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FRANCIS LIEBER.

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BY DANIEL C. GILMAN, LL.D.,

PRESIDENT OF JOHNS HOPKINS UNIVERSITY.

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BASED ON THE PREFACE TO THE FORTHCOMING EDITION OF "LIEBER'S CIVIL LIBERTY."

The name of Dr. Francis Lieber, the German-American publicist, whose reputation and influence were at their best in the third quarter of the last century, is not familiar to the present generation, but is likely to be again brought before American students of historical and political science, by the republication of his treatise on Civil Liberty. This great work was introduced into the required undergraduate courses of Yale College by President Woolsey, who became the editor of the third edition of the book soon after Dr. Lieber's death.

I have sometimes thought that the large number of graduates from Yale who have entered public life and have become leaders in the maintenance of sound political doctrine, may be accounted for by the fact that many of them have been disciplined by the study of this work. But whether this is so or not, the interest now shown in the study of government by the educated young men of this country is a reason for calling their attention to the work in question.

The writings of Francis Lieber have had a remarkable influence upon the most thoughtful students of politics in our

own country and abroad. This is not due to any charm of style nor to any pictorial power of presenting to the reader the critical events of modern political history. His language is severe and sometimes rugged, but is often illumined by a grim humor which may appear in a foot note or in the appendix, as well as in the body of the text. Every paragraph is full of thought, and thought that is independent—not the echo of the sayings of other people; and yet almost every page, certainly every chapter, bears indication of his wide reading and of his familiarity with the great jurists and statesmen of ancient and modern times.

In the charming sketch of his life, by Judge Thayer, of Philadelphia; in the preface to the *Civil Liberty* by President Woolsey; and in the comprehensive memoir of Professor Thomas S. Perry, it is easy to discover the sources of Lieber's influence, and to form some idea of the extent to which he succeeded in getting a hearing among learned, broad-minded, and vigorous students of the fundamental principles of government and the conditions under which free institutions are maintained. To these accessible papers the student is referred.

Strong men have been taught by Lieber and guided by him in the paths of justice and right; strong men were likewise his friends and teachers. Bluntschli, Mittermaier and Von Holtzendorff in Germany, De Tocqueville, the author of "*Democracy in America*," and Laboulaye in Paris, were among his familiar correspondents, while his early life was largely influenced by Niebuhr, the celebrated historian of Rome. In the maturity of his career he was invited by the King of Prussia to return to his native land, and accept an official position. The Englishmen whom he knew were among the foremost; and of Americans devoted to public affairs, from 1840 to 1870, it may almost be said that he was acquainted with everyone worth knowing, and that many of them have left on record an appreciation of his merits as a writer.

Let me give a signal illustration. Among recent authorities in this country upon public law one of the most respected is the late Professor Thomas M. Cooley, of the University of Michigan, formerly Chief Justice of the State and afterward one of the original Interstate Commerce Commissioners. In a private letter, never published, he says: "Dr. Lieber could not express his matured thought on any political subject without saying what the wisest statesman might read and reflect upon with profit; for his learning was profound, his observation of

peoples and their institutions extensive, his mind logical and just, and he was accustomed to take broad and enlightened views on all national and international questions. In matters of government, especially, his studies not less than the natural bent of his mind made him eminently practical, judicious and safe."

It is not necessary, however, to search for endorsements of this well-known philosopher, for the examination of his writings affords abundant proof of their value. They may grow old, but they do not lose their flavor.

It is a quarter of a century since the third edition of Lieber's *Civil Liberty* appeared and it will now be reproduced without any changes. The entire treatise might well be recast with references to the great events which have occurred since the author's death, but it has been decided to leave the volume as it was left by his friend the editor. Some of the allusions are indeed remote, but they are not obscure, and the student to whom they are unfamiliar will receive good discipline by the slight amount of investigation and verification which they may require. Lieber's judgment of persons is never partisan, while the principles that he advocated and the arguments that he employed will not cease to be timely so long as the human race is engaged in its laborious, inadequate, and often disappointing endeavors to establish good government.

The more important writings of Dr. Lieber are found in six volumes. That on *Civil Liberty*, edited by President Woolsey, is a treatise on the principles of free government, especially as it has been developed in England and America. Probably this has been the most influential of his works in the training of young men.

Next in importance to the *Civil Liberty* may be placed the *Political Ethics*, of which the second edition was also edited by President Woolsey. A large part of the first volume is a discussion of the State, a philosophical and historical study. The latter part of the volume and the second volume discuss the moral conduct of individuals and communities, in all that pertains to the public welfare. It is needless to say that the author's standards are the highest. But his work is practical as well as ideal. The young man who aspires to leadership in political affairs may well peruse these volumes and make their precepts his guides.

The work on *Legal and Political Hermeneutics* has been edited by Professor W. G. Hammond of Iowa. It is a treatise

on the principles of interpretation and construction which should be recognized in the study of law and politics.

Subsequent to the death of Dr. Lieber a large number of his miscellaneous writings were collected and published in two volumes. They include much that is personal,—his conversations with Niebuhr, and his reminiscences of the battle of Waterloo, in which he was a Prussian soldier, for example—besides noteworthy essays on the Constitution of the United States, and several public addresses. These volumes contain Judge Thayer's biographical memoir, and an important essay by Professor Bluntschli.

One of the most important services of Dr. Lieber should never be forgotten. He originated the idea of codifying the laws of war, and was the author of the code approved by President Lincoln and formulated in 1863 as "General Order No. 100" for the government of the United States armies in the field. We have the authority of Mr. F. W. Holls, one of the members of The Hague Conference, for saying that this order, as was recently said by M. de Martens, at The Hague, has remained the basis of all subsequent efforts in the direction of the humanization of war. Bluntschli had previously said that this publication was a deed of great moment in the history of international law and of civilization.

From 1860 to 1870, Bluntschli in Heidelberg, Laboulaye in Paris, and Lieber in New York, representing three peoples, three states, and three civilizations, as one of them remarked, were close correspondents. It may interest the student to know that in the Johns Hopkins University there is an interesting memorial of these three men who formed "the international clover-leaf" as Lieber called it. The library of Bluntschli was brought to Baltimore soon after his death, and many of his manuscripts came with the books. Subsequently Mrs. Lieber added to this collection the books, pamphlets, and manuscripts which her husband had written. Some autographs of Laboulaye were afterward presented to the collection by his sons. His library had previously been given by Michael Reese to the University of California.