is safe. If the prosecuting officer or the Judge in any particular district is a traitor, or if a majority of the people are secessionists, nothing could be done, because there would be no judicial process in aid of which the President could call out the military power. All the prisoners, including those taken in battle, now in the hands of our Government, ought to be discharged, because the writ of habeas corpus, according to the Merryman case, has not been suspended, and not one of them is held under any civil process whatever. It is impossible to make any sound distinction between the capture of a rebel in Maryland by Gen. Cadwallader, and one in North Carolina by Gen. Butler.

Many affect to fear that the President will usurp despotic powers if he is justified in the measures which he has adopted; but there is not the slightest ground for such an apprehension, either with regard to the individual who now occupies the chair of State, or any of his successors. He has no standing army devoted to his interests, and dependent on him for support, to sustain him in any such usurpation. The steps which he has taken were not for his own aggrandizement, but to preserve the institutions of the nation, and among them, the writ of habeas corpus. No man can, in this country, with safety to himself, deprive any one of the privilege of this writ without the approbation of a great majority of his fellow citizens; and if it is ever lost, so long as the Constitution remains, it will be with the full consent of those who are entitled to it.

D.

LAWS OF MENU.

The frequent allusion to these laws by Maine, in his late treatise upon "Ancient Law," as well as by other modern writers, has led us to refer to them in order to see how far they coincide with what is recognized as the law at the present day. There have been two sources from which a knowledge of these has been derived—the translation, by Sir William Jones, which may be found in the 7th and 8th volumes of his works, and a translation in French of a

much more recent date, with explanatory notes, by *A. Loisileur Deslong Champs*, published in 1833. For convenience, the text of the former work will be referred to.

Of the authenticity of these Institutes of Hindoo law, we suppose there can be no reasonable doubt, though in respect to their origin or their date, there is no occasion to adopt the credulity of the Hindoos. If we did, we should believe them "to have been promulged in the beginning of time by Menu, son or grandson of Brahma, the first of created beings, and not the oldest only, but the holiest of legislators." Of their very great antiquity there seems to be no doubt, and whether Menu is to be regarded as identical with Minos of Crete, or Menes of Egypt, as some have supposed, it has not been thought extravagant to assume from certain intrinsic evidence which writers have detected, that they were promulgated from 1200 to 1500 years before the Christian Era.

This period was, at any rate, early enough in the history of the race to make an examination of them a subject of curious study as a matter of comparative jurisprudence. One cannot fail to feel an interest to see how far the rules which regulate the daily transactions of social and business life in our day, as well as the modes of determining matters of personal right and questions of private property, their corresponding form, as well as spirit, in codes of law existing twenty-five hundred years before the Norman conquest. While many of the rules contained in this body of laws are, in the light of revelation and an advanced state of civilization, worse even than ridiculous, they will be found to relate chiefly to religious rites required by the superstitions of a sect, or the supposed physical condition of separate people. But such of them as relate to the generic wants and condition of man, considered in his social relations, will be found singularly wise and just, and not a few of them embodying the substance of important rules which regulate the complex system of trade and business in our day.

We must content ourselves with two or three illustrations by passages cited from the translation of Sir William Jones. Chap. 8, "on judicature and on law private and criminal," prescribes the mode and principles of administering justice by the king through

Brahmins and Counsellors who know how to give advice. It lays down eighteen principal titles of law by which he is to decide causes: among which, are 1, debt on loans for consumption; 2, deposits and loans for use; 4, concerns among partners; 6, non-payment of wages or hire; 11, contests on boundaries; 17, the law of inheritance—"these eighteen titles of law are settled as the ground-work of all judicial procedure in this world."

The chief judge was to be accompanied by three assessors, constituting what is there called "the Court of Brahma with four fans." The judges are most solemnly charged therein to do justice between suitors. "Understanding what is expedient or inexpedient, but considering *only* what is law or not law, let him examine all disputes between parties, in the order, &c."

"What has been practiced by good men and virtuous Brahmins, if it be not inconsistent with the legal customs of provinces or districts, of classes and families, let him establish."

They prescribe rates of interest of money when loaned with and when without security, and also provide for interest on maritime risks. Among several provisions as to bailments not varying essentially from rules now applied in similar cases, we give the following as the statement of what, if we mistake not, would be ruled in Westminster Hall, or by any respectable American Court. "In the case of a deposit sealed up, the bailee shall incur no censure on the redelivery, unless he shall have altered the seal or taken out something."

We shall mention only one more extract, and that relates to the rule applicable to the case where a servant or hired laborer engages to work for a definite time and leaves, without good cause, before the expiration of the stipulated time. By the English and most of the American Courts, such a contract is held to be entire, and if the laborer fail of an entire performance he will not be entitled to recover even for the time he may have wrought. The cases of *Turner* vs. *Mason*, 14 Mees. & Wels. 112; *Olmsted* vs. *Beale*, 19 Pick. 528, and *Lantry* vs. *Parks*, 8 Cowen, 63, were of this character, and in some of them the rule was applied with great stringency. The case of *Britton* vs. *Turner*, 6 N. H. 481, sustains a different

doctrine, and allows the laborer to recover whatever his labor may have been worth over and above the loss and injury his employer shall have sustained by his failing to complete his contract term. We give below the rule which was laid down as the wisest and best for governing such relations hundreds of years before Westminster was a seat of justice, or the American continent had been dreamed of in the old world.

"I will next propound the law for non-payment of wages." "That hired servant or workman, who, not from any disorder, but from indolence fails to perform his work according to his agreement, shall be fined eight *racticos*, and his wages or hire shall not be paid." "But if he be really ill, and, when restored to health, shall perform his work according to his original bargain, he shall receive his pay even for a long time." "Yet whether he be sick or well, if the work stipulated be not performed by another for him, or by himself, his whole wages are forfeited, though the work want but a little of being complete." "This is the general rule concerning work undertaken for wages or hire."

We have no space, if we were disposed, to dwell upon the hint which is here offered, how far the great and leading systems of jurisprudence heretofore known to the world, may have had a common origin. But we may say, we trust that the time is not far off when the historic mode of investigation will be pursued in the study of the common law, as it has been in that of the Roman law and kindred sciences.