country to which they render no service, and which they use these papers to drag into foreign quarrels.

The difficulty arises evidently from the fact that the treaties treat the whole subject as if, after a new naturalization is acquired, the subsequent behavior or change of residence of the citizen made no difference whatever. In only one treaty, that made with Ecuador in 1872, is this subject touched. Its provisions are:

"Art. 2. If a naturalized citizen of either country shall renew his residence in that where he was born, without an intention of returning to that where he was naturalized, he shall be held to have reassumed the obligations of his original citizenship, and to have renounced that which he had obtained by naturalization.

"Art. 3. A residence of more than two years in the native country of a naturalized citizen shall be construed as an intention on his part to stay there without returning to that where he was naturalized. This presumption, however, may be rebutted by evidence to the contrary."

This treaty furnishes a key to the solution of the trouble. The moment the point is stated, any one can see it. The obligations of a citizen and his government are reciprocal, and citizenship without continuous residence makes a farce of the whole thing, because without jurisdiction of the person a government cannot make a citizen perform military service, or, in many cases, pay taxes, or perform jury duty, or even obey the process of its courts. To be a citizen without these liabilities is like drawing dividends from a corporation without contributing to the capital. Bona-fide residence is almost invariably, in modern times, the real test of citizenship for all, and, having abandoned the old test, we must enforce this new one, or we shall fill the world with bogus Americans, a class little better than common swindlers, but whose operations are full of danger to both the countries cheated. There are, of course, exceptions. Public employment and other considerations make it necessary that there should always be a certain number of citizens living abroad, yet entitled to preserve their citizenship. The treaty quoted provides for this by declaring that even long-continued change of residence shall not be conclusive.

THE EXPERT IN COURT.

Last year the scandalous Fleming trial attracted a great deal of attention to the subject of expert medical testimony. The homœopaths have since taken the matter up, and have, with the aid of some well-known members of the bar, prepared a bill on the subject. The matter is one which presents many difficulties, but it is a great thing that a genuine effort is to be made to obtain legislation. As the proposed measure has been sent to us for criticism, we have examined it with some care. The idea on which it is based we believe to be perfectly sound, and, in fact, to be the only view of the subject on which legislation can be successfully based. That idea is that the expert witnesses on the trial of indictments must be all judicially selected witnesses, and not depend for their remuneration upon either one side or the other. This object the bill effects by requiring the court, on application, to appoint from three to five experts from a judicially prepared list. They are to be properly qualified, and, "in special and extraordinary cases," diplomas obtained elsewhere than in New York may qualify them. On their appearance, they are to be sworn and examined by the court, and also by the counsel, if desired, upon their medical qualification and impartiality; and those who are not excluded are to be appointed as a commission of experts in the action.

Every expert witness is to make an oath or affirmation that he has not talked about the case to any one except the other expert witnesses, and,

"in case I have made or participated in any scientific experiments, or physical, or mental examination preparatory to testifying herein, that I have not knowingly given to any person other than said experts any information or intimation as to the results of such experiment or examination; and if in such experiment or examination I have required the assistance of any other person, that no person having any interest in or connection with this action, directly or indirectly, has in any manner participated therein, to the best of my knowledge and belief."

An expert witness is to receive such compensation as the court prescribes in the order of appointment, not less than $10 nor more than $100 a day, with the mileage paid to all witnesses. All rights of examination and cross-examination are preserved, but

"if, upon preliminary cross-examination at the trial with reference to his qualifications, it shall appear that any such witness has, either before or after his appointment, expressed an opinion as to the merits of said action, or as to the matters concerning which he proposes to testify, to any person other than the other expert witnesses appointed by the court in such action, or has knowingly given to any person other than said experts any information or intimation as to the nature of his opinion or testimony or as to the opinion or testimony of either of such experts, or as to the results of any scientific experiment or examination which he or either of such experts may have made or participated in to prepare himself for testifying in said action, his appointment shall forthwith be revoked, and he shall be allowed no compensation as an expert in said action; provided, that he shall not thereby be prevented from testifying as a witness."

The bill is said to be based on a measure introduced into the Minnesota Legislature. It does not provide for experts in civil cases. The committee which has drafted it says that one of the worst stumbling-blocks is presented by the constitutional right to call any desired witness, in addition to the experts provided for by the bill. But it was thought that if a court were authorized to appoint a fixed number of expert witnesses, they would be unprejudiced, and the effect of their evidence would probably outweigh any partisan expert testimony that might be offered.

We are inclined to think that the committee is mistaken, not in this prediction, but in making the suggestion that the right to call other witnesses should be regarded as a stumbling-block. No doubt it would shorten trials to limit the number of witnesses, but the testimony of state experts would lose much of its weight if they alone were allowed to testify. An expert's weight with a juryman, as with any one else, comes from his impartiality and his reputation, and the fact that the matters as to which he testifies are matters about which the testimony of only such as he is worth anything. If two or three perfectly impartial chemists testify that a human stomach is found to contain a quantity of poison amply sufficient to produce death, the testimony of two or three other hirelings for the defence that it does not, would probably strengthen the impression produced by the judicial testimony. On the other hand, if the defence were precluded from calling additional witnesses, juries would probably often acquit because such a rule would violate the natural sense of justice. That a man tried for his life should be prevented by an iron-clad rule from producing any testimony he pleases that is not plainly a waste of time, would be manifestly oppressive. It is for this reason that the constitutional right exists.

The provisions of the bill requiring proof that the expert has not talked about his testimony, or his scientific preparations to testify, or the case, we look upon as a serious defect. It would wholly exclude the most enlightened and intelligent class of experts. When such a case arises as the Fleming trial, all scientific men whose opinion is worth having talk about it, and express opinions about it, just as intelligent lawyers and laymen do. Such conversations and opinions do not necessarily disqualify them or render them biassed. If they have formed an opinion which cannot be changed by evidence, then they are unfit; but the more intelligent and capable they are, the less likely are they to be governed by preconceptions. These provisions seem to be based on the idea that an expert witness is a juryman. But, as appears by the bill itself, he is not anything of the kind. He is merely a higher kind of witness. An ordinary witness testifies to simple facts —"I saw this," "I heard that," etc. An expert witness testifies mainly to matters of opinion, inference, and special experience—"This signature is in the defendant's handwriting," "This man died of tetanus," etc. But a witness, though he may be cross-examined as to what he has said about the case, to test his veracity, is not disqualified by having talked or expressed opinions about it. In fact it is usually because he has done both that he is summoned as a witness.

It is bad enough to have jurymen disqualified by merely talking or expressing opinions, but in their case there is at least the ground for the rule that they are triers. But witnesses are not triers.

These provisions would defeat the end of the bill, and why they have been introduced we do not know.

MR. BALFOUR'S PROMISE TO IRELAND.

DUBLIN, May 28, 1897.

One strong argument for home rule for Ireland is the failure of British

pathy" to those who thought Congress in session a source of uneasiness to the country. That was practically an invitation to Congress to raid the President, which it has not been slow to do. It has now found out that he will sign any kind of money bill it sends him. It had before found out that he had determined to turn over his power of appointment to Congress. For a time he begged off in the matter of consuls; those he must hold back in order to keep members of the House in Washington ready to vote on the tariff. But Congressmen were inexorable, and so on Saturday the first batch of consuls went in. The notification to business men is thus complete that the bulwark against a headstrong and reckless Congress which they once thought they had in the President, now fails them.

What has the Administration done to fulfil its pledge to reform the currency? Well, the good part of its pledge it has confined to mere soft words; the mischief-making part it has translated into speedy action. Who would have thought last November, when the country was agonizing to save the gold standard by electing McKinley, that within three months of his inauguration he would be toasted at a banquet in Paris as "the greatest bimetallist of the age"? That is what his roving bimetallic commissioners have done for him. They have gone abroad presumably without any definite proposition to make—certainly without any that they have any right or power to make. They are making themselves and the country ridiculous, with their dinners and interviews and boxes at the races; while every official who receives them hastens to say that he was pleased to meet them, but that he wanted it understood he had promised them nothing. This is what has been done, and all that has been done, in the interest of currency reform by a President elected mainly on that issue. Action looking to further bedevilling the currency is only partially offset by Secretary Gage's hopeful words about what is going to be done when the tariff is out of the way, and when Congress suddenly becomes patriotic and businesslike.

As for congressional action on the tariff, that may truly be said to have become the nightmare of the business world. On this point Mr. Wanamaker speaks the thoughts of many hearts when he says:

> "We ought to have a new, a better tariff; but if we cannot get it let us settle down on the old one and adjust ourselves to it as best we can. If we cannot move out of the old house, we might build a wing to it or add another story. Far better that than vexing uncertainties. A Republican House has been in session since last December, and its riddled bill still tosses about at the other end of the capitol."

This is a plain hint that the Wilson tariff, with a few revenue duties added, if necessary, to take the place of the income tax, would be welcomed by business men as a happy release from the fierce and scandalous strife at Washington between bills, neither of which promises to bring in sufficient revenue. To this complexion, then, have we come after three months. Congress has afresh demonstrated its incapacity to deal with large finance in a large way. Even the tariff bill, which was to have passed with all certainty by May 1, is dragging itself along with no end in sight, and the end, when it does come, promising to be a catastrophe. Business men despair of any good thing coming out of Congress. Their despair is not lightened by their perception that the President has no will against that of Congress.

THE BOGUS AMERICAN.

According to a Washington dispatch, negotiations are going on between this country and Spain for a new naturalization treaty. Such a treaty would do a great deal to allay one constant cause of trouble between the two countries—the existence under the present system of a body of so-called naturalized American citizens, who are really Cubans by birth and residence, but who take out mock naturalization papers in order to get protection from the United States when they foment disturbances against their own government or get into trouble of any kind. This fraud is resorted to, of course, all over the world, and most of our existing treaties with foreign nations may be said to favor it; it produces most serious difficulty in our relations with Spain, because of the chronic Cuban outbreaks.

Two great causes which have combined to make the international questions surrounding citizenship in modern times so difficult are the increased facility of locomotion, and the bodily transfer within fifty years of an enormous European population to the United States. Before the period of this great migration, the whole matter was comparatively simple. Citizenship depended upon nativity, that is, blood, and could never be renounced or abandoned. The origin of this doctrine we can easily trace back to the Middle Ages, before the modern world existed, and still further to Rome. When the barbarians conquered Europe, and created the modern territorial nationalities, there was no doctrine better fitted to commend itself to them than that of "once a citizen, always a citizen." It suited the European ideas of the military tie, and the fancy of the blood-relationship among all members of the same state, which was sedulously cultivated by communities ignorant of the fact that it was really a badge of barbarian tribal superstition. The English lawyers have clung with great tenacity even to our day to the doctrine that "no one can strip himself of his country."

The appearance of the American state in the field, with an invitation to all the world to settle within its borders, abandon their own countries, and obtain a new nationality, was fatal to this theory, and our growing strength and determination to protect our citizens abroad, of whatever origin, compelled a gradual abandonment of the old European view of the subject. It was not, however, until nearly thirty years since that we succeeded in getting European countries to formally ratify our view by means of treaties. A series of conventions made in the years following the close of the war established for ever the modern doctrine, long contended for single-handed by this country, that every man, no matter where born, may adopt his country, renounce his allegiance to that of his birth, and acquire all the rights of a native-born citizen. Belgium, Baden, Bavaria, Hesse, Würtemberg, and the North German Union in 1868, Sweden and Norway in 1869, Austria-Hungary in 1870, and Great Britain in 1870 and 1871, all adopted with us a reciprocal rule of citizenship by which the citizens of either country could become naturalized in the other, either by complying with the naturalization laws only, or by a residence of five years added to this. The difference is for practical purposes not very material. These treaties record one of the great advances in human liberty secured by this country.

But, like many other such advances, it is attended with dangers. If it were possible to obtain naturalization at will in any country without regard to either birth or residence, a man might be a citizen in half-a-dozen different countries, accepting the protection and repudiating the burdens of citizenship in all in turn—a veritable "man without a country" and citizen of the world at one and the same time. Although not yet attempted to this grotesque extent, this is exactly the scheme of the bogus American of to-day. He is a citizen of two countries, and he serves neither. He actually lives in the country of his origin. So long as he is asked no questions he passes for what he is—a German, or a Frenchman, or an Italian, or a Cuban. But the moment he is required to serve in the army, or be punished as an anarchist or revolutionist, he boldly shouts, "Civis Americanus sum," and triumphantly produces his "papers." We have recently heard of a case where one of these gentry went to the American Minister, showed him two sets of papers, one American and one foreign, and asked him which he had better use. Three-quarters of the Cuban patriots who make such a noise in the newspapers are of this sort. Their names are Spanish, their birth is Spanish, and their residence is Spanish; but they carry about with them documents proving that at some time or other they took out naturalization papers in a

Boldini's spr[illegible]ly vivacious "M. le Comte Robert de Montesquiou," all in gray and gazing fondly on the lapis-lazuli handle of his cane—the same elegant person Mr. Whistler painted a year or two ago—to M. Blanche's more staid but no less successful family group; from M. Besnard's problems of light to M. Aman-Jean's decorative fantasies; mere reëchoes these of his earlier designs, and fainter, feebler, one cannot but [illegible] many an echo proves. In one, a trip-