

The National Intelligencer.

A N D
WASHINGTON ADVERTISER.

VOL. I. WASHINGTON CITY. PRINTED BY SAMUEL HARRISON SMITH, NEW-JERSEY AVENUE, NEAR THE CAPITOL. N. LXX.

Price Dollars, per Annum.

MONDAY, APRIL 13th, 1861.

PAID IN ADVANCE.

REVIEW OF "A MANUAL OF PARLIAMENTARY PRACTICE, FOR THE USE OF THE SENATE OF THE UNITED STATES," BY GEORGE JEFFERSON. Printed at Washington, by Samuel H. Smith, 1861.

IT has long been an object of public importance to have a work on Parliamentary Practice, which, while it compiled all the essential rules of procedure, avoided the tedious and abstruse details of European performances of a similar nature. The value of such a work must have been apparent to every citizen whose curiosity or duty has led to be present at the discussion of interesting topics before large deliberative assemblies. The responsibility of an author, and indeed their aptitude to the prompt and fair translation of business, are found to depend essentially on the correctness and observance of precepts. The rules should be important, concise, and easy of application. To lay them down with precision, requires perspicuity of arrangement, simplicity of diction, and the talent to condense and generalize. It is therefore to be desired that the author of this performance has successfully combined these necessary qualifications.

About to leave the Senate of the United States, his department had been to many, modest and enlightened, as to receive credit from his political opponents, the plan of praise, it afforded to him that no more valuable legacy could be bestowed upon the Republic, many of the materials of which have been collected from, and all of which applied to its proceedings. Such a work may not be calculated to elicit with the same facility as that of a party, or to be valued by falling sections of fame, the weight of his popularity; but it establishes with the reflecting class of the community the more substantial claims derived from the performance of a useful and patriotic work, though nominally for the use of the Senate, will be found alike applicable to the Federal House of Representatives, and the deliberative assemblies under the late government.

The following preliminary remarks will enable the reader to form an idea of the leading features of the work:

"The Constitution of the U. S. establishing a Legislature for each branch of it, to determine the rules of its own proceedings, the Senate has accordingly formed, from rules for its own government, which have been given only to few States, but have been referred to in the Constitution of their President, without debate and without appeal, all questions of order arising either under the rules, or where they have provided none. This places under the direction of the President a very extensive field of decision, and one which irregularly exercised, would have a powerful effect on the proceedings and determinations of the house. The President must feel weightily and bravely this confidence in his discretion, and the necessity of recurring, in his government, to some known system of rules, that he may not be obliged to take any course of his own, or to the impulsion of the moment. But to what system of rules is he to recur, as supplementary to those of the Senate? To this there can be but one answer: to the first and best system of rules applicable for the government of some of the parliamentary bodies within these States, or of that which has served as a prototype to most of them. This law is the model which we have adopted, while we are little acquainted with the modifications of it in our several States. It is deposited in publications possessed by many and open to all. Its rules are probably as wisely contrived as any government has devised for a deliberative body, and containing its true tenets, as any which can become known to us; and the acquisition of the Senate hitherto under the influence of us, has given them the sanction of their approbation.

"Considering therefore the law of proceedings in the Senate as composed of the precepts of the constitutions, the regulations of the Senate, and where they have diverged, of the rules of Parliament, it has been endeavored to collect and digest to practice those called for in ordinary practice relating to the Parliamentary with the Senatorial rules; both where they agree and where they vary. I have done this, as well to have them as hand for my own government, as to deposit with the Senate the Standard by which I judge and am willing to be judged. I could not do this, without necessity of quoting the sources of my information; among which Mr. Hatfield's most valuable law is prominent; but it has only treated few general heads, I have been obliged to recur to other authorities in support of a number of common rules of practice, to which his plan did not extend. Sometimes such authority cited supports the whole passage. Sometimes the authority goes only to a part of the text, the residue being inferred from known rules and principles. For those not found in former laws no written authority, or can be quoted; no writer having afforded it necessary to repeat what all were presumed to know. The statement of these rules is not intended to be a substitute for any other. I am aware that authorities can be found produced in opposition to the rules which I lay down as parliamentary. An attention to data will generally remove their weight. The proceedings in Parliament, in ancient times, and for a long while, were crude, uniform and embarrassing. They have been however continually advancing toward uniformity and accuracy; and the more advanced degree of civilization to which they have attained, beyond which little is to be desired or expected.

"Yet I am far from the presumption of believing that I may have mistaken the common law practice in some cases; and especially in those minor forms, which being prescribed laws, are supposed to be known to every body, and therefore have not been corrected or written out. It is in this quarter of the globe, for want of sufficient information on that part of the subject, are not perfect. But I have begun a sketch, which I hope will come after me, will be more fully corrected and filled up. The code of rules shall be formed for the use of the Senate, the effects of which may be ascertained in business, economy of time, order, uniformity, and impartiality."

"The work is divided into five books, each of which contains the rules applicable to the order of each of which it treats; and under each section are listed the decisions of the Constitution, the rules of the Senate, and the rules of Parliament. Connected with these is an occasional elucidation of interesting points by the observations of the author.

"The section on VOTING is quoted, and will become it hereafter, as the matter in which the work is exercised, as because it involves considerations of great moment.

"The President of the United States has power, by and with the advice and consent of two thirds of the Senators present, to make, or to alter, or to repeal, any law of the land. It differs from other laws of nations, being but a contract with respect to that nation. In all countries, I believe, except England, treaties are made by the legislative power, and therefore, if they violate the laws of the land, they must be approved by parliament. Ware v. Hylton, 2 Dallas rep. 272. It is acknowledged, for instance, that the king of Great Britain cannot by a treaty make laws of Great Britain, 11 Bin. 1. p. 19. Sec. 214. An act of parliament was necessary to validate the American treaty of 1783. And abundant examples of such acts can be cited. It is with the laws of the Senate, that the commercial articles required the concurrence of parliament. But a bill brought in that pur-

pose was rejected. France, the other confederating party, did not object to the article, as it was not insisted on, and adhered to the rest of the treaty. 4 Russell's Hist. Mod. Europe 437. 2 Smollet, 243. 246.

"By the confederation of the United States this department of legislation is committed to two branches only of the ordinary legislature; the President originating, and the Senate giving a negative. Those subjects this power extends, has not been defined in detail by the constitution, nor are we entirely agreed among ourselves. It is admitted that it must extend to foreign nations party to the contracts, or would be a mere nullity, res inter alios acta. 2. By the general power to make treaties, the constitution must have intended to comprehend only those subjects which are of importance to the nation, and cannot be otherwise excepted. 3. It must have meant to extend out of their rights reserved to the States; for surely the President and Senate cannot do by treaty what the whole government is authorized from doing in any way. 4. And also to except those subjects of legislation in which it gave a participation to the house of Representatives. This exception is denied by some on the ground that it would leave very little matter for the treaty power to work on. The less the better say others. The confounding together it will be sufficient to excite the passions of the people, and look forward to the day of Republicanism, as the negotiations are carried on by the Executive alone, the subjecting to the ratification of the Representatives such articles as are within their participation, more inconvenient than to the Senate. But the ground of this exception is denied as unavailing. For example, e. g. the treaty of commerce with France, and the articles by the ratification of which are not more than two or three of them which would not still remain as subjects of treaty, untouched by their exception.

"Treaties being concluded equally with the law of the United States, to be the law of the land, it is understood that such legislative acts cannot declare them invalid and null. This was accordingly the reception adopted in the case of France in 1793.

"It has been the usage for the Executive, when it communicates a treaty to the Senate for their ratification, to communicate also the correct copy of the treaty. This having been omitted in the case of the Missouri treaty, was insisted by a vote of the house of Dec. 1820, and was obtained. And in Dec. 1850, the convention of that date between the U. S. and France, with that respect to the negotiations by the survey, but not their instructions, being laid before the Senate, the instructions were filed for and communicated by the President.

"The mode of voting on questions of ratification is by a nominal call.

"Resolved, as a standing rule, that whenever a bill is laid before the Senate for ratification, it shall be read a full time for information only; when necessary to rectify, or modify the whole, or any part shall be read.

"That in formal reading, bill for confirmation, and on a subsequent day, it shall be taken up as in a committee of the whole, and every one shall be free to propose a question on any particular article in this form: 'Will the Senate advise and consent to the ratification of this article?' or to propose amendments thereto, either by inserting or by leaving out words, or by striking out words, or by adding words, which will call the question shall be, 'Shall the Senate advise and consent to the ratification of this article?' And in every of the said cases, the concurrence of two-thirds of the Senators shall be requisite to decide affirmatively. And when through the whole, the proposition shall be taken to the house and questions being severally put thereon for confirmation, or new ones proposed requiring the manner a concurrence of two-thirds of whatever is retained or inserted."

"That the Senate shall be divided into the house, or a committee thereof, be reduced into the form of a ratification with or without modification, as may have been

proposed, and shall be proposed on a sufficient number of every one shall be free to move amendments, either by inserting or leaving out words; in which case the question shall be, 'Shall the Senate advise and consent to the ratification of this article?' And in both cases the concurrence of two-thirds shall be requisite to carry the affirmative; as well as on the final question to advise and consent to the ratification in the form of a committee of the whole. It is stated that when any question may have been decided by the Senate in which two-thirds of the members present are necessary to carry the affirmative, any members who voted on that file which prevailed in the question, may be at liberty to move for a reconsideration; and a motion for reconsideration shall be decided by a majority of votes.—Rule of Feb. 3, 1861."

The following is an English Review of a treatise published in Germany on the following subject:

What important advantages in individual and social Happiness may be expected in the following Century?

This is a question which will be answered very differently by almost every person to whom it is proposed. The language prognosticates immense improvements in the state of humanity; and it is melancholy to have to see the progress of the world looking forward to the day of perdition; the infant threatens with the decay of Christianity. The question is however, to be answered, by no means contemptible, reflecting on the past, less good grounds for hoping that the next generation will contribute to the world with considerable advantages, and that it may lay the basis for improving the present health, form and morals; and the reasons here given are sufficient to dispel the gloom from the brow of the melancholy though they are no means convincing the bold frames sustained by many sanguine visionaries.

It is supposed that the ensuing century will be marked improved in bodily health and strength; for it will not require the bold notions of the present century respecting the mode of treating children, and the disregard to temperance and sobriety. Mothers will nurse their infants with more care, the mode of the infant at liberty will be universally adopted; as it grows older, it will be gradually accustomed to the use of cold water, to a harder diet, to hours, to an abundance of exercise. The mother, and as Latin and Greek will confer less distinction, to an improvement of its mind in the knowledge of its own language and useful sciences. Christianity will be held in the highest honor; domestic happiness will be promoted; parents will receive pleasure from the society of their children, and will not find in need of cards and gaming to drive away time. They will find it a greater amusement to instruct their offspring in religion, morality, and good manners; and in the art of cheerfully giving a life founded in abundance. The mode of our government will perhaps be fortified in our author's strong recommendation of frugality, as he would have it introduced in every place of education. Frugal habits will diffuse the seeds of Christianity in youth with such propriety, that we are inclined to agree with him in recommending the opening and closing of every day by a chorus which should, above all things, keep the voice within its natural range. Reading is another exercise which is strongly recommended; and this is neglected in an extraordinary degree in our great schools. The boys being accustomed to the manner of performing religious service in church, and in the sermons of the clergy of all denominations.

The freedom of the press is to another great advantage of the ensuing cen-