm; to cause law and justice, in mercy, to be executed in all his judgments; to maintain, to the utmost of his power, the laws of God, the true profession of the Gospel, and the Protestant reformed religion established by law.

The king is regarded by law as incapable of doing any wrong; the responsibility of unjust or illegal measures resting solely on his ministers. He summonses parliament to meet, and can adjourn, prorogue, or dissolve it at pleasure. He can refuse his assent to any law. He nominates his privy council and the great officers of state. He has also the power of pardoning offenders; and he is generalissimo of his fleets and armies.

The parliament is assembled by the king's writ, and the interval between its sessions must not exceed three years.

The constituent parts of a parliament are the king and the three estates of the realm. Of the latter, the lords spiritual and temporal sit in one house and vote in one body; while the commons deliberate and vote in a separate house.

The lords temporal, of dukes, marquises, earls, viscounts, and barons, all of whom, in England, sit by their own right, the rest by election; namely, sixteen peers, who represent the nobility of Scotland, and twenty-eight peers, who represent the nobility of Ireland.

The number of peers is about four hundred.

The peers have many privileges: they are the hereditary counsellors of the king; they are free from arrest, unless for treason, felony, or breach of the peace; they can only be tried by a jury of peers, except in misdemeanours, as libels, riots,

(1) Blackstone's Commentaries, vol. 1, page 90 § 91.

(2) *Ibid*, page 90,

perjury and conspiracy, in which cases they are tried like a commoner by a jury ; and in their absence from parliament, they can vote by proxy.

The members of the House of Commons have also great privileges ; as freedom of speech during debate, exemption from arrest during the session, for forty days after prorogation, and for forty days before the next meeting.

The special privilege, or exclusive right of the House of Commons, is the *initiative*, or right, of propounding all money bills. They enjoy also the right of forming the grand inquest of the realm, to impeach or accuse wicked ministers, partial judges, or other guilty officers of the crown.

After this high court of parliament, the next in pre-eminence is that of Chancery : its intention is to mitigate the rigours of the law ; to take cognizance of every thing connected with minors, idiots, and insane persons ; and to administer justice in cases of fraud, breach of trust, or other wrongs. The lord chancellor, or in his absence, the vice-chancellor, or the master of the rolls, sits as judge, and determines according to precedents and to equity.

The Supreme Court of Common Law, the King's Bench, is next in point of power and honour : its jurisdiction extends to the whole kingdom, and in it are determined, according to law, all matters which respect the king's peace. It is likewise a court of appeal from inferior courts ; and here, also, by a fiction in the law, the subject can issue writs for debt ; and an *habeas corpus* is granted to relieve persons wrongfully imprisoned. The judges are, the lord chief justice, and the three puisne justices.

The Court of Common Pleas is the proper court for real actions, that is, actions which concern the rights of freeholders' real property between subject and subject, founded on the common and statute law. Writs of *habeas corpus* are also granted by this court.

In England, in every county there is a sheriff, or king's deputy, who executes the king's mandates, and enforces all writs addressed to him, who summons and empannels juries, keeps criminals in safe custody, and brings them to trial ; causes judgments to be executed, as well in civil as in criminal affairs ; and at the courts, attends and protects the judges.

Next to the sheriff, are the justices of the peace, appointed by the king's commission. Their duty is to put the law in execution, relative to roads, the poor, vagabonds, vagrants, felonies, riots, assaults, &c., and to examine and commit to the custody of the sheriff, for trial, all who have offended the laws.

For the purpose of ascertaining that no person meets improperly with a violent death, coroners are chosen by the freeholders of each county to summon a jury of twelve neighbours to inquire into the cause of sudden and violent deaths, and to report thereon.

If the report implicate any one, it becomes the duty of the attorney general to bring the person implicated to trial.

Attorney General.

This office is so important that common language conveys but imperfectly an idea of its duties. Like the universal genius of the Stoicians, the attorney general is the soul of social order ; all rests under the safeguard of his wisdom. He is the avenger of

INTRODUCTION.

offended morals—the minister of the laws—the instrument and moderator of the executive power. He is the eye of Themis—he is the eagle that carries its lightning—the hand that directs its course upon the mighty oppressor—the prevaricating judge upon the deceitful and criminal journalist, and impious author. His heart is to be opened to all complaints—the sacred asylum of every one groaning under oppression and injustice. That great officer of the crown, acting under the king, is made by letters patent. It is his place to exhibit information, prosecute for the crown, in matters criminal, to file bills in the exchequer for any thing concerning the king's inheritance and profits; and others may bring bills against the king's attorney. His proper place in court, upon criminal cases, is under the judges, on the left hand of the clerk of the crown, but it is only upon solemn and extraordinary occasions; for usually he does not sit there, but within the bar in the face of the court. (1).

Of the Laws of Scotland.

Scotland, except during the temporary conquest by Edward I. King of England, remained independent till the death of Queen Elizabeth, in 1602, when James VI. of Scotland, succeeding to the throne of England, as great grand son of Henry VII. became sovereign of both kingdoms.

The common law of Scotland seems to have had the same origin as the common law of England. Of those laws two treatises are extant; the one is entitled a treatise concerning the laws and customs of England, and begins with the words *Regiam Potestatem*, written by Ranulph de Glanvil, chief justiciary of England, to Henry II.; the other is on the laws of Scotland, and is entitled *Regiam Majestatem*. The many points of resemblance put it beyond all doubt that the one was copied from the other, but to which the merit of originality is to be ascribed has been a matter of dispute. It is clear, however, that under the reigns of Henry II. King of England, and David, King of Scotland, the laws of the two countries were about the same. But since, they have much varied.

The civil or Roman law, is the basis of the Scotch jurisprudence, and the written law of the land. How far back statutes have been enacted in Scotland cannot be ascertained, part of the public records of that country having been carried into England by Edward I. and the rest by Oliver Cromwell. The oldest statutes extant are contained in Sir John Keene's collection, published under the title of Index to the Unprinted Acts of 1607, No. 21. (2).

A union of both parliaments had been long desired, but prevented by incessant difficulties, which were at last overcome, and the work effected in the sixth year of Queen Ann, 1707. Twenty-five articles of union were agreed to by the parliaments of both nations, the purport of the most remarkable of these articles are as follows:

1st Art. On the first of May, 1707, and for ever after, the kingdom of England and Scotland shall be united into one kingdom, by the name of Great Britain.

(1) Jacob's law Dictionary V. Attorney General.

(2) Erskine's Institutes, Book 1. Tit. I. page 10; and Crabb's Hist. English law, chap. 6. under Henry II.

2d Art. The succession to the monarchy of Great Britain shall be the same as was before settled with regard to that of England.

3d Art. The United Kingdom shall be represented by one parliament.

4th Art. There shall be a communication of all rights and privileges between the subjects of both kingdoms, except where it is otherwise agreed.

17th Art. The standards of the coin, and of weights and measures, shall be reduced to those of England, throughout the United Kingdom.

18th Art. The laws relating to trade and customs, and the excise, shall be the same in Scotland as in England.

The laws of Scotland, at this time, consist : first, of the feudal and common law, contained in the *Regiam Majestatem*, coupled with the civil law ; second, of the statutes passed by the Scotch parliament before its union with that of England ; third, of the statutes passed in reference to Scotland by the British parliament since that period ; fourth, of the acts and decisions of the supreme court of Scotland, called the sederunt of the session ; and, fifth, of the decisions of the House of Lords on appeal from the session.

Of the Laws of Ireland.

Ireland, that sister island of Great Britain, and now an important member of the British empire, is said not to have been conquered by the Romans, but to have been known to the Greeks, more than five hundred years before Christ, under the name of Juverna. *The Phœnician Hamilco, in his Journal of Discovery of the Tin Islands, speaks of the sacred isle of Juverna, which lay near the isle of the Albions, the Erin of the Hibernians :* and was noticed by Cæsar in his Commentaries.— Henry II. King of England, took possession of the country near Dublin, under the title of Dominus Hiberniæ. The whole island was subjugated under James I. ; and Henry VIII. styled himself King of Ireland. Since the reign of Henry II., the laws of England were deemed to be the fundamental laws of Ireland.

At the time of the conquest by Henry II., the Irish were governed by what they called the Brehon law—so styled from the Irish name for judges, who were denominated Brehons. King John, in the 12th year of his reign, by his letters patent, in right of the dominion of conquest, established that Ireland should be governed by the laws of England.(1) But to this ordinance many of the Irish were averse to conform, and still stuck to their Brehon law ; so that both Henry III. and Edward I. were obliged to renew the injunction ; and at length, in a parliament holden at Kilkenny (40 Edw. III.) under Lionel Duke of Clarence, the then Lord Lieutenant of Ireland, the Brehon law was formally abolished.

As Ireland was a distinct dominion, and had parliaments of its own, it is to be observed, that though the immemorial customs and common law of England were made the rule of justice in Ireland also, yet no acts of the English parliaments, since the 12th of King John, extended into that kingdom ; unless it were specially named or included under general words, such as—within any of the king's dominions.

(1) Blackstone, vol. I, page 100, § 100.

The following rule—laid down for Ireland—may be also applied to Canada :

The general run of the laws enacted by the superior state, are supposed to be calculated for its own internal government, and not to extend to its distant dependant countries, which, bearing no part in the legislature, are not therefore in its ordinary and daily contemplation. But when its sovereign legislative power sees it necessary to extend its care to any other subordinate dominions, and mentions them expressly by name, or includes them under general words, there can be no doubt but then they are bound by its laws.(1)

The original method of passing statutes in Ireland was nearly the same as in England, the chief governor holding parliaments at his pleasure, which enacted such laws as they thought proper. But an ill use being made of this liberty, particularly by Lord Gormanstown, deputy lieutenant in the reign of Edward IV., a set of statutes were there enacted, in the 10th Henry VII., Sir Edward Poyning being then lord deputy, whence they are called Poyning's laws ; one of which, in order to restrain the power, as well of the deputy as of the Irish parliament, provides, that before any parliament be summoned or holden, the chief governor and council of Ireland shall certify to the king, under the great seal of Ireland, the consideration and causes thereof, and the articles of the acts proposed to be passed therein. These laws in particular could not be repealed or suspended, unless the bill for that purpose, before it be certified to England, be approved by both houses.

The parliament of Ireland continued to make laws under these and other restrictions, until the 1st of January, 1801, when the two parliaments were united and became one parliament, styled the united parliament of the United Kingdom of Great Britain and Ireland, and its statutes, imperial statutes.(2)

(1) Blackstone, vol. 1, page 100, § 101.

(2) See Blackstone, vol. 1, page 101, § 102 ; Irish Statute, 11 Edw. Stat. 3 ; the Proceedings of the Irish Parliament, published by Lord Mountmorres, vol. 1, page 53 ; see also, Blackstone's Commentaries, vol. 1, page 104, and following, containing the articles of the union.

CHAPTER I.

ORIGIN OF THINGS--CONFLICTING DOCTRINES.

SECTION I.—PAGANISM.

I. Uncertainty of Profane History before Homer. II. Homer, his Illiad and Odyssey first mention of political institutions amongst men. III. Hésiod, his Theogony first Theological Books of Paganism. IV. The principal events and heroes taken from the Mosaic History. V. A few parallels, (1st, Chaos; 2d, Deluge; 3d, Noah; 4th, Deucalion; 5th, Noah and Saturn; 6th, Moses and Bacchus; 7th, Canaan and Mercury; 8th, Abraham and Athamas, Isaac and Phrixus, &c. &c.) VI. Of the Books of the Egyptians. VII. Of the Sacred Books of the Romans. VIII. Of the Sibylline Books.

SECTION II.—Doctrines of the modern Philosophers.

SECTION III.—Judaism and the Books of Moses.

I.—Uncertainty of Profane History before Homer.

BEYOND a certain epoch, nothing is to be found in profane history but a few and doubtful lights that glimmer in the mythological fictions of antiquity.

II.—Homer, his Illiad and Odyssey.

Homer has fixed that epoch by two immortal monuments of his genius—the Illiad and the Odyssey; in which are found the first credible mention of the existence of political institutions amongst men, also the geographical knowledge and the extravagance of popular opinion in his time.(1)

According to the common belief, the earth had the form of a disk or circular plain, surrounded on all sides by river ocean, divided by the Euxine, the Ægean, and the Mediterranean seas into two parts.

Upon the circumference of this circle rested the solid vault of the firmament, on which rolled the sun and the stars, in chariots borne by the clouds; the sun sinking into repose every night in the Western Ocean,(2) in which he was received in a vessel of gold, fabricated by Vulcan, which conveyed him rapidly by the north towards the east, which he reached in time to recommence his daily journey.(3)

A more extravagant solution cannot be imagined; yet it seems to have taken

(1) Plutarch's Life of Homer. A. M. 3104; E. C. 900.

(2) To an inhabitant of the coast of Asia Minor, or the Grecian Archipelago, the sun appeared to rise from the Eastern Ocean.

(3) Odyssey, c. XI. v. 14, 156, 157, XII. 1; Illiad, XV. v. 696, c. f. XX. v. 191, 195; Gagnet de l'origine des loix, des arts et des sciences chez les anciens peuples, vol I, page 37.

firm hold of popular belief at the time, and to have maintained itself among superficial inquirers long after the researches of the learned had established beyond a doubt the spherical form of the earth. Even Tacitus,(1) who in regard to moral and political subjects cannot be taxed with credulity, seems to have concurred in the belief ascribed to other learned men of his time, that the chariot of the sun was nightly heard, and the form of his horses and the rays of his head were seen as he drove through the waves of the Northern Ocean, to his palace in the east. It was also believed, that beyond a mysterious girdle which bound the earth upon pillars, of which Atlas was the guardian, (it is not said where they rested), extended indefinitely the dominions of Chaos, a gulf where all the elements of Heaven and Tartarus, of the earth and of the sea, were jumbled together, and which even the gods themselves regarded with fear; and that at the extremity of the west, of the north, and of the east, was placed an imaginary people, called the Cymmeriens, who dwelt in perpetual darkness. It is from their dismal abodes that Homer drew his images of Hell and Pluto (2)

III.—Hésiod's Theology of Paganism.

About the same time Hésiod, another Greek poet, gave his Theogony or the Genealogy of the Gods, the first book wrote on the theology of the heathens, as fabulous and as extravagant as Homer's description of the Firmament,(3) which was completed by Ovid, a Latin poet,(4) in a poem called the Metamorphoses, in which he collected all the fictions and fables contained in Homer's and Hésiod's poems, embellished by the pompous lies the Phœnecians had invented to deter other nations from following them in their commercial and colonizing enterprises. It is the most complete collection on that subject, but, like his models, without date, and supported by no authorities.

IV.—Origin of the Fables.

These fables owed their origin to the ignorance and credulity of men, who, having lost the knowledge of the Supreme Being, turned their thoughts and their vows towards material objects which they deified. Astonished at the constant and admirable course of the sun and the stars, they imagined that they were to dread their influence, and that they ought to pacify them when they appeared to be irritated; thence their worship to them, particularly to the sun.

Afterwards vanity placed among the gods, men whose exploits had made formidable. The mighty encouraged popular opinions which facilitated their enterprises. Romulus found it advantageous to be reputed son of Mars; his successor, Numa Pompilius, to give credit to his laws, feigned to have private conversations with the nymph Egeria; Alexander allowed the credulous to believe

(1) Tacitus Germania, ch. 45.

(2) Odyssey XI. 1-4, 19; Bannier sur les Cymmeriens, Memoires de l'Académie des Inscriptions XIX, 577; Maltebrun, Histoire de la Géographie, p. 13, 14.

(3) Plutarch's life of Hésiod. The time Hésiod lived is not ascertained; Bossuet, in his Universal History, places the time of his existence thirty years before Homer, others, particularly Sir William Drummond, Origines B. 4, ch. 2, one hundred years after.

(4) Thirty years B. C.

that Jupiter was his father; Minos made the Cretans believe that he had had nine years' private conversation with Jupiter, from whom he had received their laws; Lycurgus published that he had received those of Sparta from Apollo; Solon, those of Athens from Minerva. Meanwhile, those legislators had taken the basis of their laws from those given to the Egyptians by Mercury the Second, the adviser and afterwards the successor of their king, Isis, fifty years after the Hebrews had left Egypt, partly modelled on their laws, traditions, and customs.(1)

The ancients speak of that Mercury as one of the greatest men of antiquity; they surnamed him Trimegist, (three times great). He applied himself, and that too with success, to cause the laws, the arts, and the sciences to flourish in Egypt. He was born in Arcadia, and was deified.(2)

By the doctrine promulgated by the Greek poets, all the gods were not equally respectable; some of them held the first rank, and were of the first order, as Jupiter and his wife, the sovereigns of Heaven; Pluto and Proserpine, the god and goddess of hell; Neptune, the master of the seas, &c. Others were of an inferior order: demons or spirits, of which the air was full, disposed by degrees, who received men's sacrifices, gave oracles, and were watching for their safety.(3) The same doctrine was found existing among all the savage tribes of Canada, when discovered by Cartier.(4)

These fables seem to have had their origin with the Assyrians and Egyptians, who communicated their idolatry to the Phœnecians, who promulgated it in all the places where they carried their commerce. The Egyptians and the Greeks transmitted it to the Romans, who established it with their power to the extremities of the world.

The history of the principal events and of the deified men of paganism have evidently been copied from the Books of Moses, but disfigured by the fables and the fiction of the Greek poets. A few parallels will satisfy as to the truth of this assertion of Grotius.(5)

The first Books of Moses were published the year of the world 2542; before Christ, 1462; before Hésiod, 662.

Hésiod gave his Theogony the year of the world 3204; before Christ, 800; after Moses, 662. A few parallels:

1. *Chaos.*

Moses says—The earth was void and empty, and darkness was upon the face of the deep, and the spirit of God moved over the face of the waters.(6)

Hésiod says—Beyond the mysterious girdle which binds the earth upon pillars, of which Atlas is the guardian, extended indefinitely the domain of Chaos.

(1) Bossuet, Discours sur l'Histoire Universelle, 3ème Epoque. Terrasson, *ibid*, part 1, § 1.

(2) Gouget de l'Origine des Loix, des Arts, et des Sciences chez les anciens peuples; Terrasson, Histoire de la Jurisprudence Romaine, partie 1, § 1, page 7.

(3) Hésiod's Theogony.

(4) Lafitteau, Comparaison des Mœurs des Sauvages de l'Amérique, avec les mœurs des anciens peuples.

(5) Grotius de Veritate Religione Christianæ.

(6) Genesis, ch. 1, v. 2.

ORIGIN OF THINGS.

2. *Deluge.*

Moses says—And God seeing that the wickedness of man was great on the earth,(1) said, I will destroy man;(2) but Noah, being a just man, found grace before the Lord.(3) God said unto him, Make thee an ark, for I will bring a great flood upon the earth to destroy all flesh;(4) and the sources of the abyss were opened, waters prevailed beyond measure, all the high mountains under the whole heaven were covered.(5)

4. *Deucalion.*

Hésiod—And Jupiter seeing that the wickedness of man was increasing every day, resolved to bury the human race under water, and caused torrents to fall from every part of the heavens, the earth was covered with water, except Mount Parnassus. The piety of Deucalion and of Pyrrha his wife caused Jupiter to save them.

Moses—And God remembered Noah(6) and brought a wind upon the earth, and the waters were abated, the Ark rested on the mountains of Arrarat, in Armenia.(7) Noah went out, he, his three sons, his wife, and the wives of his sons,(8) and God said unto them, Increase and multiply, and fill the earth.(9)

Hésiod—But when Deucalion and his wife found that they were left alone upon the earth, they became alarmed about the re-peopling of the world. The oracle of Themis informed them that, by throwing the bones of their grandmother behind them, that the earth would be re-peopled. The answer was at first found rather obscure; but at last they understood that the earth was their grandmother, and that the stones were her bones: they obeyed—the stones thrown by Deucalion were turned into men, and those thrown by Pyrrha became women. Thus, according to Hésiod, was the earth re-peopled.

5. *Noah and Saturn.*

Moses—Noah had three sons, with whom he saved himself from the flood—Shem, Ham, and Japhet.(10)

Hésiod—Saturn devoured all his sons except three, Jupiter, Neptune, and Pluto. Noah cultivated the grape. Saturn planted the grape.

6. *Moses and Bacchus.*

Moses was born in Egypt, was abandoned upon the Nile, remained on Mount Sinai enveloped in flames and lightning, forty days, crossed the Red Sea with his nation.

Bacchus was born in Egypt, was surrounded by the thunders of Jupiter, was

(1) Genesis, ch. 6 v. 5.

(2) Ibid, ch. 6 v. 7.

(3) Ibid, ch. 6 v. 8.

(4) Ibid, ch. 6 v. 17.

(5) Ibid, ch. 6 v. 7.

(6) Ibid, ch. 7 v. 19 and 20.

(7) Ibid, ch. 7 v. 9.

(8) Ibid, ch. 8 v. 4.

(9) Ibid, ch. 8 v. 1.

(10) Ibid, ch. 9 v. 1.

found exposed on a river, crossed the Red Sea with an army of men, women, and children.

The name of Moses signifies saved from the water.

Bacchus was surnamed Mises, which signifies the same thing.(1)

7. *Canaan and Mercury.*

Canaan was the servant of his brothers. Mercury was the servant and messenger of the gods.

It was from the Cananeans that the Phœnecians obtained their knowledge.

Mercury was the god of eloquence and fine arts.

8. *Abraham and Athamas, Isaac and Phrixus.*

Abraham was the great-grand-son of Noah—the father of Isaac, whose name signifies the son of joy.

Athamas was the son of Eolus, grand-son of Deucalion, and father of Phrixus whose name signifies son of joy—almost all the mythology presents thus disfigured the Mosaic history.

VI.—*Of the Books of the Egyptians.*

The Egyptians pretended to have had books which they called divine. If they existed, they have been lost, for there is no trace of them in history.

VII.—*Sacred Books of the Romans.*

The sacred books of the Romans, wherein Numa Pompilius had written the mysteries of their religion, were burned as impious by order of the senate.

VIII.—*Of the Sibylline Books.*

These same Romans suffered the Sibylline books, which they pretended to contain the decrees of their gods concerning their empire, to perish.(2)

Thus no positive information can be obtained of the origin of the religious institutions of Paganism, but as is found scattered in the pages of history.

Idolatry, which appears to us weakness and extravagance in the extreme, still kept firm hold at Rome, more than three hundred years after the death of Christ.

So great a subversion of right reason sufficiently demonstrates how much the first principles were tainted.

The world had grown old in idolatry, and, infatuated by its idols, was become deaf to the voice of nature which cried aloud against them.

All the senses, all the passions, all interests fought for idolatry—when Saint Paul spoke to Felix, the governor of Judea, of righteousness, temperance, and a judgment to come, he trembled and dismissed him from his presence,(3) and soon after caused Paul to be arrested, upon frivolous accusations of some Jews, and kept him two years in prison.(4)

(1) Exode. ch. 2 from vers 1. to v. 10. and ch. 3. v. 2.

(2) Bossuet Discours sur l'Historie Universelle, 2d partie, p. 130 ; Tit. Liv. lib. 40, c. 29.

(3) Acts of the Apostles, c. 24, v. 25.

(4) It is almost beyond a doubt that he crossed the Mediterranean in the same vessel with the high-minded soldier and celebrated Jewish historian, Josephus, and that it is by the good offices of this extraordinary man, that St. Paul obtained the rare and unexpected privilege of dwelling in a house of his own at Rome, for two years. [See the Scottish Christian Herald, 26th Oct. 1839.—Doctor Jamieson.]

When Paul was brought before Festus, the successor of Felix, he appealed to Cæsar, at Rome.

In the mean time, by the preaching of the Apostles, idolatry was getting into discredit; but interest, that powerful spring which is the soul of all human affairs, got in motion. The silver-smiths of Ephesus, who got their living by making small silver temples of Diana, assembled, and the leading one among them represented to the others that not only their gain was in danger, and their fortunes at stake, but that also the temple of the great goddess Diana would be despised, and that the majesty of her whom all Asia and the world adored would be destroyed. Interest is powerful and bold when it can conceal itself under the cloak of religion. There needed no more to stir up the workmen; they sallied forth with one accord, like so many madmen, crying, Great is the Diana of the Ephesians! and dragged Saint Paul and his companions to the theatre where the whole city was tumultuously assembled. But, fearing that greater disorder should happen in the uproar, the magistrates rescued them.(1)

To the interest of private persons was linked the interests of the priests, who were about to fall with their gods, and the interests of the cities, which false religions rendered illustrious; but a greater interest moved a greater engine, and caused the Roman senate, the Roman people, and the Roman emperors to be put in action. The Roman polity thought itself attacked where its gods were injured.—Rome boasted of being a holy city from her foundation, consecrated at her origin by divine auspices, and dedicated by her founder to the god of war. She thought she owed her victories to her religion, and thereby had overcome both nations and their gods. So that the Roman gods must have been masters of other gods, as the Romans were masters of other men. When Rome subdued Judea, she reckoned the God of the Jews amongst the gods she had vanquished. To pretend to establish his reign was to sap the foundation of the empire; it was to hate the victories and power of the Romans. Thus the Christians, being enemies of the gods, were looked upon as the enemies of the republic.(2)

During these three hundred years, the Christians had to suffer all the cruelties that the rage of their persecutors could invent, notwithstanding, amidst constant seditions and civil wars in the state, and conspiracies against the persons of the emperors, not a Christian, good or bad, ever joined.(3) So much veneration did the law of the Gospel, inspired for public authorities; so deep was the impression made on the mind by this maxim of Christ: "render unto Cæsar what belongs to Cæsar."(4)

At last the Cross of Jesus Christ took the place of the Roman Eagle on the Roman capitol; and idolatry, which the Romans had carried to the extremities of the world, with their conquests, vanished before, and gave its place to the Christian religion.

(1) Acts XIX. 27.

(2) Cicero, Orat. Pro. Flad. Orat. Symm. ad. Imper. Varr. Theod. Arc. Zozim Hist. lib. 2, 4, &c.

(3) Tertulien Apog. 35, 36; Bossuet Hist. Universelle, vol. 2, page 108.

(4) Matthew XXI. 21; Bossuet, *ibid.*

SECTION II.

Doctrines of the Modern Philosophers.

But another and lasting persecution was to follow. Men of a haughty character, otherwise of superior abilities, under the assumed title of philosophers, declared themselves to be the personal enemies of Christ, and the detractors of his religion; vast and powerful minds, possessed of all the talents that can adorn the human intellect, they wanted none, but that which would have been necessary to protect them against the abuse they made of the others: deficient in the knowledge of nothing; they read every book that could be had, recollected every thing that memory could retain; whose aim in learning was to render doubtful and uncertain all what was known; skilful in turning truth into problems, to astonish and confound reason by reasoning; to throw light and grace upon the most dark and metaphysical subjects; to cover with clouds and darkness the most pure and simple principles; whose delight was to play with human intellect, sometimes by raising from the dust of ages ancient errors, as if they wanted to force the Christian world to adopt the dreams and superstitions of the heathens; sometimes, (and with equal success), by undermining the foundation of new errors, and striking at the root of the principles of society; allowing nothing to appear to be true, because they gave to every thing the colour of truth; constant, decided, and zealous enemies of every religion.(1) Whether they attacked or defended them, they developed only to embroil; they refuted only to render the question more obscure. They gave praise to faith for the purpose of degrading reason; they praised reason to battle with more success against faith. Thus, by various and apparent contrary means, they conduced to the same end,—to know nothing, to believe nothing. Such, in modern times, have been Bayle, J. J. Rousseau, Diderot, Voltaire, Volney, Hume, &c.

They published their doctrines, and said, there is no God. By the work, judge the architect. Consider the globe we inhabit: it is without any proportion or symmetry. Here, it is covered by immense seas; there, its inhabitants starve for want of water. It is a piece of dried up mud, or, what is more probable, some froth which escaped from the sun. The volcanoes, which are scattered over all the earth, demonstrate that the fire which formed them is still under our feet.(2)

Upon this badly levelled scoria, the rivers run without any regular course; the islands present the remnants of continents that once existed, but were destroyed by the seas, which still continue their work of destruction; and the ice of the poles and of the high mountains, continually advancing into the plains, will gradually extend the uniformity of an eternal winter upon this globe of confusion, ravaged by wind, fire, and water.

The disorder augments amongst the vegetals, which are nothing more than a fortuitous production of humidity, and dryness, of heat and cold, a mould of the earth: the warmth of the sun makes them rise; the cold of the poles kills them: their

(1) See Diderot's *Three Impostors: Moses, Jesus Christ, and Mahomet*. It is from that work that Thomas Paine has taken the most striking parts of his *Age of Reason*.

(2) Buffon, *Histoire de la Théorie de la Terre, en explication des Systèmes de Whiston, Farnett, et Woodward*, vol. 1, ch. 1.

sap obeys the same mechanical laws, as liquors in thermometers, or capillary tubes. This badly laid garden offers almost nothing but useless plants, or mortal poisons.

As to the animals, which we know better, because they are brought nearer to us by the same affections and the same wants, they still present greater dissonances. They proceeded from the expansive force of the earth at the beginning, and were formed by the fermented slime of the ocean, and the Nile. The most part of them are without any proportion; some of them have no feet, others have hundreds; and rage and fury desolate all that breathe; and, at the face of heaven, the hawk devours the harmless dove.

But the discord which divides animals is not to be compared to that which agitates men. The difference only of their origin makes them natural enemies. Some of them are white, some black, some red, and some are covered with hair, others with wool; some amongst them are giants, and others dwarfs. They do not proceed from the same stock, but are all equally odious to nature. Nowhere does it feed him of its free will. He is the only sensible being who is obliged to till the earth to subsist; and, as if that barbarous mother was rejecting her child, the insects ravage his seeds—hurricanes, his crops—wild beasts, his flocks—volcanoes and earthquakes, his cities—and the plague, which from time to time goes round the globe, threatens to carry off the whole of the human race at once. He is constantly at war with nature or with his own species. Oppressed in every thing, shape, and form, he is the most miserable animal that ever came to light; every where he is the victim of some tyrant. It is in vain that he should attempt to defend himself—virtue comes and binds him, so that crime may more easily cut his throat. And what is that virtue of which man is taught to boast so much? A combination of his imbecility with the result of his constitution, supported by the captious sophisms of a few deceitful men, who have acquired a supreme power, by preaching humility, and immense wealth, by preaching poverty.

All die with us. We were nothing before we were born; we will be nothing after our death. The hopes of our virtues are of human invention; the instinct of our passions are of divine institution. But there is no God. Who can have made God? For what purpose could he be God? What pleasure could he have in this perpetual circle of birth, miseries, and death?(1)

Jean Jacques Rousseau, one of them noted for his harmonious and enchanting style, and the avowed vanity of discussing, with an equal skill, all sides of moral and philosophical questions, became alarmed at their success, cried to the world: "I have consulted the philosophers—I have read their books—I have examined their opinions: avoid them—avoid those who, under the pretext of enlightening the mind, sow in the heart desolating doctrines, under the haughty pretext that

(1) The refutation of those doctrines are to be found in the following modern celebrated works: Bernardin de St. Pierre; *Etudes de la Nature*, 4th, 5th, 6th, studies, first volume; *Soirées de St. Petersburg ou du Gouvernement Temporel de la Providence*, by Count de Maistre; *Lettres de quelques Juifs Polonais, Portugais, et Allemands, à M. de Voltaire*; *Leçons de la Nature*, par Despreaux; Buffon, *Histoire de l'Homme et de la Théorie de la Terre*, vol. 1. and 2, refuting these doctrines; Fénelon et Racine, de l'Existence de Dieu.

they alone are learned, true, and of good faith. They imperiously submit you to their peremptory decisions, and pretend to give, as the true principles of things, the unintelligible systems they have built in their own imagination, thus destroying and trampling upon all which mankind respect; they ravish from the unfortunate the last consolations they have in their miseries, and take from the mighty and rich the only curb they have to bridle their passions; they root out of the heart the remorse of crime and the hopes of virtue. Still they boast of being the benefactors of mankind. Never, say they, truth is injurious to man. I believe that as they do, and that is in my opinion a proof that what they say is not the truth.”(1)

But that cold, mysterious, and *sophistic* facility of the human intellect, had brought on the hour of the incarnation of the material philosophy of the eighteenth century in religious and political institutions, and in morals. These philosophers alone had the *parole*, and crushed other men under the insolent tyranny of their triumph, with the satanic smile of an infernal genius, when he has succeeded to degrade a great nation.(2) Their philosophical maxims had banished the Christian religion from France.

Its legislative power enacted that there was no God.(3) That reason alone was to be worshipped by the French people; a system of atheism, under the name of *Théophilantropie*, was given by the minister of public worship.(4) In the mean time commerce was annihilated; civil war, and its accompaniments of pillage, murder, arson, and rape, together with famine, were raging all over the country. The sword of justice was handled by the hand of crime: calumny was honoured—virtue persecuted—debauchery encouraged—revolutionary armies furrowed the whole soil of France.(5) No nation had ever descended so low in the scale of crime and folly. Robespierre, the bloody leader of that nation, himself, in his turn, became alarmed; and, sensible that no social order could subsist if it be not resting on a religious basis, caused the national convention to pass a declaratory decree, that the French people believed that there was a God, and that the soul was immortal.(6)

SECTION III.

Judaism and the Books of Moses.

For eighteen hundred years, a numerous nation—claiming an existence of thirty-seven centuries—bearing in the features of each of its individuals the national

(1) J. J. Rousseau, *Emile*, vol. 3.

(2) Lamartine, *œuvres complètes*, vol. 1, page 4 et 5.

(3) September, 1792, epoch of the foundation of the republic.

(4) Lareveillère Lepaux, he presided at the installation of the new divinity, represented by the wife of one of the members of the convention, placed in a state of absolute nakedness on one of the altars of the principal church of Paris, receiving the offerings of the nation.

(5) *Histoire Pittoresque de la Convention Nationale et de ses principaux Membres*, par M. L . . . Conventionnel.

(6) The 20th Prairial, 8th of June, 1794, was consecrated as a day of public rejoicings, on account of that decree.

character of its origin—dispersed amongst all nations of the earth—mixing with none—pretending to have received and to carry with it the authentic document wherein repositeth the laws of the Creator, and presenting it to all the world, saying : “ This is our code ; those laws have been received by our ancestors, who have transmitted them to us ; it is by them we have constantly been governed ; and, by following the chain of generations, without the want of a single link, we arrive to our prophets and to Moses, by the intermediary of whom, God has prescribed his will to us. ”

Yet, those books which the Jews present with pride, as proving that they are a people specially selected by God to preserve the deposit of his laws, contain the history of their crimes, and the sentence of their dispersion and exile, which have now lasted more than eighteen centuries, and of which we ourselves are eye-witnesses.(1)

Not only are the Jews dispersed amongst all nations, but also in every rank of society.(2) In Europe alone there are more than six millions, eight hundred and forty-six thousand Jews. It is upon the faith of their books, that the following sketch of the history of the first ages of the world will be given.(3)

(1) For, saith the Lord, I will sift the house of Israel amongst all nations, as corn is sifted in a sieve—Amos, ch. 9, v. 9. The children of Israel shall sit many days without king, without altar, and without sacrifice—Hosea, ch. 3, v. 4 and 5.

(2) The Jewish family of Rothschild, the London bankers, treats with almost all the sovereigns of Europe, and assists them with its gold. Amongst us, a wealthy Jewish family is the proprietor of one of the most public and useful establishments. And Jews are found almost in every branch of commerce.

(3) This approximation is taken from the census taken by Maltebrun, in 1810 ; Craberg, in 1813 ; Hassel, in 1827 ; and Balbi, in 1826.

CHAPTER II.

EVENTS OF THE FIRST AGE OF THE WORLD.

THIS first epoch presents events both grand and awful:—God creating the heavens and the earth by his word(1)—prescribing his laws to the Universe(2)—establishing matrimonial union; and upon this foundation the society of mankind;(3) the perfection of the power of man over animals, and his right to the possession of the earth.(4)

With this begins Moses, the most ancient of historians, the wisest of legislators, and the most sublime of philosophers. Then he proceeds with the history of man. He represents his innocence, together with his felicity in paradise(5)—the divine command given to our first parents—the fall of Adam and Eve fatal to their posterity, punished in all by a sentence of death(6)—the subdivision of property,(7) jealousy springing from it—Cain showing to the infant world the first tragical action, by killing his brother—the punishment of the fratricide, and his conscience racked with continual terrors—the first city built by this miscreant(8)—the tyranny of passions, and the prodigious malignity of man's heart(9)—the destruction of man decreed at last by a deluge—Noah and his family preserved for the restoration of mankind.(10) This is the sum of what passed in the course of 1656 years, which lasted from the creation.(11)

The tradition of the universal deluge prevails all over the earth. Many circumstances of that event are marked in the annals of ancient nations: the times agree, and every thing answers, as far as can be expected in so remote antiquity.(12) The same tradition was found among the Savage tribes of America.(13)

(1) Genesis, ch. 1, v. 1.

(2) All the first chapter of Genesis.

(3) Genesis, ch. 1, v. 26, 27, 28, 29.

(4) Ibid, ch. 1, v. 26; ch. 2, v. 29.

(5) The memory of this has been preserved in the golden ages of the poets; Bossuet, Discours sur l'Histoire Universelle.

(6) Genesis, ch. 3, v. 19—"Dust thou art, and unto dust shalt thou return."

(7) Ibid, ch. 4, v. 3.

(8) Ibid, ch. 4, v. 14—That city was called Enoch, after the name of his son.

(9) Ibid, ch. 6 and 7.

(10) Ibid, ch. 7, v. 23.

(11) A. M. 1656; B. C. 2348.

(12) Phœn. His. Mnass. Vic. Damase, XCVI. Abyd. de Med. et Assyr. Ap. Joseph. Antiquities, b. 1; Plut. opux.; Bossuet, Discours sur l'Histoire Universelle, première époque.

(13) Lafittau, Mœurs des Sauvages Américains, comparées aux mœurs des premiers temps, vol. 1, 72.

CHAPTER III.

EVENTS OF THE SECOND AGE OF THE WORLD.

NEAR the deluge are to be ranged the decrease of man's life,(1) the alteration of diet,(2) animal flesh substituted to the fruits of the earth, which occasioned men to encounter wild beasts. The first heroes signilized themselves in these wars: thence the invention of arms—some oral precepts delivered to Noah—the confusion of languages(3)—the first distribution of the land among the three sons of Noah.

Family of Japheth.

To Japheth, the Japetus of the Greeks, and the eldest son of Noah, is ascribed the superiority over his brothers, if not in the number of his descendants, in the extent of his possessions. All the Indo-Germanic nations, stretching without interruption from the western extremity of Europe, through the Indian peninsula to the island of Ceylon, are considered as belonging to this common ancestor. The Turkish nations, occupying the elevated countries of Central Asia, also lay claim to the same descent.

To Gomer, the eldest son of Japheth, Josephus ascribes the distinction of having been the ancestor of the Celtic nations. Magog was probably the founder of some of the Scythian nations. Madai is considered to have been the ancestor of the Medes.

The posterity of Javan and Tubal, and Meshech and Tiras, may be traced from Ararat, called Masis by the inhabitants, through Phrygia into Europe. Tubal and Meshech left their names to the Tibareni and Moschi, Armenian tribes, whose early emigrations appear to have extended into Mæsia.

Askenaz, son of Gomar, is thought to be that Ascanius, whose name occurs so frequently in the ancient topography of Phrygia; and in Togarmah even the Turks find the ancestor of the Armenian nation.

Javan was the Ion of the Greeks, the father of the Ionians. In Elishah, his son, we see the origin of Hellas or Elis. The name of Tarshish has been by some supposed to refer to Tarsus in Cilicia. Kittim is said to mean Cyprus; and Doda-

(1) A. M. 1656; B. C. 2348; Bossuet, *Histoire Universelle*, deuxième époque.

(2) A. M. 1657; B. C. 2347; Genesis, ch. 9, v. 3.

(3) A. M. 1657; B. C. 2347; Genesis, ch. 11, v. 9; Bossuet, *Histoire Universelle*, second age, vol. 1, page 10.

nim or Rodanim is understood to apply to the island of Rhodes. The sacred records assert of the descendants of Japheth, "by these were the Isles of the Gentiles divided;" an expression, which probably includes the almost insular regions of Asia Minor, Greece, Italy, and Spain, as well as the isles of the Mediterranean Sea.

Family of Ham.

The descendants of Ham constituted the most civilized and industrious nations of the Mosaic age. The sons of this patriarch were Cush, Mizraim, Phut, and Canaan. The name of Ham is identical with Cham or Chamia, by which Egypt has in all ages been called by its native inhabitants; and Mizr, or Mizraim is the name applied at least to Lower Egypt, by the Hebrews and Arabians.

The land of Phut appears to signify Libya in general, and the name Cush, though sometimes used vaguely, is obviously applied to the southern and eastern parts of Arabia. The names of Seba, Sebtah, Raamah, and Sheba, children and grandchildren of Cush, have long survived in the geography of Arabia.

The posterity of Canaan rivalled the children of Mizraim in the early splendor of arts and civilization. Though the Canaanites, properly speaking, and the Phœnecians were separated from each other by Mount Carmel, yet as the same spirit of industry animated both, they may in a general sense be considered as one people. The Phœnecians possessed the learning of the Egyptians, free from the superstitious reluctance of the latter to venture upon the sea. Their chief cities, Tyre and Sidon, had reached the highest point of commercial opulence, when the first dawn of social polity was only breaking in Greece.

Family of Shem.

The family of Shem comprised the pastoral nations which were spread over the plains between the Euphrates and the shores of the Mediterranean from Ararat to Arabia. The Hebrews themselves were of this stock; and the resemblance of their language to the Aramean or ancient Syrian, and to the Arabic, sufficiently proves the identity in race of what are called the Semitic nations.

Elam founded the kingdom of Elymeis; Ashur, that of Assyria; and Aram, the kingdom of Aramea or Syria.

From Arphaxad were descended the Hebrews, and the various tribes of Arabia; and this close affinity of origin was always manifest in the language, and in the intimate correspondence of the two nations. Some of the names of the children of Shem, as preserved by Moses, are still in use in Arabia as local designations; thus there is still in that country a district called Havilah, and Uzal, the name applied by the sacred historian to Sana, is not yet extinct.(1)

(1) Genesis, ch. 10, contains the genealogy of Shem, Ham, and Japheth, and ascribes to each of their generations their possessions. The 11th chapter, the genealogy of Shem to Abraham.— See Josephus' Jewish Antiquities, ch. 3, pages 14 and 15.

After this first division of mankind, Nimrod, a man of a fierce and violent disposition, in Scripture called a mighty hunter, turned his arms against his fellow creatures, and became the first conqueror. Such is the origin of conquest. He set up the throne of his kingdom at Babylon, on the same spot where the Tower of Babel had been commenced.(2)

About the same time Nineveh was built, and a few kingdoms were established: they were small in those times, Egypt alone containing four principalities—Thebes, Thin, Memphis, and Tanis.(3)

The first laws and the police of the Egyptians were then established, their Pyramids erected, and the first observation of the course of the heavenly bodies made by the Chaldeans.(1)

It is from those spots, always inhabited, that the first arts and sciences have proceeded; but there the knowledge of God, and the memory of the creation, by degrees diminished—ancient traditions were forgotten—fictions and fables succeeding to them—material ideas taking their place—newly fabricated divinities multiplying. That gave rise to the vocation of Abraham.

(1) Genesis, ch. 10, v. 9, 10, 11.

(2) A. M. 1771; B. C. 2233; Bossuet *Histoire Universelle*, première partie, deuxième époque, page 11.

(3) Porphire ap. b. 2.

CHAPTER IV.

EVENTS OF THE THIRD AGE OF THE WORLD.

Four hundred and twenty-six years (1) after the deluge, Abraham was chosen to be the stock and the father of the believers. God called him in the land of Canaan, where he intended to establish his worship, and to multiply his race without end. To the gift of the land of Canaan to his descendants, God added the more illustrious promise that Christ would issue from his race. (2) The first part of the promise was thus fulfilled: Abraham had from Sarah, his first wife, Isaac, father of the Israelites—Esau, his grand-son, was father of the Idumeans and of the Homerites; from Hagar, Ismael, the father of the Arabian tribes, since known under the names of Arabs, Ethiopians, Saracens, and Moors; from Cethura, his second wife, Madian, and many other children who have formed the nations of the east of Jordan, others to the south of the Dead Sea, and a few in Syria, afterwards dispersed and covering the earth. (3)

After Abraham, Isaac, his son, and Jacob, his grand-son, followed his faith, and imitated the simplicity of his pastoral life. (4)

Second part of the promise: Jacob received from an angel the name of Israel, (5) which caused his children to be called Israelites. From him were born twelve sons, afterwards called patriarchs, fathers of the twelve tribes of the Hebrews; amongst them, Levi, from whom were to proceed the ministers of sacred things, and Judah, from whom with the royal race, Jesus Christ was to issue. (6) Jacob, being on his death-bed, called his children, and addressed each of them separately. When he came to Judah, the fifth, he said: "The sceptre will not be taken from Judah—at all times there will be in his posterity conductors of the nation—until the coming of the one who is to be sent, who is the object of nations. (7)

The Jews, as well as the other nations of the world, were conquered by the Romans, whom none could resist. About forty years before the birth of Christ, the triumvir, Anthony, one of the chiefs at Rome, appointed Herod, who was an Idumean, consequently a stranger to the Jewish nation, governor, and afterwards king

(1) A. M. 2083; B. C. 1921; Bossuet, *Histoire Universelle*, troisième époque.

(2) Heb. VII. 1, 2, 3, and Sex; A. M. 2148; B. C. 1536; Genesis, ch. 12, v. 1, 2, 3; ch. 17, v. 2 and 18; ch. 22, v. 17.

(3) Genesis, ch. 15.

(4) Ibid, ch. 12, v. 1.

(5) Ibid, ch. 33, v. 28; Josephus' *Antiquities*, § 1, page 54.

(6) Ibid, ch. 13, v. 2, and ch. 22, v. 8; Bossuet, *Histoire Universelle*.

(7) Ibid, 49, v. 10.

of the Jews. It is under the reign of that prince that the sceptre was taken from the race of Judah, and that the authority passed into the hands of strangers. Thus, when Pilate, the successor of Herod, offered Jesus Christ to the Jews to judge him, they declared that they were no longer permitted to condemn any one to a capital punishment, *nobis non licet interficere quemquam.*(1)

CHAPTER V.

EVENTS OF THE FOURTH AGE OF THE WORLD.

I. Of the Written Law and of the Laws of Nature. II. Foundation of the Written Law. III. Text of the Decalogue.

I.—Of the Written Law and of the Laws of Nature

THIS epoch is important, because it serves to mark all the time that has passed between Moses and the Christian era. It begins four hundred and thirty years after Abraham,(2) and to distinguish it from the preceding epochs, which are called the time of the laws of nature, when men had no other rules to govern themselves than their reason, and the traditions of their ancestors.

II.—Foundation of the Written Law.

Before establishing his people in the land promised to Abraham and to his posterity, God established the laws under which they were to live: he wrote them with his own hand on two tables, which he gave to Moses on Mount Sinai. They contain the first principles of the worship of God, and the basis, or first rules, of the human society.

III.—Text of the Decalogue.

I am the Lord thy God: thou shalt have no other gods but me.(3)

Thou shalt not make to thyself any graven image: thou shalt not bow down thyself to them.(4)

(1) St. John, ch. 18, v. 31.

(2) A. M. 2513; B. C. 1491.

(3) Exodus, ch. 20, v. 2 and 3.

(4) Ibid, ch. 20, v. 5.

- Thou shalt not take the name of the Lord thy God in vain.(1)
 Remember the Sabbath-day and keep it holy.(2)
 Honour thy father and thy mother.
 Thou shalt do no murder.(4)
 Thou shalt not commit adultery.(5)
 Thou shalt not steal.(6)
 Thou shalt not bear false witness against thy neighbour.(7)
 Thou shalt not covet thy neighbour's wife, nor his daughter, nor any thing that is thy neighbour's.(8)

CHAPTER VI.

EVENTS OF THE FIFTH AGE OF THE WORLD.

I. Solomon, or the Temple completed. II. His Wisdom and Commerce. III. His Downfall. IV. Rehoboam, and the loss of ten Tribes. V. His Nation falls into servitude. VI. Great events in Western Asia. VII. Athenians. VIII. Egyptians. IX. Phœnicians. X. Progress of History, of the Laws and Religion during this age. XI. History. XII. Coincidence of the Sacred and Profane Histories. XIII. Laws of the Hebrews.

I.—Solomon, or the Temple completed.

It was about the year of the world 3000, before Christ 1004, that Solomon completed that wonderful edifice. He celebrated the consecration of it with the most extraordinary magnificence and piety.

II.—His Wisdom and Commerce.

That celebrated act was followed by such wise conduct, that the adjacent nations held him in veneration, even the Phœnicians relaxed in his favour their jealous and exclusive system of discovery, colonization, and commerce. They allowed

(1) Genesis, ch. 20, v. 7.
 (2) Ibid, ch. 20, v. 8, 9, 10.
 (3) Ibid, ch. 20, v. 12.
 (4) Ibid, ch. 20, v. 13.
 (5) Ibid, ch. 20, v. 14.
 (6) Ibid, ch. 20, v. 15.
 (7) Exodus, ch. 20, v. 16.
 (8) Ibid, ch. 20, v. 17.

him to establish a correspondence with Hiram, king of Tyre, and to carry on a lucrative traffic beyond the limits of the Arabian Gulf. After a voyage of three years, his fleets, conducted by Phœnician pilots, returned, laden with the richest merchandise. It was the first and last of Hebrew enterprises.(1)

Authors of respectability maintain that his fleets went for gold as far as South America. Christopher Columbus believed that it was the remnants of Solomon's furnaces which he found in the mines of Cibao, the most abundant in gold of the Spanish isles.(2)

III.—*His Downfall.*

Meanwhile, Solomon was abandoning himself to shameful turpitudes: his mind and his head grew weak, and his piety degenerated into idolatry.

IV.—*Rehoboam, and the loss of ten Tribes.*

At his death, the brutal haughtiness of his son, Rehoboam, caused the loss of ten tribes.

V.—*His Nation falls into Servitude.*

The kingdom of Israel rose against the kingdom of Judah: intestine commotions took place: neighbouring powers harassed the Israelites on all sides; their contempt for the arts and sciences, and their hatred of commercial intercourse with strangers, which the genius of Solomon had partly overcome, returned with their former virulence, and at length that devoted race sunk into servitude.(3)

The ten tribes, amongst whom the worship of God had become extinct, were transported to Nineveh, and afterwards dispersed amongst the gentiles.(4)

VI.—*Great events in Western Asia.*

Inachus, the most ancient of all the kings known to the Greeks, lays the kingdom of Argos.(5)

Cecrops, with a colony of Egyptians, lays the foundation of twelve towns in Greece, rather twelve boroughs, of which he composes the beginning of the kingdom of Athens.(6)

A short time after, Hellen, son of Deucalion, reigns in Thessalia, and gives his name to Greece. This people, who had been called Greeks since that period, always took the name of Hellenists, although the Latins retained to them their ancient name of Greeks(7)

(1) Edinburgh Historical and Geographical Atlas, page 4.

(2) Dehorn, Mark Paul de Venise, Vatable, Robert Etienne; see Charlevoix's Journal, Voyage in America, page 33; see, also, the beginning of the second volume of this work, of the peopling of America.

(3) Bossuet, Histoire Universelle, sixth epoch, part I, pages 24 and 25.

(4) Bossuet, Discours sur l'Histoire Universelle, première partie, les époques.

(5) A. M. 2148; B. C. 1856.

(6) A. M. 2148; B. C. 1556.

(7) A. M. 2473; B. C. 1531.

Cadmus, son of Agenor, transfers a colony of Phœnecians in Greece, and lays the foundation of the city of Thebes in Beothea. The gods adored in Syria and Phœnecia were by him brought into Greece.(1)

Danaus, an Egyptian, proclaims himself king of Argos, and dispossesseth the ancient kings descending from Inachus.(2)

Pelops, a Phrigan, son of Tantalus, king of Lydia, reigns in the Peloponesus. It is from him that that celebrated spot received its name.(3)

Ninus, son of Bel, or Belus, establishes the first empire of the Assyrians, and the seat of his government at Nineveh. He introduced in the world that species of idolatry which had for its object the worship of man, by causing a statue to be erected in honour of his father, and by compelling his subjects to adore it.(4)

Auri, king of Israel, builds Samaria.

Didon, queen of Tyre, augments Carthage, from which her subjects could trade with advantage, and herself could aspire to the empire of the seas.

Thesée, king of Athens, unites into one city Cecrops' twelve towns, and gives a better form to the government of the Athenians.(5)

Semiramis, widow of Ninus, and tutrix to Ninias, her son, augments the Assyrian empire by her conquests.

The celebrated city of Troy, which had been taken by the Greeks under Laomedon, its third king, is reduced to ashes again by the Greeks under Priam, after a siege of ten years.(6)

VII.—*Athenians.*

Codrus, king of Athens, devotes himself to save his nation, and by his death procures a signal victory for his people; but his two sons quarrel about the possession of his kingdom. The Athenians abolish royalty, and declare Jupiter to be the only sovereign of Athens. They appoint perpetual presidents, under the name of Archons, responsible for their administration to the people.(7) Then the Athenians cover all that part of Asia Minor with Greek cities.(8)

VIII.—*Egyptians.*

During that time the kings of Egypt had become very powerful. The four kingdoms of Thebes, Thine, Memphis, and Tanis, had been united into one, under the name of Thebes.(9)

Extraordinary events had taken place in the east of Asia and the rest of the world. The descendants of Noah had been dispersed in the Plains of Shinar, about 644 years after the deluge, and had left no trace of the course they had fol-

(1) A. M. 2473; B. C. 1531.

(2) A. M. 2552; B. C. 1452.

(3) A. M. 2682; B. C. 1352.

(4) Herodotus, lib. 1 ch. 26; Genesis X. v. 11; A. M. 2737; B. C. 1267; Bossuet, *Histoire Universelle*, vol. 1, page 21.

(5) *Ibid.*

(6) A. M. 2820; B. C. 1184.

(7) A. M. 2909; B. C. 1095.

(8) A. M. 2949; B. C. 1055.

(9) A. M. 3033; B. C. 971.

lowed. The Books of Moses alone contained the information that they had divided between them the earth and its islands, according to their languages, their families, and their nations.(1)

The Egyptians ascertained the fact, their celebrated king, Sesostris, fitted out a fleet of four hundred sails, with which he navigated the eastern seas and the Indian Ocean; while, with a powerful army, he marched through Syria, Persia, and India, as far as the sea that separates China from Japan; traversed Scythia, as far as the Tanais; penetrated into Europe, and in several distant countries in the east and the north; planted colonies on the shores of the Euxine or Black Sea, and applied his discoveries to the comforts of life. Herodotus found in Asia Minor, from one sea to the other, monuments of his victories, bearing the pompous inscription of Sesostris, "Lord of lords and king of kings."

The difficulty of obtaining provisions prevented him from entering further into Europe. He returned, after an absence of nine years, loaded with the spoils of his enemies: some of whom had bravely defended themselves, others had yielded without resistance. He erected one hundred temples, by way of thanksgiving, to the titular gods of the cities he had conquered, noting on these monuments the nations who had defended their liberties.

But the history of nations is like that of men: a series of successes and disasters, of elevations and humiliations. The fortunate times of the Egyptians were at an end; their day of adversity came on; they suffered the most cruel and continued persecution from the Persians; were humbled by the Greeks and Romans; and, groaning under the oppressive yoke of foreigners, the spirit and energy of the nation vanished away. They lost their ships and their mariners, and at last their independence; but their science, their renown, and their pyramids, still gloriously subsist.(2)

IX.—Phœnecians.

Although, in naval science and commercial enterprise, the Egyptians were greatly surpassed by the Phœnecians. Being established on the barren coast of Syria, the sterility of their country, with the advantage of a maritime position, naturally led the Phœnecians to embark in commerce. To this, as their only source of opulence and power, they applied themselves, with unremitting assiduity and astonishing success. They frequented all the ports of the Mediterranean; visited the western coast of Spain and Africa, where they established several colonies; and extended their voyages to Britain, whence they imported tin.(3)

From the harbours of the Red Sea, their fleets sailed to collect the rich merchandise of the East, which they afterwards exchanged for the less coveted, but more useful productions of the West. Tyre and Sidon, their principal cities, became the emporia of the world, the markets of Asia, Egypt, and Greece.

(1) Genesis, ch. 10, v. 5 and 32.

(2) See the Edinburgh Geographical and Historical Atlas, from page 1 to 5. The most important authorities alluded to in the text, are Wood, on the genius of Homer; Le Chevalier's Voyage de la Troade; Maltebrun, Précis de la Géographie Universelle.

(3) See Lingard's History of England, vol. 1, page 14.

The caravans of Arabia Felix brought thither the precious stones, the spices, and the stuffs of India; silver, tin, lead, and other metals from Asia Minor, were transported by the ships of Tarshish. While for the productions of these countries, Egypt exchanged its fine linens; Damascus, its wool; Palestine, its corn, its wines, and its oil. In short, by their skill, their industry, and their enterprise, the Phœnicians had monopolized the commerce of the world, and established a beneficial intercourse in the most remote regions of the globe. They founded Utica, Carthage, Cadiz, and other colonies; but employed every means, no matter which, to prevent other nations from following them in their footsteps, or interfering with their commerce. With this view, they caused every foreign navigator, who crossed a certain imaginary line, to be thrown into the sea. They are presumed to have been either the authors or abettors of those pompous lies which adorned the fictions of the poets, served to enhance the glory of their discoveries, and, what was of more importance, to increase the price of their merchandise. They cunningly placed the accumulation of their lying wonders at the extremity of the then known world: in the island of Sicily, on the continent of Italy, within the straits of Messina, where the credulous believed that monsters and prodigies were to be met with, as Cyclops, Antropophagous, the enchantments of Circé, the monsters of Scylla, the dreadful whirlpool of Charybdis, together with floating rocks, the eternal night of the Cymmerians, &c. &c., the whole singularly and well calculated to work on the fears, and consequently to discourage the enterprise of an ignorant, superstitious, and credulous age.

X.—Progress of History, of the Laws and Religion, during this age.

Following the march of these great events, history was becoming more perfect, positive laws more constant; but the world was falling under a universal idolatry. The Jews alone had preserved the idea of a Creator, and even they were allowing superstitious practices to mix with their primitive worship.

XI.—History.

Moses had given his first five books, containing the history of the first ages of the world, of his nation, and of the notions entertained by the Egyptians, the Phœnicians, the Arabs, and other tribes of Western Asia, and the relative position of other adjacent countries.

Ezra, doctor of the Judaic law, was putting the sacred books into order, accurately revised, and collected the ancient memoirs of his nation, of which he composed the two books of the Paralipomenes, or Chronicles, to which he added the history of his own time, which was finished by Nehemiah, governor of the Jews newly re-established in Judea. Their books conclude that long history begun by Moses, and uninterruptedly continued by succeeding authors, to the re-building of Jerusalem. The rest of the sacred history is not written in the same order.

XII.—Coincidence of the Sacred and Profane Histories.

Whilst Ezra and Nehemiah were forming the last part of that great work, Herodotus, by profane authors called the father of history, began to write. Thus the

40 PARTICULAR LAWS AND CUSTOMS OF THE HEBREWS.

last authors of the sacred history coincide with the first authors of the Grecian history, and when it began, that of the Hebrews, to take only from Abraham, included fifteen centuries.(1)

XIII.—Laws of the Hebrews.

By his code, Moses had established the first religious and political institutions amongst men, which have partly been incorporated in the laws of every nation; regulated the military discipline in his nation; caused his internal police to be admired; his external laws respected by the idolatrous nations which were surrounding his; his forbearing polity maintained peace with those which might have crushed his people; but to prevent communications, and to discourage these nations from trading with the Jews, he rendered the commerce onerous to strangers; he permitted usury against them, which he formally prohibited amongst the Jews.

CHAPTER VI.

PARTICULAR LAWS AND CUSTOMS OF THE HEBREWS, AS FOLLOWED BEFORE AND SINCE THEIR DISPERSION.

I. Laws of the Hebrews. II. Of the Rabbis and their Authority. III. Of the Excommunications. IV. Contracts, Writings, Notaries. V. Judges. VI. Marriage. VII. Solemnities of Marriage. VIII. Divorce. IX. Consistory, or Senate, of the Jews. X. Of the Year and Month, Sabbath and Holidays.

I.—Laws of the Hebrews.

THE laws of the Jews are divided into three parts :

The first is the written law, comprising the five books of Moses, composed of six hundred and thirteen precepts, of which two hundred and forty-eight are affirmative and three hundred and sixty-five negative, called *Mizrod de Oraita*, or the commandments of the law. The principal contents of these laws are found in Exodus, the second book of Moses. The 20th chapter contains the decalogue, or ten commandments : the 21st chapter, the laws relative to servants, v. 1 and 2

(1) Bossuet, *Histoire Universelle*, première partie, les époques, page 58 ; Esdras XIII. ; Deut XXIII. 3 ; Josephus, vol. 2, pages 104, 107, 109.

manslaughter, v. 12 ; stealing of men, v. 16 ; cursers of parents, v. 17 ; assault and battery, v. 17, 18, 19, 20 ; hurting a woman with child, v. 22 ; wounds inflicted by an ox, v. 28 ; leaving a pit uncovered, v. 33. The 22d chapter, laws concerning theft, v. 1 ; damages, v. 5 ; trusts and trespasses, v. 7 ; borrowing, v. 14 ; fornication, v. 16 ; witchcraft, v. 18 ; bestiality, v. 19 ; idolatry, v. 20 ; oppressing of strangers, widows, and orphans, v. 21 ; usury and pledges, v. 25 ; of the respect due to magistrates, v. 28. The 23d chapter, laws concerning slander and false witnesses, v. 1 ; charity towards the brute creation, v. 4.(1)

The second is the oral law, delivered by word of mouth. Such is the name given to the commandments which rabbies and doctors have made on the books of Moses, and to a number of constitutions and rules, named *Mizvod de Rabanan*, or commandments of the doctors. These rules and constitutions have been collected into a large volume, called Talmud.

The third are such as have been authorized by immemorial usage, called *Menhagim* customs. As these customs have been formed in various places and at different times they vary.

The written law of Moses, and the oral law which was given by the doctors, and transmitted by tradition, are equally received by all the Jews, though dispersed all over the globe.

As long as the Temple of Jerusalem subsisted, the Jews could put nothing of this second law into writing, because it was to be taught orally, and be transmitted by tradition ; but about one hundred and twenty years after the destruction of the temple, Rabbi Judah, by the Jews called *Rabana acados* (our holy master), on account of the sanctity of his life, finding that the dispersion of the Jews caused them to forget that law, he wrote all the sentiments of the doctors, and also the tradition of the rabbies to his time, in a book, called *Misna*, or repetition of the law, which served as a text to the Talmud. That book, on account of its brevity, caused many disputes. Two rabbies at Babylon made commentaries upon the *Misna*, to which they added the sayings of the learned. That collection was called the Talmud of Babylon. A few years before, another rabbi made a similar work, which is called the Talmud of Jerusalem ; but the Talmud of Babylon is preferred, as more ample and intelligible.

II.—Of the Rabbies and their Authority.

The rabbies consider it to be a puerile and shameful vanity to seek the honour of being appointed doctor ; therefore they will not submit themselves to be examined. In some countries, particularly in the East, common fame or renown points out one whose conduct and learning render him fit to be a doctor. He is named *cachem*, or wise man. In other places he receives that title from some of the oldest rabbies, who give him the title of *Caver de Rau* (companion master).

III.—Of the Excommunications.

The sentence of excommunication is pronounced by the rabbies, who curse the excommunicated publicly. After which no Jew can speak to him, neither to

(1) If you see your neighbour's ass laying under his burden, thou shalt surely help him.

42 PARTICULAR LAWS AND CUSTOMS OF THE HEBREWS.

approach him nearer than one toise. He is forbidden the entrance of the synagogue, until he be absolved. But this is only a simple excommunication. There is also an extraordinary one, which is performed with much more solemnity. The synagogue assembles, black torches are lighted, and, at the sound of a trumpet, the excommunication is pronounced, and the people assembled say amen.

IV.—*Contracts, Writings, Notaries.*

All agreements and conventions were admitted to be concluded when the parties had touched the coat or handkerchief of the witnesses. That was considered as an oath to fulfil the agreement; that oath was called *chenian suddar*—(purchase of the stuff.)

As to notaries, all acts, contracts of marriage, wills, even divorces, made in their capacity of writers, in presence of witnesses, were valid.

If it became necessary to make the acts more solemn, they were legalized by three judges, by public authority appointed to that effect.

In order to render witnesses irreproachable, they were to be examined in the presence of the accused, or of the parties.

V.—*Judges.*

The principal rabbies, almost with all the Jews, are the natural judges of all the difficulties that occur amongst them, otherwise the parties agree to submit the decision of their differences to arbitration.

The rabbies judge conformably to what is written in the *Cosen Amispart*, or a collection of judgments given in similar cases, called *Tcscivnod*, the most part of which are found in the 21st chapter of Exodus, beginning with these words, "here are the judgments you will propose to them," and in the 22d and 23d Deuteronomy, upon which the judges decide. The decision of criminal cases depends on the law under which they live, the authority of the rabbies extending only to the excommunication of those who have transgressed the religion, or the civil law.

VI.—*Marriage.*

Every Jew is bound to get married, and the rabbies have decided that it ought to be at eighteen years of age; the one who passes twenty-one is supposed to live in sin, because he does not obey the command.

VII.—*Solemnities of Marriage.*

When the parties have agreed upon the conditions of the marriage, a writing is passed between the man and the relatives of the girl; after which the intended husband pays a visit to his future wife, gives her his hand, sometimes a ring; and, on the day appointed, the parties meet at the place agreed on. The couple, standing under a canopy erected for the occasion, which is generally ornamented with tassels, have a square veil, called *taled*, placed over their head. The rabbi of the place, the singer, or reader, of the synagogue, or, failing them, the nearest relative, takes a vase filled with wine, and, after having given thanks to God for having created man and woman, and made a command establishing matrimonial union,

he gives some of the wine to drink to the married couple; then the husband puts a ring on the finger of his wife, in the presence of two witnesses, who generally are rabbies, and says, "Now you are my wife, according to the rites of Moses and of Israel." Then the written instrument is read; the husband binds himself to the *dot.*, and confesses to have received it. In former times the husband constituted a dower in favour of his wife; (1) pledged himself to be faithful to her and to maintain her, and he gives the writing to her relatives. After that is done, wine is brought in a brittle vase, a second time, and after having sung six benedictions, the wine is given to the spouses: some of it is thrown on the floor, as a sign of jubilation and merriment; then the husband takes the vase, throws it with all his might on the floor, and breaks it in pieces, to mix with the joys of this world an idea of death.

VIII.—*Divorce.*

Divorce was allowed amongst the Jews; but, to prevent the abuse of such a privilege, the rabbies have established many formalities, which take so much time, and give so much trouble, that frequently before the letters of divorce can be executed, the parties repent, and a reconciliation takes place. These letters are named *Ghett*, and are given to the wife; they are made by a scribe, in the presence of one or more of the learned rabbies, and are written upon ruled parchment, containing neither more nor less than twelve lines, in square letters. These, together with a great number of other trifling circumstances, rendered a divorce so difficult to be obtained, that it was seldom resorted to.

IX.—*Consistory, or Senate, of the Jews.*

The great consistory, or sanhedrim of the Jews, was established by Moses. It was composed of seventy-one ancients of the nation: one of them had the quality of president, or chief. It is that officer that the Jews, to this day, call *Hannase* (the prince). There were also a vice-regent, to whom they gave the title of the father of the consistory; all the other members were called ancients, or senators.

There was nothing more solemn and more imposing in the republic of the Hebrews than this sanhedrim. That tribunal, in their language, could make a *Saieg la Tora* (a hedge to the law), because it had the power to interpret it, as it thought proper for the times and circumstances: basis of the oral law, column of the true doctrine; therefore, those who refused to submit themselves to its decisions, were considered as rebellious subjects, and were excommunicated.

X.—*Of the Year and Month, Sabbath and Holidays.*

The phases of a moon is one month amongst the Jews, and to make their lunar year correspond with our solar year, they have taken the lunar cycle, or a revolution of nineteen years. Of these nineteen years, there are seven of thirteen months each; thus, every two or three years, one is of thirteen months, which is called *Meubar* intercalated. When that happens they count twice the month of

(1) Genesis, ch. 34, v. 12.

44 PARTICULAR LAWS AND CUSTOMS OF THE HEBREWS.

Adar, which is placed between February and March; then there are two months of the same name, called *Adar* first and *Adar* second, or *Ve Adar*, second *Adar*.

Names of the Months.

Hebrew Names.	Roman Names.
1. Nisan,	March and April
2. Jyar,	April and May.
3. Sivan,	May and June.
4. Tamus,	June and July.
5. Ab,	July and August.
6. Elul,	August and September.
7. Tisri,	September and October.
8. Marhesvan,	October and November.
9. Casleu,	November and December.
10. Tebeth,	December and January.
11. Shebat,	January and February.
12. Adar,	February and March.

Ve Adar, or second Adar, intercalated.

Tisri, by which they begin to count their months, corresponds to our month of September.

The Talmudists do not agree on the month the world began: some of them are of opinion that it was in the month of *Nisan*, others in *Tisri*. It is this last computation which is followed.

The Sabbath is kept with the greatest veneration, because the seventh day is the Sabbath of the Lord,(1) instituted immediately after the creation of the world. On this day, according to the full and literal translation of the text, the Jews were to do nothing. As that was impossible, their rabbies have explained and commented on the text, and have determined what was expressly forbidden in thirty-nine articles, of which the principal are, not to plough, sow, thrash grain, make bread, spin, card, tie and untie, build, use the hammer, hunt or fish, write, extinguish lights, carry burthens, &c.

Passover.—The 15th of the month of Nisan they begin the commemoration of their leaving Egypt. That festival lasts eight days. The first night they eat a lamb, and during the eight days, with their other food, bread without leaven. On the eve of that day, it was customary for the first-born of families to fast, in remembrance that during the following night God put to death the first-born of the Egyptians.

Their other principal holidays are Pentecost, the sixth of the month of Sivan, also called the festival of the weeks, *Sciavod*, because it is the end of the seven weeks since the Passover; also the day of the premises, because it was on that day they made their offerings to God of the first fruits of the earth; also the festival of harvest, because they then began to cut their grain. The Jews hold, by tradition, that it is on that day that the law was given by God to Moses on Mount

(Josephus, *Judaic Antiquities*, vol. 1, page 15.)

Sinai.(1) On that day they profusely ornament their synagogues, their lecturing places, and their houses, with roses and other flowers.

The 10th of Tisri is a day of general fasting, called the fast of pardons.(2) The 15th is the festival of the tents, cabins, or tabernacles, which they call *Succod*, in remembrance that it was in cabins that they dwelt after they left Egypt.

The 25th of Casleu is the festival of *Hanuca*, in remembrance of the victory the Maccabees gained over the Greeks.

The 11th of Adar they celebrate the *Purim*, to commemorate the day Esther saved the people of Israel from the conjuration of Aman.(3)

CHAPTER VIII.

LEGISLATORS AND LAWS OF THE MOST CELEBRATED NATIONS,

FROM THE TIME THE HEBREWS LEFT EGYPT TO THE FOUNDATION OF THE ROMAN EMPIRE.

I. The two Mercuries, and the Laws of the Egyptians. II. Distribution of Justice. III. Minos, and the Laws of the Cretans. IV. Lycurgus, and the Laws of Sparta. V. Draco and Solon, and the Laws of Athens. VI. Principal Laws of Solon.

I.—The two Mercuries, and the Laws of the Egyptians.

THE Egyptians were the first who modelled their laws on those of Moses. Their first legislators were two Mercuries: the most ancient was known under the name of Theut, who reigned at Thebes; the other was the successor of Mæris, who

(1) Exodus, ch. 19.

(2) Leviticus, ch. 23.

(3) Many of the interesting customs of this wonderful people ought to be noticed here, but the limits of this work will not allow it, such as their notions about dreams, which have passed to all Asiatic, American and Germanic tribes; their houses, of which they always leave some part unfinished in this land of exile; their beds, which they never set east or west, for the respect due to Jerusalem and the temple, which were in that position. The commemoration of their holidays and their customs stand as living proofs that the events marked in their books have really taken place. See a celebrated work, entitled "The Ceremonies and Customs which are this day observed by the Jews," written in the Italian language, in 1637, by Leon de Modene, rabbi of Venice.

reigned some time after the death of Moses. These laws were promulgated about fifty years after the Jews had left Egypt.(1) This prince collected and compiled, in forty-two books, all that regarded the religious civil, and criminal laws.

II.—Distribution of Justice.

Justice was distributed in the three towns of Thebes, Memphis, and Heliopolis, during all the time that Egypt was governed by shepherd kings; but Heliopolis, having shaken off its yoke, Amasis, who was its first king, afterwards introduced new laws, and created a tribunal, composed of thirty magistrates, of which ten were taken in each of the three towns. One of them approached more familiarly the person of the prince. He presided at the councils, having a distinguished dress, and an image of truth, ornamented with diamonds, suspended to his neck by a gold chain. That image represented a woman without eyes. When the president took it, it was the signal that the court had begun its sittings.

The laws of Amasis were contained in eight books, which were placed under the eyes of every one of the magistrates when they held their meetings. Some of these laws were relative to religion; the others contained their civil and criminal laws.

As by the Mosaic code, the wilful murderer suffered death; but the Egyptian laws were more severe in many other respects: the false swearer, the slanderer, the one who would allow a murder to be committed when he could prevent it, were also put to death.

The kings themselves were subject to the laws.

The ancient Egyptians entertained very great ideas of the happiness of a future life. They looked upon the present existence on earth as a passage leading to immortality, and that the tomb was the first step towards a place of real and perpetual happiness. In consequence, they dreaded nothing more than to be deprived of the ordinary sepulture, which was the punishment of a tyrannical administration, or of sinful conduct. At the death, the public prosecutor caused the body to be brought before the people, who were the natural judges of the memory of all, and there to be judged. No considerations could dispense with the law, and a guilty king knew before hand that his remains would never enter these magnificent sepulchres,—the wonders of the world, built by the people for their meritorious princes,—no more than his guilty subject could pretend to the humble tomb of his ancestors.(2)

III.—Minos and the Laws of the Cretans.

The laws of the Cretans are of about the same antiquity as the first laws of the Egyptians.

Minos, the successor of Jupiter Asterius, king of the Cretans, was their first legislator. His laws were not transmitted to posterity, but they were held in great repute. It is maintained by ancient historians, says Terrasson, that, like those

(1) Terrasson, *Histoire de la Jurisprudence Romaine*.

(2) Rollin, *Histoire Ancienne*, vol. 1, from page 58 to page 106.

of the Egyptians, they were modelled upon those of Moses. But Minos did not follow the Hebrew legislator in all his laws. He established the community of meals; he ordered that the children should be brought up and educated together in a public manner: that was not the law of the Hebrews.

Minos gave to the promulgation of his institutions an air of mystery, with the view of impressing on the people a greater respect for them. He published that he had received those laws from Jupiter himself, with whom he pretended to have secret communications every nine years.(1)

IV.—Lycurgus, and the Laws of Sparta.

About seven hundred and twenty years before Christ, Lycurgus succeeded his eldest brother, king of Sparta, and reigned a few months; but as soon as he was informed that his brother's widow had been left with child, he abandoned the crown, became the tutor of his nephew, and governed the kingdom, until he thought that he might with safety leave the authority in the hands of his pupil.

Like Minos, he instituted the public meals, ordered that the children should be brought up and educated, publicly and together, as one family; that they would be considered the children of the state, so that a weak or vicious father should not make of his son a fool or libertine.(2)

He then visited the most distinguished nations, for their politeness and the soundness of their public institutions, to improve those of his own country, particularly Egypt and the Island of Crete, of which the wise severity of the laws pleased his character. He passed through the voluptuous nations of Asia, and found in their frivolous magnificence and luxury a destructive seed of all good institutions.

During his absence, all in Sparta became in a state of confusion, the common results of an ill organized government. The calamities of anarchy were dreaded both by the king and his subjects. They recalled Lycurgus, as the only resource, and invested him with the most unlimited power. He then totally reformed the institutions of his country. He established a senate of twenty-eight members, taken among the most learned, the most wise, and the most virtuous of the country. He invested that senate with an authority equal to that of the king, so as to establish a salutary balance in the public weal, which heretofore was constantly vibrating, either in favour of tyranny or of popular confusion.(3)

He gave to the people the right of assembling, and the power of confirming or rejecting the laws proposed by the king and the senate. Yet a more difficult change was to be performed. All the lands in Sparta were in the possession of a few individuals: he caused them to be equally divided amongst all the families of the commonwealth. To keep the equality of riches, he proscribed the use of gold and silver coins, and gave such a base value to that of iron that no one was tempted to accumulate such a burthensome article.

(1) Terrasson, *Histoire de la Jurisprudence Romaine*, page 16.

(2) Lycurgus instituted public dances: one of them called the dance of ridicules, was found existing amongst the Hurons and Iroquois Indians of Canada. This dance, and its object, are mentioned in the beginning of the second volume of this work.

(3) Plutarch's *Life of Lycurgus*.

Having given all his days for his country, he died for it. Having completed his designs, he called the Spartans together, and made them swear not to change any thing belonging to the laws before he had returned. He left Sparta for Delphi, where he allowed himself to die by starvation, so as to take away from his country all hopes of his return, and thus to render his institutions permanent.

V.—Draco and Solon, and the Laws of Athens.

Antiquity presents two other extraordinary legislators, who imposed their laws, not only on Athens, but even on Rome. The first is Draco.(1) He found Athens in a state of great confusion and sedition. That city, which afterwards became the school of eloquence and politeness, had been governed by chiefs, or kings, who, following no other rule but that of their caprice, had at last been expelled. Intestine wars followed. Draco undertook a general reform. He had to contend both with anarchy and the ferocious character of the people he had to govern. All obstacles vanished before his genius and his determination. He began by establishing, as the foundation of his criminal code, that the least prevarication against the law deserved death: so there were no degrees of punishment: death for all: even the man who used a horse, without the permission of the owner, was put to death as if he had stolen it. The idlers, or those who passed their life without working, received the same punishment—first, because they did not fulfil their duty towards the commonwealth, and, secondly, because idleness is the cradle of debauchery and crime.

He authorized every citizen to kill a murderer, likewise the one who should return from his exile before the time, and the one found in a criminal intercourse with either his wife, his mother, his daughter, or his sister.(2)

Solon.

About six hundred and thirty-nine years before Christ, Solon was born of one of the most ancient families of Athens. His father having diminished his fortune, Solon was obliged to have recourse to commerce, which was in the greatest honour in his time. It served him, particularly in placing him in a situation to travel, and to acquire useful information amongst foreign nations. By that means he obtained a knowledge of the sciences that can form a moral philosopher and a wise politician.

Athens had carried in its bosom for a long time a course of disorder and confusion, by the extreme disproportion of fortune. The rich possessed all: the poor had nothing to resort to but despair. A revolt was at hand, and the liberty of Athens on the brow of a precipice. Solon was the only one who could save the republic. The people invested him with the necessary authority to perform the task: he accepted the mission, and was successful. He began by eradicating the evil at the root; did what was most useful, and with the least possible injustice.

(1) A. M. 3378; B. C. 626.

(2) Terrasson, *Histoire de la Jurisprudence Romaine*, page

The poor had nothing: the rich had oppressed them with excessive interest, which had partly paid their debts: Solon abolished the rest. The rich were dissatisfied, and the poor clamorous, because Solon had not, like Lycurgus, divided the lands amongst all the families. But Solon was wise, learned, firm, and just, and was satisfied that having pleased no one, he had done justice to all.

He divided the people into four classes, and prescribed the rank each class should hold in the republic. He ordered that the public charges should continue to be held by the most wealthy; and those who supported themselves by their daily labour were invested with the right of confirming or rejecting what had been discussed in the areopagus and in the senate.⁽¹⁾

That right seemed in the beginning to be of little importance, but in time became so, and rendered the people, in fact, the masters of all the affairs of the republic. He augmented the authority of the areopagus; fixed the number of the members of the senate to four hundred, which he caused to be taken from the four classes of the citizens, and then caused his laws to be enacted. The following are among the most remarkable:

VI.—Principal Laws of Solon.

First—The law by which women were forbidden to bring rich dotations to their husbands, to prevent the sanctity of matrimonial union degenerating into an affair of traffic and interest.

Second—The law which allowed those who had no children, to will their property to strangers.

Third—The law that ordered an equal division of property amongst the children, and precluded in that case the parents from making wills.

Fourth—The law that obliged every citizen to have a trade, and relieved the children from the obligation of maintaining their parents in their old age, if they had neglected their duty in procuring them one.

Fifth—The law that obliged the areopagus to inform itself how every one provided for his subsistence, and intrusted the magistrates with the care of the property of widows and orphans.

Sixth—The law that revived that of Draco against idlers.

Seventh—The law that permitted the killing of the adulterer taken in the act.

Eighth—The law that obliged young men to stand up before the ancients, through respect for their old age.

He made no law against sacrilege, because that crime was not known at Athens, nor against paricide, because nature had so much horror of it that he thought its commission impossible. He was asked if he had made the best laws possible. He answered, "No, but those the most consonant with the circumstances."

When he had completed his laws, he called the Athenians together, and made them swear to observe them for one hundred years, and then he left Athens, and travelled. On his return he had the grief to see Athens once more in a state of confusion and anarchy. Pesistrate, taking advantage of the broils of the people,

(1) That caused the Scythian Anacharsis to say, that at Athens the wise deliberated and that the fools decided.

usurped the sovereign power. When Solon found that he had no hopes of reviving the liberty of his country, he hung his arms in front of his house, and left Athens for Cyprus, where he terminated his honourable life with one of the kings of that island.

Plutarch and Cicero say that in their time many of the laws of Solon were in full force at Rome. They have been incorporated in the laws of the twelve tables of the Romans, and some of them have been transmitted to us with the Roman jurisprudence.

CHAPTER IX.

STATE OF RELIGION, FROM THE DEATH OF SOLOMON TO THE CHRISTIAN ERA.

Rehoboam, and the Idolatry of the ten separated Tribes of Israel.

THE brutal haughtiness of Rehoboam, son of Solomon,(1) made him lose ten tribes, whom Jeroboam turned away from their God and from their king. To prevent their return to the king of Judah, he prohibited going to sacrifice at the Temple of Jerusalem, and set up his golden calves, to which he gave the name of the God of Israel, that the change might seem less strange. The same reason made him retain the law of Moses, which he interpreted in his own way, but caused almost all its polity, as well civil as religious, to be observed, so that the Pentateuch continued always in veneration among the seceding tribes.

Thus was the kingdom of Israel set up against the kingdom of Judah. In that of Israel, impiety and idolatry triumphed: all the earth was idolatrous. Religion, though often overclouded in that of Judah, still kept some footing there.

After the return from the captivity of Babylon, the Jews scattered in divers places of Upper Asia, Asia Minor, in Egypt, in Greece itself, began to shew forth among the Gentiles the name and glory of the God of Israel. The Scriptures, which were one day to be the light of the world, were put into the language most known upon earth (the Chaldaic), and their antiquity acknowledged. The Grecian philosophers became sensible that the world was ruled by a God very different from those whom the vulgar adored, and whom they worshipped themselves with the vulgar.

(1) A. M. 3029; B. C. 975.

The most enlightened and wisest nations, the Chaldeans, Egyptians, Phœnecians, Grecians, and Romans, were the most ignorant and blind in the article of religion. Who would dare to narrate the ceremonies offered to their immortal gods and their impure mysteries; their laws, their cruelties, their jealousies, their sacrifices of human victims; crime worshipped, and owned to be necessary to the service of their gods; the hymns that were sung in their honour; the paintings that were consecrated in their temples, are incredible. Plato, the gravest of their philosophers, forbids drinking to excess, if it was not in the feasts of Bacchus, and to the honour of that god.(2) Another, after severely lashing all unseemly images, excepts those of the gods, who choose to be honoured by such indecencies.(3) One cannot read without astonishment the honours that were to be paid to Venus, and the prostitutions that were established for her worship. Greece, as polite and wise as it was, had received these abominable mysteries upon pressing emergencies, private persons and public weals, devoted courtesans to Venus; and Greece did not blush to ascribe her preservation to the prayers they put up to their goddess. Solon, (who could expect from so great a name so great a scandal), erected at Athens a temple to Venus the prostitute, or unchaste love. All Greece was filled with temples consecrated to this goddess, and conjugal love had not one. Yet they detested adultery, both in men and women; the conjugal tie was sacred among them; but, when religion was in question, they appeared possessed of a strange spirit, and their natural light forsook them.

Nor did Roman gravity treat religion more seriously: they consecrated to the honour of their gods the impurities of the theatre, and the bloody spectacles of the gladiators, that is, whatever can be imagined most corrupt and most cruel.(3)

It is true, the philosophers had at last confessed that there was another God beside those the vulgar worshipped, but they dared not avow it, one of them excepted: that honourable distinction falls upon Zaleucus, the legislator of the Locriens. In the preamble of his laws, he says:

“Every citizen must be convinced of the existence of a God. It is sufficient to observe the order and harmony of the universe, to be convinced that it cannot have been formed by chance. Every one must master his soul, purify it, and avoid all sins, persuaded that God cannot be well served by the wicked: virtue alone, and a disposition always to do good, can please him. We must try to be just, both in principles and practice: such is the only mode to become dear to the Divinity. Every one must have a greater fear of what would bring him to ignominy than to poverty.

“Let every one have before his eyes the hour of his death, that fatal hour which we all must expect; the hour wherein the remembrance of our faults will bring remorse, and the vain repentance of not having submitted all our actions to equity. Thence each one ought to conduct himself every moment as if it were his last; but if an evil spirit invite him to crime, let him throw himself in the arms of vir-

(1) Plato, de leg. VI.

(2) Aristotle, VII. Polit.

(3) Plato, de leg. VI.; Aristotle, Polit.; Bevruch, VI. 10, 42, 43; Herodod. l. 1; Strabo, 15; Athen. l. XIII.; Bossuet, II. U. vol. 1.

tuous people, who will, by the representations of God's vengeance and his goodness, bring him back to the path of virtue."

Voltaire, from whom this is taken, after having transcribed the whole of this fragment, exclaims, that antiquity has presented nothing superior to these lines, both simple and sublime, free from enthusiasm and of these gigantic figures so much disavowed by sound sense.(1)

Socrates delivered it as a maxim, that every one ought to follow the religion of his country.

Plato, his disciple, who saw Greece and all the countries of the world filled with an absurd and scandalous worship, does nevertheless lay it down as the foundation of his republic, "that men are never to make any change in the religion they find established, and that they must have lost all common sense should they only think of it." Such grave philosophers, and who said such excellent things concerning divine nature, did not dare to oppose the public error, and despaired of being able to conquer it. When Socrates was accused of denying the gods the public adored, he vindicated himself from it as from a crime.(2)

Plato, speaking of the God who had formed the universe, says that it is forbidden to declare him to the people. He protests that he will never speak of God but enigmatically, for fear of exposing so great a truth to ridicule.

Athens, the most polite and most learned of all the Grecian cities, took for atheists those who spoke of intellectual things, and this was one of the reasons for which Socrates was condemned. And yet the Jews themselves who knew God, and who pretended to be the guardians of his laws and religion, began to mingle in religious superstitions unworthy of him. Under the reign of the Asmoneans, and in the time of Jonathan, the sect of the Pharisees arose amongst them.(3) They acquired at first a great reputation, by the purity of their doctrines and the strict observance of the law: their conduct was mild though regular. The rewards and punishment of the future state, which they zealously asserted, gained them much honour. At last ambition entered among them; they assumed an absolute power over the people; set themselves for arbitrators of learning and religion, which they insensibly perverted to superstitious practices subservient to their interests; and the true spirit of the law was in danger of being lost.

To these evils was added a greater: pride and presumption. Being a chosen race, and blessed for two thousand years, they thought themselves of a different species from other men. From this principle, they looked upon the Gentiles with an insupportable disdain. To come from Abraham, seemed to them a distinction which set them naturally above all others; and, puffed up with so noble an extraction, they fancied themselves holy by nature, an error which still prevails amongst them. It was the Pharisees who introduced this opinion, towards the latter times. They multiplied external usages without number, and delivered their notions, however contrary to the laws of God, as so many authentic traditions. Although these sentiments had never passed by a public decree into tenets of the

(1) Preamble of the Laws of Zaleucus—it is the only part which passed to posterity; Voltaire, *Histoire Universelle*.

(2) Xenophon, *Mem.* lib. X.; Plato, *de leg.* V.

(3) *Apel. Spc.* Apud. Plato et Xenophon; Ep. 2 ad. Dionys; Bossuet, *Hist. Univ. Religion*.

synagogue, they insensibly stole in amongst the people, who became disquiet, turbulent, and seditious.

It was hardly sixty years before Jesus Christ, when Hyrcanus and Aristobulus, sons of Alexander Janneus, fell out about the priesthood, to which the kingdom was annexed. This is the fatal moment wherein history fixes the first cause of the destruction of the Jews.(1) Pompey, whom the two brothers called to be umpire between them, subdued them both, at the same time that he dispossessed Antiochus, surnamed Asiaticus, the last king of Syria. The kingdom of Judah passed from the hands of the Asmoneans into those of Herod, a foreigner. The cruel and ambitious policy of that king, who professed only in appearance the Jewish religion, alters the maxims of the ancient government; puts every thing in disorder; confounds at his pleasure the succession of the priests; weakens the pontificate which he renders arbitrary; enervates the authority of the council of the nation, which can no longer do any thing: the whole public power passes into the hands of Herod and of the Romans, whose slave he was, and the Jewish commonwealth is shaken to its foundation.(2)

The plan of this work does not admit of entering into minute proofs of what is advanced; but, by consulting the authorities referred to in the preceding outlines, we will become satisfied that every thing, except God, has had a beginning; that there is no ancient history wherein there do not appear, not only in the early ages, but long after, manifest vestiges of the newness of the world. We see laws establishing manners, polishing, empires forming, mankind,—getting out of his ignorance,—instructed by experience; arts are invented or perfected. According as men multiply, the earth is closer and closer peopled: they pass mountains and precipices, they cross rivers, and at length seas, and establish new habitations.

The earth, which at first was but an immense forest, assumes another appearance. The woods cut down make room for fields, for pastures, for hamlets, for towns, and at length for cities. Men learn to catch certain animals, to tame others, and inure them to service. Together with animals, they acquire the art of managing fruits and plants, and to bend the very metals to their use, and gradually make all nature subservient to their power and genius. The first couple had received from Heaven the order of peopling the earth;(3) and has peopled it. God gave to man dominion over the fish of the sea, the fowl of the air, and all living animals:(4) the most fierce of the creation is brought to obey the dictates of his children. Man has had only to take possession of the gift; and the natural intellect of the most simple has been sufficient to use it to advantage. It is not to the polished Greeks and Romans that mankind is indebted for the discovery of the most useful arts and sciences: we owe the first observations which brought them to light to savages, obscure men, or uncivilized nations. It is they that have procured for us the use of bread, wine, medicinal herbs, domestic animals, the method of melting and bending metals, the manufacture of linen, the art of dyeing, and all that is most useful and agreeable in human life.

(1) Josephus' *Judaic Antiquities*, XIV. 8, XV. vol. 1. bell. Jud. 4, 5.

(2) Bossuet, *Histoire Universelle, suite de la religion*, vol. 1, page 254 et 255.

(3) *Genesis*, ch. 1, v. 28.

(4) *Ibid.*

Modern Europe glorifies itself in its discoveries ; but the art of printing, to which its philosophers look for immortality, has been discovered by a man so little known, that many towns in Germany, in Holland, and even in China, claim the honour of the invention.

Galileo could not have calculated the weight of the air had not a fountain maker observed that water could not ascend more than thirty-two feet in the tubes of his aspiring pumps.

Newton would not have read in the heavens without the assistance of children, in Zeland, who, playing with the glasses of a spectacle-maker, found the first tubes of the telescope.

European artillery would not have subjugated America had not a monk, by chance, found the composition of gunpowder.

Whatever glory Spain claims for having discovered a new world, savages from Asia had covered it with nation and empires long before Christopher Columbus was born.

Academies may accumulate machines, systems, books, eulogiums, the principal praise is due to illiterate men, who have furnished the first materials.(1)

But now, with a new age, a new series of extraordinary events opens upon us. With the Roman commonwealth, which swallowed up all the empires of the universe, whence have sprung the greatest of the world,—among them France and England, who have transmitted to us its admirable laws.

Nothing so much maintained the peace of the empire as the order of justice. The ancient republic had established it ; the emperors and the sages explained it upon the same foundation ; all the people, even the most barbarous, regarded it with admiration ; and thereby was it chiefly that the Romans were judged worthy to be masters of the world. In fact, if the Roman laws have appeared so sacred that their majesty still subsists, notwithstanding the ruin of the empire, it is because good sense, which controls human life, reigns throughout the whole, and that there is nowhere to be found a finer application of natural equity.

(1) See Bernardin de St. Pierre, *Etudes de la Nature*, vol. 1, page 40, 41.

CHAPTER X.

OUTLINES OF THE RELIGIOUS, POLITICAL, AND LEGAL
HISTORY OF THE ROMANS.

I. Remus and Romulus, their origin. II. Exposed on the borders of the Tiber. III. They restore their Grandfather to the Throne of Alba. IV. They look for a Sheltering Place. V. Foundation of Rome—Death of Remus. VI. A form of Government is established—the Romans obtain Wives. VII. The Sabines become the Allies of the Romans. VIII. Romulus murdered. IX. His Apotheosis. X. Numa Pompilius. XI. Tullus Hostilius. XII. Ancus Martius. XIII. Tarquinus Prescus. XIV. Servius Tullius. XV. Tarquin the Proud—Downfall of Roylty.

I.—Remus and Romulus, their origin.

ABOUT seven hundred and fifty-two years before the common era, Numetor, king of Alba, was dispossessed of his kingdom by his brother Amulius, who, fearing that Numetor might one day find an avenger in some of his descendants, condemned him to have no posterity, by forcing Rhea Sylvia, his only child, to become a vestal.

II.—Exposed on the borders of the Tiber.

The precaution of the usurper was useless : Sylvia gave birth to two sons, Remus and Romulus. Amulius ordered one of his guards to throw them into the Tiber. The guard only exposed them on its borders, where one Faustulus found them, and brought them up as his own children, and his wife, Laurentia nursed them. This woman, on account of her dissolute life, had received the surname of *Lupa* (the she wolf) : that gave rise to the fable, that Remus and Romulus had been nursed by a she wolf.

III.—They restore their Grandfather to the Throne of Alba.

Their daring and enterprising character soon made them known. One day as Amulius' shepherds were carrying away some of Numetor's herds, they fell upon them and rescued the herds ; inflicted some summary punishment on the shepherds, who sometime after succeeded in bringing Remus before Amulius, who sent him to Numetor to be punished. Meanwhile, Faustulus informed Numetor of all the circumstances relating to the birth of Remus and Romulus ; they were acknowledged as the grand-children of Numetor. Remus was set at liberty, which he would otherwise soon have recovered, for Romulus had already placed himself at the head of a gang of vagabonds, and was entering the town, when Remus

informed him of their origin. They instantly formed the resolution to overthrow the usurper, and to restore their grandfather to the throne of Alba, and their project was executed as soon as formed.

IV.—They look for a Sheltering Place.

The two brothers then left Alba, always at the head of bandits, outlaws, robbers, and other bad subjects, and looked for a place where they could both establish themselves, and be protected against their neighbours, whom they intended to pillage.

V.—Foundation of Rome—Death of Remus.

They stopped at the place where Rome was since built. It was not long before a quarrel arose between the brothers: Romulus killed Remus, and remained the only chief of the gang, which considerably increased with persons of all sorts gathered together, who had come to seek freedom and impunity in the asylum Romulus had opened to all comers. He trained this wild people in the spirit of attempting, and to carry every thing by force. It is by this means that he obtained the very women they afterwards married.

VI.—A form of Government is established—the Romans obtain Wives.

Romulus then thought seriously of establishing a permanent form of government. By degrees he established order, and restrained the spirit of the people by salutary laws. He begun with religion: he looked upon it as the best foundation of empires; he made it as solemn and modest as the darkness of idolatry would permit.

He divided the lands into three parts: the first was consecrated to the service of the gods; the second was destined to defray the public expenses; and the third was divided into thirty equal portions, according to the number of wards which composed the total number of the citizens.

The inhabitants of Rome were also divided into three separate orders: the patricians, or fathers, the knights, and the plebeans, or common people. Romulus established a senate, or council, of one hundred, chosen from amongst the patricians; reserved to himself but a small portion of power, or rather little was left to him, for it is not to be supposed that it proceeded from a spirit of moderation on his part.

The senate was to digest and propose all affairs; some it settled sovereignly with the king, but the more general were referred to the decision of the people.

Meantime the Romans had no wives. Romulus sent deputies to the Sabines, and other neighbouring nations, to demand some; but this new people was so badly famed that the deputies succeeded nowhere.

Romulus resolved to have revenge for the contempt of his neighbours, besides to obtain wives: he caused solemn games to be played in honour of Neptune. As it was expected, the Sabines and other surrounding nations came to see them: they were well received; but during the performances, the Romans, sword in hand, fell on this assembly, carried off the girls, and sent their fathers and mothers home.

After many useless tears and screams, the girls pacified themselves, and got accustomed to their husbands, from whom they had received as fair treatment as

they could expect. A war was naturally to follow such a manifest violation of the rights of hospitality. With this war begun the fortunate destiny of Rome. The Cenenians, the Crustumeniens, and the Antemnates, were vanquished, and became Roman colonies; but the most powerful, the Sabines, remained to be conquered. They treacherously, in their turn, introduced themselves into the new city. The fate of Rome was on the brink of ruin, when the Sabines saw with astonishment their daughters, having become the wives of the Romans, supplicating their fathers, their brothers, and their husbands, to lay down their arms. This unexpected event disarmed the most furious: peace was concluded.

VII.—The Sabines become the Allies of the Romans.

The two people became so intimately blended together that the most part of the Sabines became Roman citizens. Their king, Tullius, governed in common with Romulus, until the former was murdered by some of his personal enemies, and Romulus remained the only king of the Romans. He then attempted to increase his authority.

VIII.—Romulus Murdered.

The senators, fearing that their government should become purely monarchical, and finding that Romulus was already too imperious, tore him to pieces in a storm which had suddenly arose during one of their assemblies. He was then fifty-five years old, and had reigned thirty-two.(1)

IX.—His Apotheosis.

As the people were forcing the senate to inform them of the fate of their king, one Proculus, bribed by the senators, swore before the nation, that he saw Romulus descending from heaven, and declared to him that he had been received amongst the gods, and that in this quality he required divine worship. The senators were the first in erecting altars to the one they had murdered. The Romans were ignorant, hence credulous and superstitious: their clamours were silenced, and they believed the story. Thus Romulus became one of their gods.

X.—Numa Pompilius. (A. M. 3290).

Numa Pompilius, their second king, in a long and profound peace, finished the forming of the manners of the Romans, and in settling their religion, upon the same foundation which Romulus had laid.

XI.—Tullus Hostilius. (A. M. 3333).

Tullus Hostilius established, by strict regulations, military discipline and the orders of war.

XII.—Ancus Martius. (A. M. 3378).

Ancus Martius, his successor, mixed with the military practices sacred ceremonies, in order to render the martial art venerable and religious.

(1) Plutarch's *Life of Romulus*; Bossuet, *Histoire Universelle*, A. M. 3289.

XIII.—Tarquinius Priscus. (A. M. 3426).

After him, Tarquinius Priscus, to make creatures, augmented the number of the senators to three hundred, where they remained many ages; and he began great works to promote public conveniency amongst the people.

XIV.—Servius Tullius. (A. M. 3448).

Servius Tullius projected the establishment of a commonwealth, under the command of two annual magistrates to be chosen by the people, but did not succeed.

XV.—Tarquin the Proud—Downfall of Royalty. (A. M. 3495).

In hatred of Tarquin the Proud, who had rendered regal authority odious by his oppressive violence, and by the lewdness of Sextus, his son, who gave the finishing stroke by dishonouring Lucretia, who killed herself not to survive to her honour,—her blood, and the harangues of Brutus, spirited up the Romans,—Royalty was abolished, with horrid execrations against any who should attempt to restore it; and Brutus made the people swear eternally to maintain their liberty.

CHAPTER XI.

OUTLINES OF THE HISTORY OF ROME.

I. Consular Government. II. Establishment of Tribunes. III. Decemvirs Established. IV. Principal Laws of the Papyrian Code. V. Division of the Laws of the Twelve Tables. VI. A few of the Principal Laws of the Twelve Tables. VII. The Decemvirs Expelled. VIII. Battle of Cheronæa—first Exploits of Alexander. IX. Alexander and Darius. X. The Empire of Alexander is Divided. XI. All yield to the Romans. XII. First step towards the Downfall of the Roman Empire. XIII. Julius Cesar Subdues the Gauls and almost all the World. XIV. He is Murdered. XV. Battle of Actium. XVI. August Cesar—General Peace—The Temple of Janus is Shut—Jesus Christ comes into the World.

I.—Consular Government. (A. M. 3495).

The kings being banished, the consular government was established upon the plan of Servius, but it was soon weakened by the jealousy of the people. In the first consularship, P. Valerius, the consul, celebrated for his victories, was sus-

pected by his fellow citizens, and to satisfy them he was obliged to enact the law which allowed an appeal to the people from the senate and consuls, in all cases wherein the punishment of a citizen was concerned.

II.—Establishment of Tribunes. (A. M. 3511).

Rome, which had so gallantly defended herself against foreign powers, was hardly strong enough to defend herself against her own people. The jealousy had revived between the patricians and plebeians; the consular power, though already moderated by the Valerian law, seemed still exorbitant to a people so jealous of their liberty. They seceded to the Aventine Mount; violent overtures proved fruitless; nothing could bring back the people but the calm remonstrances of Menenius Agrippa, who was, however, necessitated to find some lenitives. He granted to the people tribunes to defend them against the consuls. The law which instituted this new magistracy was called the sacred law. Such was the rise of the tribunes of the people.

Meantime, these new magistrates, given to the Roman people to protect them against the consuls, formed new divisions in the city. Rome, formed under the kings, wanted the laws necessary for the constitution of a good republic. The reputation of Greece, still more celebrated for its government than for its victories, prompted the Romans to take from thence their patterns, so they sent deputies to study the laws of the cities of Greece, and especially those of Athens, which were the most congenial to the state of their infant republic.

III.—Decemvirs Established. (A. M. 3553).

Upon this model, ten absolute magistrates, created the year after, under the name of decemvirs, digested the laws of the twelve tables, which,—combined with the laws made under the kings of Rome, which were imbodyed in one volume by a jurist named Papyrian,—the people, through gratitude, called the Papyrian code, are the foundation of the Roman law of the twelve tables, a model of precision, says Montesquieu.

IV.—Principal Laws of the Papyrian Code.

1. It will be a crime to believe that God has the form or figure of any created things. No image will be made to represent the divinity.
2. Public worship will not be mixed with the fabulous ceremonies of other nations.(3)
4. The king shall preside at all sacrifices.
5. None but the patricians will fulfil sacerdotal dignities.
8. Let law processes be suspended on holidays.
9. Meetings of citizens during the night are forbidden.
15. The people will vote in all public affairs. They will chose the magistrates. No war will be undertaken, no peace will be concluded, without their consent.

16. The murderer shall suffer death ; accidental homicide will be punished by a fine.

21. The husband will obtain a divorce from his wife if she have poisoned her children, fabricated false keys, or committed adultery ; but should the husband otherwise repudiate her, he will be deprived of all his property, one half whereof will be given to his wife, the other half confiscated, and he will be devoted to the gods of hell.

33. Good faith must be the basis of every contract.

V.—Division of the Laws of the Twelve Tables.

1. Concerning legal proceedings.
2. Delays, exceptions, defaults, robbery.
3. Deposit, usury, interests, rights of creditors.
4. Paternal power and marriages.
5. Formalities of wills, order of successions and of tutorships.
6. Sales, possessions, prescriptions, and revendications.
7. Crimes and damages.
8. Congregations and trades.
9. Public law.
10. Solemnities of oaths and funeral ceremonies.
11. Supplement to the first five tables.
12. Supplement to the five last.

VI.—A few of the Principal Laws of the Twelve Tables.

1. Follow without delay before the judge the party who will summon you.
5. If the *adjourned* find a respondent let him go.
6. None but the rich will be allowed to answer for the rich, as for the poor any one will do.
7. The setting of the sun must put an end to all contestations.
8. The parties will be present during the pleadings.
14. The thief taken in the act shall suffer death.
18. A compromise made between a thief and the person he has robbed will be legal and binding.
19. No prescription for a stolen article.
20. No more than one per cent. interest will be allowed, under a fine of four times the amount.
22. No prescription in favour of strangers.
23. The debtor who will have confessed his debt shall have thirty days to pay it.
24. If the debtor then refuse payment, and do not give security, his creditor may put him in chains, but will give him one pound of flour per diem.
32. The will of the father of a family, relative to his property and the tutorship of his children, will be the law after his death.
35. His debts will be paid in proportion to the share each will have in his estate.
36. Should he die without a will, the nearest relative of the children will be their tutor.

38. Every convention must be executed according to the terms in which it has been made. The vendor will guaranty all what he will have mentioned, and should the description not correspond with the thing, he will pay double the value of the object sold.

39. When one will cause his property to pass into other hands, the terms he will make use of will be the law.

41. A thing sold and delivered shall become the property of the purchaser when he has paid for it, only.

42. Real estates will be prescribed after two years' possession, and personal property within one year.

45. The presumption will be always in the favour of the possessor, and in case of slavery in favour of liberty.

46. Should you find that your neighbour has used some of your timber in his building, you will be entitled to double the value thereof, but not to destroy the house so as to take away your property.

47. Should cattle cause any damage in a field, the master will pay damages or give up the cattle.

51. Should any one, during the night, destroy the wheat of others, he shall be hanged to death.

52. Whoever will maliciously set fire to the house of another, or to a stack of wheat near the house, will be burned.

53. Let the one who will have maimed another be punished by the *lex tabionis*.

56. Whomsoever will have, by his speeches, by injurious verses, or otherwise defamed the reputation of others, will be punished by cudgelling.

58. Any one who will refuse to give evidence in a case where he will have been taken as a witness, shall be noted of infamy, and will never be allowed to bear testimony.

59. Every false swearer shall be precipitated from the top of Mount Tarpeius.

61. The one who will have prepared poison, or caused it to be taken, will be put to death.

62. The paricide will be thrown into the river, the head covered with a veil, and the body sewn in a leather bag.

74. No privileges are to be granted to individuals.

75. Not only the debtors who will have been set at liberty, but also foreign rebellious subjects who shall have returned to their duty, will be put in possession of their former rights, as if they had constantly been faithful.

76. Nothing shall be decided in regard to the life or condition of a Roman citizen, unless it shall be in the commices, or centuries (hundreds).(1)

77. Any one who will seditiously assemble during the night shall suffer death.

78. Every one who will incite strangers to declare against Rome will suffer death.

79. Should a judge, or arbiter, receive any money to render a favourable judgment, he shall suffer death.

(1) This seems to be the real origin of jurors.

83. Let excessive pomp be banished from funeral services.

97. The land of sepulture shall never be prescribed, &c.

The laws of the twelve tables, says Cicero,(1) present an image of antiquity. By them we learn the terms that were formerly in use—the rules of the police and establishments made for public utility—even most sublime philosophy will receive sound lessons by those laws; and should the whole world join against my opinion, I cannot disguise what I think, that the laws of the twelve tables appear to me to be preferable to all the libraries of the philosophers.

The people, charmed with the equity with which the decemvirs had composed these laws, suffered them to engross the supreme power, which they used in a tyrannical manner.

VII.—The Decemvirs Expelled. (A. M. 3555).

Great commotions were now occasioned by the incontinence of Appius Claudius, one of the decemvirs, and by the murder of Virginia, whom her father preferred to kill with his own hand than to suffer her to be prostituted to Appius' passion. The blood of this second Lucretia roused the Roman people, and the decemvirs were expelled.

Unfortunate times succeeded. Cimon, son of Methridates, general of the Athenians, reduces Artaxerxes, king of Persia, to make a shameful peace. Despaired of conquering the Greeks by force, Artaxerxes now considered only how to profit by their divisions, which were come to a great height between the Athenians and Lacedemonians. These two states, by the jealousy of each other, divided all Greece. Pericles, an Athenian, commenced the Peloponesian war, which lasted twenty-seven years, and terminated to the advantage of Lacedemon.

During these times the Gauls entered into Italy, and remained seven months masters of Rome, when, being called elsewhere, they withdrew, loaded with booty.

VIII.—Battle of Cheronea—first Exploits of Alexander. (A. M. 3645).

During the broils of Greece, Epaminondus signalized himself by his equity and moderation as much as by his victories. Under so great a general, the Thebans are victorious, and the power of Lacedemon is humbled. That of the kings of Macedon begin with Philip, the father of Alexander the Great. Notwithstanding the opposition of two kings of Persia, and the still greater difficulties created in Athens by the eloquence of Demosthenes, a powerful defender of liberty, that victorious prince, in the space of twenty years, subjected all Greece, where the battle of Cheronea, which he gained over the Athenians and their allies, gave him an absolute power. In that famous battle, whilst he broke the Athenians, he had the joy to see Alexander, at the age of eighteen, plunge through the Theban troops, notwithstanding Epaminondas' discipline, and among others the sacred troop called the *Friends*, which thought itself invincible. Thus, master of Greece, and supported by a son of so great hopes, he meditated nothing less than the ruin of the Persians. But their overthrow was reserved for Alexander.

(1) Cicero, de Oratore, lib. 1; Terrasson, Histoire de la Jurisprudence Romaine, page 93.

In the midst of the solemnities of a second marriage Philip was assassinated. The same year, Arses, king of Persia, was killed, and gave the kingdom to Darius.

IX.—Alexander and Darius. (A. M. 3665).

Thus two brave kings began to reign together, Darius and Alexander. They looked upon each other with a jealous eye, and seemed born to dispute the empire of the world. But Alexander wished to establish himself before he attacked his rival. He revenged the death of his father; he subdued the rebellious nations who despised his youth; he beat the Greeks, who vainly attempted to shake off the yoke; and destroyed Thebes, where he spared nothing but the house of Pindar, in favour of his oles. Powerful and victorious, after so many exploits, he marched at the head of the Greeks against Darius, whom he defeats in three pitched battles; enters triumphant into Babylon and Susa; demolishes Persepolis, the ancient seat of the kings of Persia; pushes his conquests as far as the Indies, and returns to Babylon, where he dies in the thirty-third year of his age, A. M. 3660.

X.—The Empire of Alexander is Divided. (A. M. 3674).

During Alexander's conquests, Rome was engaged with the Samnites, her neighbours, and had the utmost difficulty to reduce them. After his death, his empire was divided. His captains sacrificed to their ambition his whole family; nothing was to be seen but bloody battles, and dreadful revolutions. In the midst of so many disorders, several nations of Asia minor, and the neighbourhood, set themselves free, and formed kingdoms.

XI.—All yield to the Romans. (A. M. 3956).

After four hundred and eighty years of war, the Romans, finding themselves masters of Italy, begun to turn their eyes abroad. They now conceived a jealousy against Carthage, which they thought was growing too powerful in their vicinity by its conquests in Sicily, from whence she had made an attack upon Italy. That republic then commanded both coasts of the Mediterranean, possessed almost all Africa, and extended itself on the Spanish side through the streights. Thus, mistress of the sea and of commerce, she had seized on the islands of Corsica and Sardinia. Sicily had difficulty to defend itself: Italy was too nearly threatened not to be alarmed. Hence the punic wars. Every thing yields to the arms of Rome. Carthage, reduced to the last extremity, is obliged to pay tribute to Rome, and to give up, together with Sicily, all the islands that lay between Sicily and Italy.—During all this time intestine wars had desolated Syria, and the Romans suffered that rich kingdom to waste itself away, and extended their dominions to the westward, even beyond the Alps. Sextus, having conquered the Gauls, named Salii, established in the city of Aix a colony which bears his name to this day. Fabulus subdued the Allobroges and all the neighbouring nations. Thus the Roman empire grew in greatness, and gradually possessed itself of all the lands and seas of the known world.

XII.—First step towards its Downfall. (A. M. 3910).

But as fair as the face of the republic seemed outwardly by its conquests, as disfigured was it by the ambition of its citizens, and by its intestine broils. The most illustrious of the Romans became the most pernicious to the public weal. The two Gracchi, by flattering the people, begun divisions which did not end but with the commonwealth.

Whilst Rome protected Capadocia against Methridates, king of Pontus, and so great a foe, yielding to the Roman force with Greece, which had espoused his cause,—Italy, long exercised in arms by so many wars, maintained either for or against the Romans, endangered their empire by a universal revolt. Rome felt herself at the same time torn by the furious animosities of Maryus and Sylla, one of whom had made both the south and the north tremble, and the other was the conqueror of Greece and Asia. Sylla, who was styled the fortunate, was too much so against his country, which his tyrannical dictatorship brought into servitude. He might well lay down voluntarily the sovereign power, but he could not prevent the effect of the bad example he had set. Every one would be master. Sertorius, a zealous partisan of Marius, cantoned himself in Spain, and entered into a league with Methridates. Against so great a captain force was of no avail, and Pompey could find no way of reducing that party but by sowing discord in it.

Lucullus was getting the better in the East. The Romans passed the Euphrates; but their general, invincible against the enemy, could not keep his own soldiers in their duty. Methridates, often beat, but never discouraged, was recruiting his forces, and Pompey's good fortune seemed necessary to put a happy period to the war. He had just completed the scouring of the seas of the pirates that infested them from Syria to the pillars of Hercules, when he was sent against Methridates. His glory appeared there at its height. He totally defeated that valiant king; subdued Armenia, whither he had fled for refuge, Iberia and Albania, which supported him; Syria, torn by its factions; Judea, where the divisions of the Asmoneans left Hircanus Second but a shadow of power, and in short the whole East. But he would not have triumphed over so many enemies but for Cicero, who saved Rome from the flames that were preparing for it by Cateline, backed by the most illustrious of the Roman nobility. That formidable party was ruined by Cicero's eloquence, rather than the arms of Anthony, his colleague. But the liberty of the Roman people was nothing the more secure. Pompey reigned in the senate, and his great name made him absolute master of all deliberations.

XIII.—Julius Cesar Subdues the Gauls, and almost all the World. (A. M. 3940.)

Julius Cesar, by securing the Gauls, obtained for Rome the most useful conquest it had ever made. So signal a service enabled him to establish his dominion in his country: he wanted first to equal and after to surpass Pompey.

Then money was the greatest agent in Rome. Crassus fancied that by means of his immense riches he might share the glory of these two great men as he did their authority. He rashly undertook a war against the Partheans, which proved fatal to himself and to his country.

The Arsasidae victorious insulted, with cruel *raileries*, the ambition of the Romans, and the insatiable avarice of their general. The disgrace of the Roman name was not the worst effect of Crassus' overthrow. His power counterbalanced that of Pompey and Cesar, whom it kept united against their wish. By his death, the mound that confined them was broke down. The two rivals, who had all the forces of the commonwealth in their hands, decided their quarrel at Pharsalia by a bloody battle. Cesar, victorious, appeared in a moment all over the world. In Egypt, in Asia, in Mauritania, in Spain, conqueror on all sides, he was acknowledged to be the master at Rome, and in the whole empire.

XIV.—*He is Murdered.* (*A. M.* 3957).

Yet, notwithstanding his clemency, Brutus and Cassius looked upon him as if he were a tyrant, and thought to set their fellow citizens free by murdering him. Then Rome fell again into the hands of Mark Anthony, Lepidus, and the young Cesar Octavius, grand-nephew to Julius Cesar, and his adopted son, three insupportable tyrants, the history of whose triumvirate and proscriptions cannot yet be read without horror. But their tyranny was too violent to last long. They divided the empire amongst them. Cesar kept Italy, and, changing his former cruelties into mildness, he made the people believe that he was drawn into them by his colleagues; and the remains of the commonwealth perish with Brutus and Cassius.

XV.—*Battle of Actium.* (*A. M.* 3968).

Anthony and Cesar, after having ruined Lapidus, fall next upon each other. The whole Roman power puts to sea; Cesar gains the battle of Actium; the forces of Egypt and of the East, which Anthony had brought with him, are dispersed; all his friends abandon him, even his Cleopatra, for whom he had lost himself. Herod, the Idumean, who owed every thing to him, is forced to submit to the victor, and maintains himself, by this means, in possession of the kingdom of Judea.

Every thing yields to Cesar's fortune. Alexandria opens her gates to him—Egypt becomes a Roman province—Cleopatra, despairing of being able to preserve it, kills herself after Anthony.

XVI. *Augus Cesar—General Peace—The Temple of Janus is Shut—Jesus Christ comes into the World.* (*A. M.* 4000).

Rome opens her arms to Cesar, who, under the name of Augustus and the title of emperor, remains sole master of the empire. He subdues, towards the Pyrenees, the revolted Cantabrians and Asturians, Etheopia sues for peace. The Perthians, in fear, send him back the standards taken from Crassus, with all the Roman prisoners. The Indies court his alliance. The Rheti and Grisons feel the force of his arms: their mountains cannot defend them. Parmonia acknowledged him—Germany dreads his force—the Weser receives his laws—victorious by sea and by land—the world is in peace—the temple of Janus is shut—and Jesus Christ comes into the world.

CHAPTER XII.

EVENTS OF THE SEVENTH AND LAST AGE OF THE WORLD.

I. *Birth of Christ.*(1) II. *Death of Herod.* III. *Death of Augustus.* IV. *Tiberius.* V. *Formation of the Church—Death of Christ.* VI. *Caligula and Claudius.* VII. *Council of Jerusalem, its Promulgation.* VIII. *Nero.* IX. *Vespasian.* X. *Titus—Jerusalem Burned.* XI. *Dometian, his Persecutions.* XII. *Nerva and Trojan.* XIII. *Adrien, he Rebuilds Jerusalem, but Banishes the Jews.* XIV. *Antonius Pius, and Marcus Aurelius.* XV. *Comodus and Pertinax.* XVI. *The Empire put up at Auction—a Lawyer buys it.* XVII. *Severus Africanus and Heliogabalus.* XVIII. *Alexander Severus.* XIX. *Maximin—the Senate appoints four Emperors.* XX. *The Empire is Inundated by Germanic Tribes.* XXI. *Divided amongst Tyrants.* XXII. *The Franks grow Formidable.* XXIII. *Tacitus.* XXIV. *Probus.* XXV. *Diocletian and Maximian.* XXVI. *Constantius Chlorus and Galerius.* XXVII. *Constantine.* XXVIII. *Galerius, his Persecutions and his Death.*

I.—*Birth of Christ.*

THIS epoch is the most considerable, not only for the importance of so great an event, but also because it is from that date that many ages have computed their years. It has besides this remarkable in it, that it pretty nearly coincides with the time in which Rome returns to a state of monarchy, under the peaceful empire of Augustus.

II.—*Death of Herod. (A. D. 8).*

The birth of Christ was soon followed by the death of Herod, and his kingdom was not long in falling into the hands of the Romans.

III.—*Death of Augustus.*

Augustus ended his reign with great glory.

IV.—*Tiberius. (A. D. 14).*

Tiberius, whom Augustus had adopted, succeeded him without opposition, and the empire was acknowledged hereditary in the house of the Cesars. Rome had

(1) It is not agreed what is the precise year Jesus Christ came into the world, but is generally allowed that he was born in December, four years before the vulgar era, in the year of the world 4000.

much to suffer from the cruel policy of Tiberius: the rest of the empire was tolerably quiet. Germanicus, nephew of Tiberius, pacified the rebel armies—refused the empire—beat the proud Armenius—pushed his conquests as far as the Elbe—and having attracted, together with the love of those people, the jealousy of his uncle, that barbarian occasioned his death, either by grief or poison.

V.—Formation of the Church—Death of Christ.

The times marked by the Hebrew prophets had occurred.(1) Jesus Christ establishes his mission and doctrine. By his miracles, and afterwards by his death, the church is formed—persecution commences—St. Stephen is stoned to death—St. Paul is converted.

VI.—Caligula and Claudius. (A. D. 41).

A short time after Tiberius dies, Caligula, his grand-nephew, his son by adoption, and his successor, astonishes the world by his cruel and brutal folly. He claims adoration, and commands that his statue be set in the temple of Jerusalem. Chereas rids the world of this monster.

Claudius reigns, notwithstanding his stupidity. He is dishonoured by Messalina, his wife, whom he demands back, after having caused her to be put to death. He is next married to Agripina, daughter of Germanicus.

VII.—Council of Jerusalem, its Promulgation. (A. D. 50).

The apostles hold the council of Jerusalem, in which St. Peter speaks the first, as he does every where else: the converted Gentiles are there freed from the ceremonies of the Hebraic law. The sentence is pronounced in the name of the Holy Ghost and the church; St. Paul and St. Barnabas carry the decree of the council to the churches. Such was the form of the first council of the church of Christ.(2)

VIII.—Nero. (A. D. 54).

The stupid Claudius disinherited Britannicus, and adopted Nero, the son of Agripina. She, in return, poisoned her too easy husband; but her son's government proved no less fatal to herself than to all the rest of the empire. Corbulo gained all the honour of his reign by the victories he obtained over the Parthians and Armenians. Nero commences at once the wars against the Jews, and the persecutions against the Christians. He was the first emperor who persecuted the church: he caused Peter and Paul to be put to death at Rome. But as he, at the same time, persecuted all mankind, they revolted against him on all sides. Having been informed that the senate had condemned him, he killed himself.

IX.—Vespasian. (A. D. 70).

Each army makes an emperor; their quarrel was decided near and in Rome itself by horrid battles. The distressed empire found some rest under Vespasian.

(1) Daniel, ch. 9, v. 27.

(2) Acts, ch. 16, v. 4.

X.—Titus—Jerusalem Burned. (A. D. 79).

Titus, his son and successor, who thought his days lost when they were not, marked by some good action, hurried too fast to an end. But the Jews were reduced to the last extremity. Jerusalem was taken and burned.

XI.—Dometian, his Persecutions. (A. D. 93).

Now we behold Nero revive in the person of Dometian. He renewed the persecutions against the Christians. The ecclesiastical historians reckon ten persecutions under ten emperors, and thirty popes sealing with their blood that Gospel which they were announcing as the word of God to the world.

XII.—Nerva and Trajan. (A. D. 96).

Dometian is killed; the empire begins to enjoy some respite under Nerva. Quiet at home and triumphant abroad under Trajan, with whom it was a maxim that the citizens ought to find him such as he would wish to find the emperor, if he was a private citizen.

XIII.—Adrien, he Rebuilds Jerusalem, but Banishes the Jews. (A. D. 120).

The reign of Adrien was blended with good and evil. This prince maintained military discipline—lived himself in a soldiery way and with frugality—eased the provinces—made the arts flourish, and Greece also, who was the mother of them. The barbarians were kept in awe by his arms and authority. He rebuilds Jerusalem, but banishes the Jews out of it, who were ever rebels to the empire. They found in him a merciless avenger. He sullied, by his cruelties and monstrous loves, the lustre of so bright a reign, which he partly retrieved by adopting Antonius Pius, who adopted Marcus Aurelius, the sage and Philosopher.

XIV.—Antonius Pius, and Marcus Aurelius. (A. D. 138).

In these two princes appear two beautiful characters: the father, ever in peace and always ready to make war; the son, ever at war and always willing to give peace.

The Parthians and Marcomanians experienced the valour of Marcus Aurelius. The latter were Germans, to whom the emperor was giving the finishing stroke when he died.

XV.—Comodus and Pertinax. (A. D. 169).

Comodus, his son and successor, unworthy of such a father, forgot both his instructions and his example. The senate and the people abhorred him, and his minions and his mistresses put him to death.

His successor, Pertinax, a vigorous prince, asserter of military discipline, fell a sacrifice to the fury of the licentious soldiers, who had but a little before forced the sovereign power upon him.

XVI.—The Empire put up at Auction—a Lawyer buys it. A. D. 194).

The empire being put up to action by the army, found a purchaser. The jurisconsult, Julianus, ventured upon the bold bargain: it cost him his life.

XVII.—Severus Africanus and Heliogabalus. (A. D. 218).

Severus Africanus put him to death—revenged Pertinax—passed from the east to the west—triumphed in Syria, Gaul, and Great Britain. The rapid conqueror equalled Cesar by his victories, but imitated not his clemency. The bad conduct of his children punished him for his cruelties. Caracalla, his eldest son, killed his brother and colleague emperor, in the arms of Julia, their common mother: spent his life in cruelty and carnage, and brought upon himself a tragical end. His son, Heliogabalus, at least reputed such, by his infamous conduct, became the horror of mankind, and destroyed himself.

XVIII.—Alexander Severus. (A. D. 222).

Alexander Severus, his cousin and successor, lived too short a time for the good of the world. Under his reign, Artaxerxes, the Persian, killed his master, Artabanus, the last king of the Parthians, and restored the empire of the Persians in the East.

XIX.—Maximin—the Senate appoints four Emperors. (A. D. 236).

The affairs of the empire were embroiled in a terrible manner. After the death of Alexander, the tyrant Maximin, who had killed him, made himself master, though of Gothic race. The senate set up four emperors in opposition to him, who were all cut off in less than two years.

XX.—The Empire Inundated by Germanic Tribes. (A. D. 258).

About that time begun the inundation of the barbarians, and other people of Germany; and the Goths, formerly Gaetae, poured into the empire: other nations which inhabited about the Euxine sea, and beyond the Danube, entered into Europe. The East was invaded by the Asiatic Scythians and the Persians. These defeated Valerian, whom they afterwards took in a treacherous manner; and after letting him linger out his days in painful slavery, they flead him, and made of his torn skin a moument of their victory. Gallian, his son and colleague, utterly ruined all by his softness.

XXI.—Divided amongst Tyrants. (A. M. 264).

Thirty tyrants divided the empire amongst themselves. Odenatus, king of Palmyra, an ancient city founded by Solomon, the best of them,—rescued the eastern provinces out of the hands of the barbarians, and made himself acknowledged in them. His wife, Zenobia, marched with him at the head of his armies, which she commanded alone after his death, and rendered herself famous all over the earth, for having joined chastity with beauty, and knowledge with courage. By Claudius II., and after him by Aurelian, the affairs of the empire were retrieving.

XXII.—The Franks grow Formidable. (A. D. 275).

Then begun the Franks to grow formidable. These were a confederacy of German states, who dwelled along the Rhine. Their name speaks them united from the love of liberty. Aurelian had beat them, when a private person, and

kept them in awe when emperor. But that prince made himself hated by his bloody actions. His wrath, too much dreaded, occasioned his death. Those who thought themselves in hazard, resolved to be beforehand with him, and his secretary being threatened, put himself at the head of the combination. The Army, who saw him cut off by the conspiracy of so many chiefs, refused to choose an emperor, for fear of setting on the throne one of Aurelianus's assassins; and the senate, restored in its ancient rights, elected Tacitus.

XXXIII.—*Tacitus.* (A. D. 276).

This new prince was venerable for his age and for his virtues; but he became odious, through the violence of a relative to whom he gave the command of the army, and perished with him, in a sedition, in the sixth month of his reign. His brother, Florian, claimed the empire by right of succession, as being the nearest heir. This right, however, was not acknowledged.

XXIV.—*Probus.* (A. D. 278).

Florian was killed, and Probus was forced by the soldiers to accept the empire. Every thing yielded under so great a captain. The Germans and Franks, who attempted to enter Gaul, were repulsed, in the east as well as in the west. So formidable a warrior aspired at peace, and gave the empire to hope it should have no more occasion for military men. The army revenged that insinuation, and the strict regulations their emperor made them observe. The moment after, confounded at the violence they had used to so great a prince, they honoured his memory, and gave him for successor Carus, who was no less zealous for discipline than himself. This valiant prince revenged his predecessor and quelled the barbarians, to whom the death of Probus had given fresh courage. The whole East trembled before him; but heaven stopt his career by a flash of lightning.

XXV.—*Diocletian and Maximian.* (A. D. 284).

Diocletian at last arrived at the empire, and was slain by one of his own men, whose wife he had debauched. Thus the empire got rid of the most violent and most abandoned of all men. Diocletian governed with vigour, but with an insupportable vanity. In order to make head against his enemies that were rising on all sides, both at home and abroad, he named Maximian emperor with him; but preserved the chief authority to himself. Each emperor made a Cesar. The four princes were hardly able to support the burden of so many wars. Diocletian fled Rome, which he found too free. Meanwhile, the Persians, vanquished by Galerius, gave up to the Romans large provinces and whole kingdoms. After such great successes, Galerius will no longer be a subject, and scorns the name of Cesar. He begins by intimidating Maximian. A long illness had sunk the spirit of Diocletian, and Galerius, though his son-in-law, forced him to quit the reins of the empire. Maximian was obliged to follow his example. Thus the empire came to the hands of Constantius Clorus and Galerius, and two new Cesars were created.

XXVI.—Constantius Clorus and Galerius. (A. D. 304).

Gaul, Spain, and Great Britain were happy: the rest of the empire suffered greatly under so many emperors and Cesars. Officers multiplied with princes; expenses and exactions were infinite; young Constantine, son of Constantius Clorus, began to distinguish himself; at the death of his father, he succeeded him.

XXVII.—Constantine. (A. D. 207).

The receiving of the images was the usual form of acknowledging new princes; that of Constantine being carried to Rome, was rejected by order of Maxentius. War is prepared for on all sides, and anew breaks out.

Maxentius, under pretext of revenging his father, declares against Constantine, who marches to Rome with his troops. At the same time he caused the statues of Maximian to be thrown down; those of Diocletian, which stood next to them, shared the same fate. Diocletian's repose was disturbed by this piece of contempt, and he died sometime after, as much of vexation as old age.

XXVIII.—Galerius, his Prosecutions and his Death. (A. D. 302).

In those times,(1) Rome, a constant enemy to Christianity, made a last effort to extinguish it, and completed its establishment. Galerius, marked by the historians as the author of the last persecution, two years before had obliged Diocletian to quit the empire, forced him to make that bloody edict, which commanded the Christians to be persecuted more violently than ever. Maximian, who hated and had never ceased tormenting them, spirited up the magistrates and executioners by his violence, however excessive, did not equal that of Maximian and Galerius. New punishments were daily invented. The modesty of the Christian virgins was no less attacked than their faith. The strictest search was made for the sacred books, in order to abolish the very memory of them, and the Christians dared not have them in their houses, nor almost presume to read them. Thus, after three hundred years persecution, the malice of the persecutors became still more inveterate. The Christians wearied them by their patience. The people, touched with their holy life, turned converts in great numbers. Galerius despaired of being able to suppress them. He was struck with an extraordinary disease, revoked his edicts, and died the death of Antiochus. Maximian continued his persecutions.

(1) Eusebe, viii; Hist. Ecl. 16 de Vit.; Const. 1, 57.

CHAPTER XIII.

STATE OF THE EMPIRE DURING AND AFTER THE REIGN
OF CONSTANTINE.

I. Constantine embraces Christianity. II. Julian's Revolt and Apostacy. III. Jovian. IV. Valentinian. V. Gratian. VI. Theodosius, the delight of the World. VII. Arcadius and Honorius. VIII. The Franks get Possession of the Gauls. IX. The Anglo-Saxon Race Invades the South of Great Britain. X. Rome becomes a prey to the Barbarians. XI. Clovis Overthrows the Roman Power in the Gauls. XII. Justinian, his Death. XIII. Charlemagne, the Franks, and the Saxons.

I.—Constantine embraces Christianity. (A. D. 312).

Constantine, a victorious prince, publicly embraces Christianity. This prince died, after having divided the empire amongst his three sons, Constantine, Constantius, and Constans. Their unity was soon disturbed: Constantine perished in the war he had with his brother Constantius, about the limits of their empire; Constantius and Constans agreed but little better.

Whilst Constantius was taken up with the affairs of Arianism, he neglected those of the empire. The Persians got great advantages; the Germans and Franks attempted on all hands an entrance into the Gauls. Julian, the emperor's cousin, stopt their career, and beat them: the emperor himself defeated the Sarmatians, and marched against the Persians.

II.—Julian's Revolt and Apostacy. (A. D. 360).

Then appeared Julian's revolt against the empire—his apostacy—the death of Constantius—the reign of Julian—his equitable government. But that glory he too greedily pursued, proved the cause of shortening his days. He was slain in Persia, where he had engaged himself rashly.

III.—Jovian. (A. D. 363).

Jovian, his successor, a zealous Christian, found things desperate, and lived only to conclude a shameful peace.

IV.—Valentinian. (A. D. 364).

After him, Valentinian made war like a great captain—maintained military discipline—beat the barbarians—fortified the frontiers of the empire. Valentinian died, after a violent speech he made to the enemies of the empire. His impetuous passion, which rendered him dreaded by others, at last proved fatal to himself.

V.—Gratian. (A. D. 371).

Gratian, his successor, beheld without envy the promotion of his younger brother, Valentinian II., who was made emperor, though but nine years old. Here we see in a few years some wonderful events: the revolt of the Goths against Valens. That prince leaves the Persians to suppress the rebels: Gratian hastens to join him, after gaining a signal victory over the Germans: Valens, resolving to conquer alone, precipitates the fight, in which he is routed near Adrianople: the victorious Goths burn him alive, in a village whither he had retired: Gratian, overburthened with affairs, associates in the empire the great Theodosius, and keeps to himself the East: the Goths are vanquished: all the barbarians are kept in awe.(1)

VI.—Theodosius, the delight of the World. (A. D. 379).

Whilst Theodosius governed with so much fortitude and success, Gratian, who was no less valiant, being deserted by his troops, wholly made up of foreigners, fell a sacrifice to the tyrant Maximus. The tyrant reigned in the Gauls, and seemed content with that share; but soon after he makes himself master in Rome, where he revives paganism, in complaisance to the senate, still almost wholly pagan. After he had got possession of all the west, Theodosius, assisted by the Franks, defeated him in Pannonia and besieged him in Aquileia, suffered him to be slain by his soldiers.

In his time, Saint Jerome, having retired to the sacred grotto of Bethlehem, undertook immense labours, in order to expound the Scriptures. He read all the interpreters—searched all the histories, both sacred and profane, that could give any light to it—and composed from the original Hebrew that version of the Bible which the whole church has received under the name of Vulgate.

Theodosius, now absolute master of both empires, restored that of the west to Valentinian, who did not keep it long: he was slain in Gaul, near Vienna, by the tyrant Eugenius, whom he had raised to power. Theodosius, now alone, was the delight and wonder of the world.

VII.—Arcadius and Honorius. (A. D. 395).

The empire, that seemed invincible under Theodosius, changed its aspect in a moment under his two sons: Arcadius had the east, and Honorius the west. They both, being governed by their magistrates, made their power subservient to private interests. The west was disturbed by the incursion of barbarians Rada-gaise, a Goth and a heathen, ravaged Italy. The Vandals, a Gothic nation, seized on part of Gaul, and spread themselves into Spain. Alaric, king of the Visigoths, compelled Honorius to yield up to him those large provinces already possessed by the Vandals. That prince relieved the Britons of their allegiance to Rome, at least left the defence of their island to themselves. Meanwhile, Arcadius died, and put his son Theodosius, a child of eight years old, under the tuition of Isdegerd, king of Persia. But Pulcheria, the young emperor's sister;

(1) Bossuet, *Histoire Universelle*, vol. 1, page 121.

proved capable of great affairs. Theodosius' empire was supported by the prudence and piety of that princess: that of Honorius seemed near its ruin. He caused Stilico to be put to death, but could not fill his place with so able a minister. The revolt of Constantine—the total loss of Spain and Gaul—and the taking and sacking of Rome by the arms of Alaric, were the consequences of the death of Stilico.

Ataulph, more furious than Alaric, pillaged Rome anew, and thought of nothing less than abolishing the Roman name; but, for the happiness of the empire, he seized Placidia, the emperor's sister. That captive princess, whom he married, mollified him. The Goths treated with the Romans, and established themselves in Spain, reserving in the Gauls the provinces that lay towards the Pyrenees. Meanwhile the Burgundians, a German people, seized upon the neighbourhood of the Rhine, whence, by degrees, they gained the country that still bears their name.

VIII.—The Franks get Possession of the Gauls. (A. D. 450).

The Franks did not forget themselves, and resolved to make new efforts to open a passage into the Gauls. They raised to royalty Pharamond, and the monarchy of France took its rise under him. The unfortunate Honorius died without issue, and without providing for the empire. Theodosius appointed Valentinian III. his cousin, emperor. During his reign, he caused the laws to be revised and compiled, and composed a code, which, from his name, was called the Theodosian Code.

The Gauls began to acknowledge the Franks. Ætius had defended them against Pharamond and Clodion, the thick haired; but Meroveus was more successful, and made a surer settlement in them.

IX.—The Anglo-Saxon Race Invades the South of Great Britain. (A. D. 452).

Much about the same time the Angles, a Saxon people, invaded the south part of Great Britain: they gave it their name, and there founded several kingdoms. The Huns, a people from Palus Meotis, desolated the whole world with an immense army, under the command of Atila, their king, the most shocking of all men; and Ætius, who defeated him in the Gauls, could not prevent his ravaging Italy. The Adriatic islands afforded a retreat to many against his fury: Venice arose in the midst of the waters. Pope Leo, more powerful than Ætius and the Roman armies, commanded respect from that barbarous and heathen king, and saved Rome from pillage; but she was soon after exposed to it by the debauches of her emperor, Valentinian. Maximus, whose wife he had ravished, found means to destroy him by dissembling his resentment, and making a merit of his complaisance. By his deceitful counsels, the blinded emperor put to death Ætius, the sole bulwark of the empire. Maximus, the author of the murder, stirs up the friends of Ætius to revenge, and so gets the emperor killed. By these steps he ascends the throne, and compels the empress Eudoxia, daughter of the younger Theodosius, to marry him. In order to get out of his hands she was not afraid to put herself into those of Genseric.

X.—Rome becomes a prey to the Barbarians. (A. D. 456).

Rome becomes a prey to the barbarians; St. Leo prevents his putting every thing to fire and sword; the people tear Maximus to pieces, which is their only, though dismal, consolation in their calamities. All is embroiled in the west; several emperors rise and fall almost at the same time. Majorian was the most considerable: Avitus but ill supported his reputation. The Gauls can no longer hold out against Meroveus and Childeric, his son. Augustus, commonly called Augustulus, was the last emperor acknowledged at Rome: he was dispossessed by Odoacer, king of the Herulians. These were a people from the Euxine sea, whose dominion did not last long.

XI.—Clovis Overthrows the Roman Power in the Gauls. (A. D. 495).

The Romans saw the overthrow of their power completed in the Gauls, by the victories of Clovis. He gained also the battle of Tolbiac, over the Germans. At this period Italy and Rome became altogether a prey to the barbarians. Africa was occupied by the Vandals, Spain by the Visigoths, the Gauls by the Franks, and Great Britain by the Saxons.

XII.—Justinian, his Death. (A. D. 527).

Justinian is associated to the remnants of the empire, whose long reign is celebrated for the labours of Tribonian, compiler of the Roman law, and for the exploits of Belisarius and Narzes. These two famous captains checked the Persians, defeated the Ostrogoths and Vandals, and recovered for their master, Africa, Italy, and Rome; but the emperor, jealous of their glory, without offering to take part in their toils, was more troublesome than useful. Justinian, being restored, proved ungrateful to his friends. By revenging himself of his enemies he made more formidable ones, who killed him.

XIII.—Charlemagne, the Franks, and the Saxons. (A. D. 768).

Justinian had paved the way for Charlemagne and the Franks: the Saxons had the advance. Thus England and France were established the principal representatives of the Roman empire; together with the pope, who kept the head.

Clovis, with his Frenchmen, embraces Christianity,⁽¹⁾ and obtain the title of Most Christian; rids the world of the terrible Alaric; causes Toulouse and Aquelain to be added to his kingdom. The exploits of Belisarius and of Narses, in support of Rome, are of no avail: the Roman emperors have become mere shadow: pestilence augments the other calamities: St. Gregory, notwithstanding his modest reluctance, is promoted to the chair of St. Peter. That great pope instructs emperors and princes—enforces due obedience to their authority—comforts Africa in the catholic faith—confirms Spain—converts England—reforms the discipline of the church of France—bends the haughty Lombards—saves Rome and Italy, which the emperors are unable to assist—checks the growing pride of the patriarchs of Constantinople—enlightens the whole church by his doctrine—

(*) From A. D. 495 to A. D. 595.

governs the east and the west with equal vigour and humility—and affords the world a perfect model of ecclesiastical government, to which some time after a temporal one will be added by the French monarchs.

CHAPTER XIV.

HISTORICAL SKETCH OF THE CONTINUATION OF THE ROMAN LAWS,

AFTER THE PROMULGATION OF THE TWELVE TABLES.

I. Of the Roman Laws following those of the Twelve Tables. II. Of the Flavian Law. III. Of the Cælian Law. IV. Of the Plebiscitum and Agrarian Laws. V. State of the Roman Jurisprudence under Julius Cesar. VI. Of the Lex Regia, and the Laws of the Emperors. VII. Of the Gregorian and Hermoginian Codes. VIII. Of the Theodosian Code. IX. Of the Compilation of Justinian. X. Of the Code. XI. Of the Digest. XII. Of the Institutes. XIII. Of the Correction of the Code and of the Novels.

I.—Of the Roman Law after the Promulgation of the Twelve Tables.

The civil law, as all the sciences of the first order, has its general theory and its branches of application. The first laws ruled the relations men had together. The necessity of fixing the mode and exercising these relations, or rather the rights resulting from them, was soon felt, and forms for judiciary and voluntary acts were established. It must be upon that principle that the two parts of civil legislation have been established: such was the case with the Romans. The senate, which, after the expulsion of the kings, had attributed to itself the exclusive knowledge of all affairs, but in its judgments had no other guide than natural equity, with which it is so easy to confound interest and passion,—was at last obliged to yield to the wish of the tribunes, who were pressing it, to obtain a body of laws, in which every citizen might be informed of his rights, of the mode of enforcing them, and of the duties he had to fulfil. Solon had illustrated his country by the wisdom of his institutions. Deputies were sent to Athens, and other Grecian cities, to acquire a knowledge of their best laws and most useful usages: the laws of the twelve tables were the result. But they had not determined the manner in which the citizens

would exercise their rights; they contained only the theory of positive justice: what is generally termed practice, was to be established. To fill up that difficulty, the Roman jurists invented public forms, which were named the actions of the law, by which both judiciary acts, and acts purely legitimate, had their solemnities. The pontifs, the patricians, and the law practitioners, were the sole guardians of these forms. The latter, jealous of their authority, and desirous to make themselves necessary to the plebeians, at the same time; as they attached the most strict observance to these forms, the least omission of which, caused an absolute nullity, they concealed them from the people. The result of this scheme was that the practitioners were consulted as so many oracles, and thereby obtained numerous clients, thus securing as many votes in public elections.

II.—Of the Flavian Law.

One Flavius, the son of a freed slave, found means to purloin the book of actions, and made it public. The people, through gratitude, elected him edile, and named the book the Flavian code.(1) The gift was as agreeable to the people as it was vexatious to the patricians. These, to remain in possession of the forms, composed others, and augmented them with symbolic signs and solemnities; as the gift of an iron ring, in promise of marriage; the joining of right hands, to express the mandate, &c.

III.—Of the Cælian Law.

Sextus Cælius, being appointed edile of Rome, again made these forms public. Soon after, written signs, or abridged notes, were substituted to them, and the forms were abrogated by Theodosius, the younger.(2)

IV.—Of the Plebiscitum and Agrarian Laws.

Their difference from the *leges*, or laws, properly so called, were:

First—That the law was to be made at the instance of the patrician magistrate, and the *plebiscitum* at that of a tribune of the people.

Second—To sanction a law, it was necessary that all the different orders of the people were assembled. The *plebiscitum* emanated from the sole tribunal of the plebeians.

Third—The law was to be published at the *champ de mars*; the *plebiscitum* was published either at the capitol or at the circus, and more generally at the *comitium*, or assembly of the people.

Fourth—To receive a law, it was necessary to assemble the *comitium* by centuries; the assembly of the tribunes sufficed for the *plebiscitum*.

Fifth—It was the tribunes who generally opposed the passing of a law, and the patricians who opposed the passing of a *plebiscitum*.

(1) Digest, lex 2, § 7, de Origine Jurés; Terrasson, Histoire de la Jurisprudence Romaine page 208; Massé, Discours sur la Science des Notaires, page 10.

(2) Law, 15th Code; of Wills, 21st Code, de Legatis; Law, Code de Formul.

V.—State of the Roman Jurisprudence under Julius Cesar.

Julius Cesar, one of the greatest men among the Romans, and one of the most zealous for the good of his country, was, however, the first who violated and trampled upon the liberty of the republic, and who laid the foundation of a new monarchical government. To this end, he caused himself to be created dictator. Not satisfied of being invested with the sovereign power—he wanted to make it permanent—he was made perpetual dictator, in violation of the laws which had at that time governed Rome. From that epoch the republic was at an end; from that time Rome was at the feet of a master, whose mighty mind saw that the best guarantee of his power would rest only in the establishment of a settled and permanent system of jurisprudence; for frequently the first cause of a revolution had been the introduction of a bad law.

He undertook a general revision of the laws—the task was light for him, for he had already made many—by which he had corrected what was defective in the old. He had moderated the avidity of the magistrates, by the law *Julia de Repe-tundis*; he had fixed the sacerdotal functions, by the law *Julia de Sacerdotiis*; he had declared himself against usury, by the law *Julia de Pecuniis mutuis*; he was the author of the law *Julia Agraria*, inflicting severe punishment upon those who would remove land marks. Historians regret that he did not complete his object being as good a legislator as a great warrior.(1)

This is what can be the most relied on, as relative to the Roman jurisprudence to the end of the republic.

VI.—Of the Lex Regia and of the Laws of the Emperors.

At the commencement of the empire, Octavius Cesar attributed to himself alone the legislative power: that of the senate and of the people had fallen. He made use of this power to regulate the rank and fortune of each citizen—to insure the punishment of crimes, to preserve the honest and good from falling under the oppression of others. Contrary to the 74th law of the twelve tables, he granted privileges to those who brought to, or cultivated for Rome some useful science. The people confirmed to him the legislative power, by a law which was called *Lex Regia*. Tiberius, his successor made use of it only to place himself above the laws, and to violate the rules even of common decency.

Tiberius Claudius, the successor of Caligula, cannot be accused of not having used of the right of legislating, for he published twenty edicts in the course of one day. He forbid wives from obliging themselves for their husbands. He was old, and wanted to get married, he mitigated the law that prohibited the marriage of old people.

His desire was to get for his wife the daughter of Germanicus, his brother, and he caused a law to be passed, by which the marriage of the uncle and the niece was permitted. This emperor's name is found in five places of the digest.

Nero—it is to the honour of jurisprudence that he did not meddle much in the making of laws—however made a good one, which prohibited those drawing wills for others to insert any legacies in their own favour.

(1) See Terrasson, Histoire de la Jurisprudence Romaine, pages 335, 336.

The *Lex Regia* was not renewed in favour of either Galba or Vitellius.

The great qualities of Vespasian caused the *Lex Regia* to be renewed in his favour. He caused it to be engraved on tables of brass, and a fragment of it was discovered during the pontificate of Gregory the Thirteenth, who caused it to be placed in the capitol, where it is preserved to this day.

Nerva made the third law of the digest *de Termino Modo*; dispensed the military wills of formalities.

Trajan had had Plutarch for his preceptor, who inspired him with the desire to equal the great men whose lives that historian has left. His successors, in taking possession of the supreme power, wished to themselves the prosperity of Augustus and the honesty of Trajan. Only a few of his laws are to be found in the code, but the Roman lawyers have cited him seventeen times in the digest.

Adrien succeeded to the virtues and title of Trajan, whose cousin he was. He is the author of many laws: it is he who decided that a treasury found by the proprietor on his ground should belong to himself; if found by a stranger, in presence of the proprietor of the soil, it should be equally divided between the two: that a child born within eleven months from the death of his mother's husband was to be legitimate. He gave rescripts in favour of the Christians, which rescripts he caused to be assembled under one law, under the name of the *perpetual edict*.

Antonius Pius contributed to the progress of jurisprudence. The law which deprives the husband of the right of accusing his wife of adultery if he was himself guilty of that crime, is attributed to him. Nine of his constitutions are inserted in the code, and more than eighty in the digest.

Marcus Aurelius, the philosopher, and Lucius Verus, are called *Devis fratres* in several laws. They made a great number of constitutions, of which five only are found in the code, but more than forty in the Theodosian digest; four in the Justinian code, and twenty in his digest.

Septimus Severus, endowed with great courage, and a better general than any of his predecessors, was also much versed in the knowledge of the law. One hundred and thirty of his are inserted in the code, fifty in the digest, and eighty in the institutes.

Maximus, his successor, made sound laws, of which three only are to be found in the code.

Gordian, who reigned only about one month, had no time to make laws.

Gordian, his grandson, made a great number of laws, of which two hundred are included in the digest.

Philip, who caused Gordian to be put to death, made no other edicts than those against the Christians.

Tribonius, Gallus, and Valusianus, his son, reigned only eighteen months: they were all killed in a revolt. Two of their laws are inserted in the code. Galerian promulgated seventy-two constitutions, forming part of the code, and Gallien, his son, four.

Flavius Claudius, their successor, employed almost all his time to persecute the Christians. Only two of his laws are to be found in the code.

Aurelian, Probus, Carus, Numerius, and Carinus, reigned in the whole fifteen years. The two first were assassinated by his brother-in-law, the fifth killed by

a tribune, whose wife he had seduced. There are in the code five constitutions of Aurelian, four of Probus, one of Carinus, four of Carus, and six of Numerian and Carinus, reigning together.

Diocletian, one of the most cruel persecutors of the Christians, has left ten constitutions inserted in the code.

The great troubles which agitated the empire, after the abdication of Diocletian, prevented his successors from enacting any laws. There are only two of Constantius Chlorus' inserted in the code, and one of the other emperor's.

To this is reduced what the emperors have left from Adrian to Constantine; but it is during that period that the most part of the celebrated Roman jurists have shined, whose writings have served to compose the digest.

VII.—Of the Gregorian and Hermogenian Codes.

Constantine, during his reign made a great number of laws and constitutions, which he clothed with regal authority, so that they might be observed throughout the empire. At the same time, two individuals collected and published the laws and constitutions of the emperors, from the reign of Adrien to that of Diocletian. It is this collection that, from the names of the compilers, have been known by the appellation of the Gregorian and Hermogenian codes; although cited by Justinian, they were never sanctioned by public authority. Of these codes, nothing could remain had not Anien, one of the jurists of the barbarian Alaric, preserved a few fragments of them.

Theodosius, known in history under the name of Theodosius the Great, published a great number of edicts in favour of the Christian religion: Arcadius and Honorius augmented their number. The multiplicity of these laws, edicts, and constitutions rendered the study of jurisprudence tedious and difficult. That prompted Theodosian, the younger, to give his code.

VIII.—Of the Theodosian Code.

That emperor entrusts eight jurists with the execution of this enterprise, who divided this code in sixteen books. Theodosius promulgated many other constitutions. These new laws and the Theodosian code were insufficient altogether when Justinian arrived to the empire. Jurisprudence had become so confused and uncertain, and the number of suits was so much increasing every day, that the judges themselves were in doubt how to decide. That gave rise to the compilation of Justinian.

IX.—Of the Compilation of Justinian.

To remedy the disorder which existed in the administration of justice, Justinian formed the design of making a new code, to be taken from the constitutions he had himself published, and of the three codes of Gregorian, Hermogenian, and Theodosian, as of the novels, or new constitutions of Theodosius and his successors. Tribonian, and nine other jurists, were directed to frame it, which they did in the course of one year. That code was published at the Ides of March A. D. 529.

CONTENTS OF NO. I.

INTRODUCTION.

Page 3.

Study of the Law—Criminal Law—Jurors—Justices of the Peace—Judges—Members of the National Councils—Profession of the Law—Advocates—Plan of Studies—Of the Law—Customs—Statutes, Capitularies, Ordinances, Edicts, and Arrets—Division of Statutes—Personal Statutes—Real Statutes—Universal Statutes—Special Statutes—Jurisprudence—Justice—Division of Law—Law of Nature—Of the Law of Nations—Public Law—Civil Law—General Rules of the Roman Law to make and expound Written Laws—General Rules to be observed in the construction and in expounding Statutes in the English Constitution—Summary of the British Constitution—Summary of the Constitution of Scotland.—P. 3.

CHAPTER I.—P. 19.

Uncertainty of Profane History before Homer—Homer, his Iliad and Odyssey first mention of Political Institutions amongst Men—Hésiod, his Theogony first Theological Book of Paganism—The principal Events and Heroes taken from the Mosaic History—A few Parallels, (Chaos, Deluge, Noah, Deucalion, Noah and Saturn, Moses and Bachus, Canaan and Mercury, Abraham and Athamas, Isaac and Phrixus, &c.)—Of the Books of the Egyptians—Of the Sacred Books of the Romans—Of the Sibylline Books—Doctrines of the Modern Philosophers—Judaism and the Books of Moses.

CHAPTER II.—P. 29.

Events of the first Age of the World.

CHAPTER III.—P. 30.

Events of the second Age of the World—Family of Japheth—Family of Ham—Family of Shem.

CHAPTER IV.—P. 33.

Events of the third Age of the World.

CHAPTER V.—P. 34.

Of the Written Law and of the Laws of Nature—Foundation of the Written Law—Text of the Decalogue.

CHAPTER VI.—P. 35.

Solomon, or the Temple completed—His Wisdom and Commerce—His Downfall—Rehoboam, and the loss of ten Tribes—His Nation falls into Servitude—Great Events in Western Asia—Athenians—Egyptians—Phœnicians—Progress of History of the Laws and Religion during this Age—History—Coincidence of the Sacred and Profane Histories—Laws of the Hebrews.

CHAPTER VII.—P. 40.

Laws of the Hebrews—Of the Rabbins, and their Authority—Of Excommunications—Contracts, Writings, Notaries—Judges—Marriage—Solemnities of Marriage—Divorces—Consistory, or Senate, of the Jews—Of the Year and Month, Sabbath, and Holidays.

CHAPTER VIII.—P. 45.

The two Mercuries, and the Laws of the Egyptians—Distribution of Justice—Minos, and the Laws of the Cretans—Lycurgus, and the Laws of Sparta—Draco and Solon, and the Laws of Athens—Principal Laws of Solon.

CHAPTER IX.—P. 50.

Rehoboam, and the Idolatry of the Ten separated Tribes of Israel.

CHAPTER X.—P. 55.

Remus and Romulus, their Origin—Exposed on the Borders of the Tiber—They restore their Grandfather to the Throne of Alba—They look for a Sheltering Place—Foundation of Rome—Death of Remus—A Form of Government is Established—The Romans obtain Wives—The Sabine become the Allies of the Romans—Romulus Murdered—His Apotheosis—Numa Pompilius—Tullus Hostilius—Ancus Martius—Tarquinius Præscus—Servius Tullius—Tarquin the Proud—Downfall of Royalty.

CHAPTER XI.—P. 58.

Consular Government—Establishment of Tribunes—Decemvirs Established—Principal Laws of the Papyrian Code—Division of the Laws of the Twelve Tables—A few of the Principal Laws of the Twelve Tables—The Decemvirs Expelled—Battle of Cheronæa—First Exploits of Alexander—Alexander and Darius—The Empire of Alexander is Divided—All yield to the Romans—First step towards the Downfall of the Roman Empire—Julius Cæsar Subdues the Gauls and almost all the World—He is Murdered—Battle of Actium—Augustus Shut—General Peace—The Temple of Janus is Shut—Jesus Christ comes into the World.

CHAPTER XII.—P. 66.

Birth of Christ—Death of Herod—Death of Augustus—Tiberius—Formation of the Church—Death of Christ—Caligula and Claudius—Council of Jerusalem, its Promulgation—Nero—Vespasian—Titus—Jerusalem Burned—Dometian, his Persecutions—Nerva and Trajan—Adrien, he Rebuilds Jerusalem, but Banishes the Jews—Antonius Pius, and Marcus Aurelius—Comodus and Pertinax—The Empire put up at Auction: a Lawyer buys it—Severus Africanus, and Heliogabalus—Alexander Severus—Maximin—The Senate appoints four Emperors—The Empire is Inundated by Germanic Tribes—Divided amongst Tyrants—The Franks grow Formidable—Tacitus—Probus—Diocletian and Maximian—Constantianus Chlorus and Galerius—Constantine—Galerius, his Persecutions and his Death.

CHAPTER XIII.—P. 72.

Constantine embraces Christianity—Julian's Revolt and Apostacy—Jovian—Valentian—Gratian—Theodosius, the delight of the World—Aadius and Honorius—The Franks get Possession of the Gauls—The Anglo-Saxon Race Invades the South of Great Britain—Rome becomes a prey to the Barbarians—Clovis Overthrows the Roman Power in the Gauls—Justinian, his Death—Charlemagne, the Franks, and the Saxons.

CHAPTER XIV.—P. 76.

Of the Roman Laws following those of the Twelve Tables—Of the Plebiscitum and Agrarian Laws—State of the Roman Jurisprudence under Julius Cæsar—Of the Lex Regia, and the Laws of the Emperors—Of the Gregorian and Hermoginian Codes—Of the Theodosian Code—Of the Compilation of Justinian—Of the Code—Of the Digest—Of the Institutes—Of the Correction of the Code and of the Novels.

