

VICE UNMASKED, AN ESSAY:

BEING A CONSIDERATION OF THE INFLUENCE OF LAW UPON THE MORAL
ESSENCE OF MAN, WITH OTHER REFLECTIONS.

BY P. W. GRAYSON.

Est autem Virtus nihil aliud, quam in se perfecta, et ad summum perfecta Natura. CICERO.

NEW YORK:
PUBLISHED BY GEORGE H. EVANS,
FOR THE AUTHOR.
1830.

INTRODUCTION.

Those who have devoted themselves to the science of human happiness, through all the past ages of the world, appear to me to have labored under a great misfortune, and that is this; that they have been obliged to content themselves, too much, with mere declamation, counsel, and persuasion, which is all they have addressed to mankind on the subject of their dearest interests. We find, indeed, their service to have consisted, mainly, of glaring pictures they have drawn of the loveliness of virtue, in which they have not failed to pourtray the good, which might proceed to the race of men, if they would be so heedful, and so wise, as to come up to the exhortations of their teachers, and be properly enlightened in the precious secret of their happiness. Now if we should consider, but for a moment, how seldom it happens, in common life, that the excellent pages of the moralist, which are devoted to the purposes of human instruction, do actually engage the serious attention of men, notwithstanding the readiness with which even the most profligate are found to bestow upon them the momentary favor of their approbation, we shall at once be able to decide, how entirely inadequate to the full aim of the philanthropist must ever be those silent abstract essays which are addressed to the wilful, headstrong, clamorous, and tumultuous world, from the recesses of the closet. That which to my mind has seemed ever to have been wanting, is the actual introduction among men of an entire new cast to their society—or, at any rate, some such essential modifications of the principles of all its past constructions, as would both benignantly and beneficently address itself to their grossest, nearest, and most visible interests, of daily and hourly occurrence.

It were quite impossible for any one to doubt, I think, if some such improvement as that I have suggested can find its way into the societies of the world, though it might never confer, by its happiest influence upon the characters of men, anything like the ideal perfection which all of us are able to imagine and pourtray, that still it would greatly exceed in substantial utility all the books of abstract philosophy and ethics that ever were, or ever will be, poured out upon the world,

with no other authority, or aid, to their acceptance in it, than the mere light of reason; however set off by all the graces of diction, witchery of persuasion, or fervor of exhortation.

In the following essay, there will be found an attempt to supply the desideratum here conceived of.

The writer is duly sensible of the hazard he runs in offering his opinions to the world. He knows, that the best thoughts he may present, even if they should be plausible enough, would be termed, unluckily, novel and untried: still better does he know, that it will be their doom to meet, at once, the ready opposition of established prejudice, if they do not entirely sink under a general unscrutinizing condemnation. There is perhaps an arrogance, in the united opinions of the world, on certain subjects, which it is next to impossible for an humble, unaccredited innovator to mollify into a temper of either doubt or discussion.

Especially does this difficulty present itself, in respect of opinions one would dispute, which have been consecrated to the regards of men, through succeeding generations, by regular descent from distant ages.

There is a halo which settles upon the *uses* of antiquity, which, consigning them to sanctuaries of senseless veneration, protects them forever from the scrutiny of reason.

If, however, there be a spot on the face of the globe where the light of liberal intelligence and just opinions is beginning to show itself, through the clouds of prejudice, custom, and superstition, it is the land we are all standing on here in these free states of America.

The light is as yet, indeed, but a feeble ray, struggling with darkness of immeasurable depth, extent, and intensity. But if it be, as there is hope it is, the light of truth, it must and will, in time, *show in*, to bless the eyes of men, the radiant suns of science-freedom-virtue, that shall banish cloud and darkness from the earth, and light the heart of man—purely, truly—to his long sought happiness.. How far congenial, if at all, with this unfriended light, we see just peering in the world, the following pages may be found, the writer is disposed at once to leave to the candid judgment of the reader.



PART I.

CHAP. I.

I think one may safely assert, that there was never presented to the eyes of mankind a happier spectacle than the political institutions of the United States.

Harmonizing, as we see they do, in their whole spirit, with the obvious rights of man, they may, reasonably enough, be thought to have exceeded, when they were achieved, the highest aspirations—the most extravagant hopes of mankind. Indeed, at the time such a phenomenon of government was realized to the senses of men, they could not have felt otherwise than lost in the novelty and immensity of the achievement.

We have much reason, even at this distance of time, to suppose this to have been the case; for nothing could be more natural at the moment, if we should rightly consider the matter, than even

a sort of agreeable maze of intellect—seeing how much more had been effected, than from a review of all the past unhappy condition of the species could reasonably have been hoped for.

A consequence of this maze, or trance, however, was a very comfortable conclusion, that seemed to spread itself over the minds of all men, that *nothing more* was wanting to fill the measure of their earthly happiness.

There is little room to doubt that the same confidence in the perfect finish of their condition is at this (day cherished by the great body of the people. How just this confidence may be, some reflections that are to follow will serve in a degree to discover.

Previous to the success of our revolution, from the beginning of human affairs, the great desideratum of man had been *liberty!* Lesser evils had been lost sight of or swallowed up in the engulfing misery of slavery, which uttered its cries from the dungeons, or spoke its threatening denunciations from the scaffolds, of despotism.

Age rolled on after age, and generation after generation, with tyranny still riding at the head of human affairs, directing and controlling them with the pretexts of patriotism, but with the purposes of oppression.

The great diversity of struggles, which, through all time, have been seen, on the part of the oppressed, to qualify or abolish the tyranny of their rulers, were undertaken, necessarily, with no other view than to procure some taste, at least, of this great blessing of liberty. This alone it was, that kindled the impulses which led to so many revolutions and rebellions on the face of the earth; of which their illfated authors proved, in the end, but too often the exclusive sufferers and victims.

Throughout the long gloom of oppression that had passed, though science, agriculture, commerce, and the arts flourished to some extent, as it must be owned they did, partly under the patronage of kings, and still more in spite of their oppressions, the wide field of human concerns, beyond the mere recovery and establishment of rational liberty, seems to have lain in a very great degree unregarded. Further than this, certainly, the social state appears to have engaged and received but a very stunted share of the notice and speculations of men. Scarce any more than a solitary individual would venture to look into it for a series of ages. This is, however, by no means to be wondered at. The world was in no condition to regard any object as of prime and essential importance, except the simple change from bondage to freedom; and, it must indeed be owned, till it could be fully effected, that all thoughts or projects for further amelioration must necessarily have been idle enough.

Owing, then, to the grand obstruction of slavery, the minds of men had never been engaged by the least encouragement to speculate upon the policy of reforming any portion of the great variety of subordinate regulations which were exerting an influence upon their social condition. They thought not of *inferior good*, when the capital blessing of human existence, their freedom, was wanting.

However in time past such inferior reformations of their condition and relations to one another may have been neglected for the cause just referred to, and whatever apology may be seen in that cause for the negligence of past generations in this respect, it is certain that we can by no means take to ourselves any such excuse for the indolence we have already indulged, and may but too probably continue to indulge, in regard to these matters, which, with us, have long since risen to the rank of capital importance.

Blessed, as we are, with all advantages, we shall indeed be no better than traitors to ourselves and unborn millions, if we fail to exert every faculty which the God of nature has given us in our endeavors to explore every recess of society—to scrutinize the whole economy of its structure, all its regulations from the highest of them all, down to the minutest prescription of authority, and the pettiest observance of custom. To this task, we should bring the most benevolent, unbiased, and fearless intelligence. Wherever we find evil, no matter how venerable it may seem from the sanctity of its origin, or reputable from the customary regards of men, we should not scruple, even for an instant, to tear off the disguises which conceal its enormity, and, exposing the viciousness of its essence, strike for its extinction!

“Together let us beat this ample field;
Try what the open—what the covert yield.”—*Pope*.

Arduous, indeed, is the task before us; yet how unworthy shall we be if we do not perform it with fidelity—enthusiasm.

The liberty we boast—seem, indeed, almost to regard as the sum total of happiness, the highest conquest of human virtue and valor, is, after all, only a capital acquisition, when contrasted with the despotism which blasts, and the slavery which suffocates, all the balance of the globe. In the nature of things, man should never have been without it; certainly never indebted for it to the least exertion of his faculties, either moral or physical. It should ever have been as absolutely his, as even his very eyesight, or the ordinary use of his limbs. Yet of this essential property of life, his liberty, man has so long been deprived by the violent accident of vicious government, that wherever it is gained, we find it prized as though it were a precious boon—a peerless acquisition, whose unrivalled value strikes every thing else into insignificance.

The fault here is not that we prize this liberty of ours too high, but that it contents and glorifies us too much. In nature it is a thing no more to be boasted of, than the nose on our face, or a hair of our head. If, then, it had always been, indeed, the unimpaired possession of man, as in plain reason it should have been, how numberless then had been his duties!—how arduous his labors!—what warfare had been his doom! Called by humanity, into the field of morals, to achieve the overthrow of ignorance and vice—the inauguration of wisdom and of virtue!

Let us not, then, hang up our arms to Hercules, as though we had slain every monster beneath the skies—reached every good, and fulfilled every duty that lay upon our shoulders! If we do, greatly shall we deceive ourselves; for we are as yet but at the starting post of human improvement, instead of being, as too many seem to think we are, almost, if not quite, at the end of the race.

The truth is, we have only removed the great evil of slavery; but, as yet, have comparatively done no good with our liberty. We have shivered the chains which bound us, as it were, to the dungeon floor of despotism—burst open the prisons in which we had been immured, and emerged into liberty and light. But that is all. To this hour we are stunned with the unexpected good which so strangely broke in upon us; and, instead of flying upon untiring wings far up into the heaven of virtuous liberty, we have scarce left the thresholds of the frightful dungeons of tyranny, from which we have escaped. We know nothing of the superfluous mass of evil that is incorporated with our conditions, civil, political, and moral; for we have not even opened our eyes upon it; or, if

we have, custom has so far sanctified it to our acceptance and use, that we are even worse than ignorant of it for that. We are, indeed, as I think, tainted to the core of our social relations, even of our very hearts, too, with the most subtle hues of folly and vice, with which we have become insensibly imbued, from the unscrutinized inheritance of custom and of thought fallen upon us from past ages and generations. How solemn, I repeat, is the duty incumbent upon us to search out all this pollution; and, confessing its hideousness, to wash our souls clean of all of it.

Till this be faithfully done, we shall scarce be worthy of either liberty or life!

CHAP. II.

I cannot forbear inserting, in this place, a chapter, which, at first view, may seem awkwardly enough to make its appearance. I desire the reader, however, to repress his astonishment at its introduction here, as I promise him he will presently observe its bearing upon the reflections that are to succeed it. That I may recommend it still more to his attention, I would observe, there is contained in it the *principal light* I have carried with me, over the whole subject I have attempted to explore in the following pages. By this light, such as it is, I have been enabled, as I have thought, to thread my way through the wilderness of difficulties which oftentimes beset me on every hand, and to pass through every labyrinth I have had to encounter, till I at last emerged to a conclusion, and such a one, too, as has, at least, proved satisfactory to myself. There is, then, a fitness, in regard to my own mind, in my inserting it here, however impertinently it may seem to intrude itself upon others.

The great principle of human action is *self love*.¹ But the wisdom of providence has so organized the human heart, that, to a certain extent, the good of others is, oftentimes, an object of that very self love. Whatever degree of contradiction there may seem to be in this idea, must, nevertheless, vanish before the light of every one's experience, which will, unequivocally, assure him, that to promote the good or happiness of others is, at once, to advance his own. That, then, would plainly appear to be the happiest temperature and disposition of the passions, in which, while we effectually serve ourselves, we, at the same time, promote, by our actions, the greatest amount of felicity to others.

It is the duty, and must for a long time continue to be the greatest labor, of men, to look so narrowly into the human character, as to ascertain those causes which conspire to seduce, to corrupt, and lead the passions out into malignant extravagancies of indulgence, over ways that are intricate and perplexing, to objects that are foul and unworthy; and, exposing those causes, then to unfold the genuine influences upon the characters and conduct of men; such as might appear suited to compose *all* the incentives of human action, and fix them fast in that easy equilibrium of enjoyment and operation, which could not fail to bring up the greatest amount of pure and unadulterated happiness, of which our nature is susceptible.

The great desideratum of man is, that he should both comprehend and practise the *true mode* of gratifying this supreme passion of his nature—this controlling, sovereign principle of his existence—his self love. It is pitiable to observe how far removed he has ever been from an acquaintance

¹ I am aware that, on the subject of this opinion, there is still much dispute in the world. In another place there will be found some treatment of it, which I think amounts to a demonstration.

with this precious science. An infinite number of causes have conspired to keep him so far profoundly ignorant *even of himself*, and of the simple mode of reaching the happiness which nature certainly intended him. Those causes have done no less than struck him blind to the glorious light which this Nature, his mother, has been ever ready to pour upon all eyes that would but open to receive it,—teeming with the revelation of her mysteries, and full of instruction to this wayward child of her bosom, in all the arts of life, the precious secret of his happiness. But

"Dark—dark—dark—amid the blaze of noon
Irrecoverably dark—total eclipse
Without all hope of day,"

hath ever been the race of men, wherever they have been heard of on the earth, through all its long, uncounted ages.

In what labyrinths of error have they not been continually involved? They have burned for wealth, and have gathered poison—for liberty and for power, and they have been plunged into bondage and bound in chains—for triumphs, and they have run upon defeat and disaster—for earth's homage, and they have received its widest curse for life and immortality, and they have met death and oblivion!

There will, in many parts of the sequel, appear considerations, which it is thought may serve somewhat to show the causes which have led to all these mournful blunders of the species.

In the mean time, let us dispassionately consider with ourselves whether it were indeed an unreasonable hope, that mankind would actually fly to their true interests of every kind, which they would rapturously embrace, if they could but be placed in a condition from which they could plainly discern and conveniently achieve them. There is, I dare say, no one who doubts that men desire to be happy. If there be any thing which we take upon ourselves to affirm, without either the least presumption or fear of contradiction, it must be this. At every moment of his existence, man is either idle or active, thoughtless or studious for his own good, which, whatever may be the illusions that impose upon his mind, he at least thinks he perceives.

At all events, at whatever period of his existence we behold him, he is sure to be engaged in that which most contents him at the time, in regard to all the circumstances with which he is surrounded to affect his sensibility and modify his being.

When we see him abandoning himself to extremes of the vilest prostitution, covering himself with conscious infamy, and, with his eyes open, plunging into ruin,—even then he is seduced by some conception of good that is to accrue to him. No matter how unreasonable that conception may seem to others, or how despicable the end or object it prefers to every thing besides may actually be,—it is enough that to him alone it seems the best, and all that now the tyranny of circumstances will allow to his diseased, depraved, and distracted spirit.

If, then, the whole species has, since ever we have heard of it, gone the wrong way for their happiness, can any thing be plainer than that they have only done so, because they have been unable to do otherwise—because they have seen and known no better—because they have been led astray by ten thousand false lights, which promised to show them to the good they dreamed of and desired, but still never reached? Is it less clear, that if those who now live could be brought distinctly to see, with their eyes fairly opened, that they had been all this while thus blinded and

deluded—that the happiness which engaged their anxious search lay indeed in a direction quite opposite to that which had ever been pursued by themselves and all mankind before them;—is it, I demand, for one moment to be doubted that they would all quickly turn and renounce the course which they would now see was unfaithful to the goal at which they were aiming? Could they fail to journey at once in the very opposite direction even, if it should open with sufficient clearness to their view the happiness they were seeking; offering, wherever it might lead or wind along the earth, the pleasantest accommodations of life—the happiest seats of enjoyment and repose, and promising, besides, the serenest close of all?

Not, however, to deal at all illiberally, in my judgment of the world, I am ready to admit that there are many things engaging its pursuit that are indeed altogether worthy of it. The complaint is that the motives which impel the great mass of men, and the means they employ to reach these objects, are, in the main, to the last degree execrable. The ways they are treading are traced out to them by a serpent policy, which gives to every impulse the taint of pollution, and stamps every action with obliquity.

How often, in time past, have these ways, which the million have trodden, been even mired with blood! while they have led to an abyss of disappointment and desolation—more hideous than the grave, wild as primeval chaos, and terrible as the blackest dream of hell.

When THIS man shall strike up in his soul the light of justice and humanity, and in his heart shall open the sleeping fountains of benevolence then will his self love revel in its fullest enjoyments—the purest, most enduring ecstasies;—then will he be as happy as all which the earth contains can make him, poor worm as he is, ephemera of a day, and almost viewless atom of the universe!

CHAP. III.

It is now many years since the idea occurred to me, that if mankind were as wise, not as one could easily imagine them to be, but only as wise as an enlightened self love could make them, there were no need for either government or law. In such case it seemed to me, as, without doubt, it would seem to any one else—not even excepting the stupidest knave on earth, that these contrivances would be a positive nuisance in human society. Feeling this truth so intensely, I have steadily, for some time, been engaged in considering and unravelling to myself, for the ease and satisfaction of my own mind, the various causes which might, in my apprehension of their nature, have conspired, through all time, to doom mankind to the vexation and incumbrance of government and laws; as also to shut out from their understandings the light of principles which appeared to me inherent in their nature, and so, wholly, to prevent their beautiful dominion over the face of the earth.

While I am ready to own, that perfection is indeed impossible to man, that his complex, ungovernable passions, to say nothing of his illusions, must ever be found, in some degree at least, embarrassing and marring his best interests, I have thought, moreover, that there were many superfluous causes of human depravity and misery engrafted in every form of civil society with which I had become acquainted, whose drift and tendency were to remove this unhappy creature to an almost infinite distance from even the moderate pitch of virtue, to which I have thought him capable of ascending. These causes I have taken upon me to regard as superfluous, because I have

not been able to perceive that they were at all indispensable to the comfortable existence of the species. For to me it has seemed that they owed their introduction into society, in the first place, to certain unhappy exigencies of the condition of man, under circumstances and at times which alone conferred upon them the aspect of good they wore, while that good was nothing more than merely plausible, local, and temporary. Yet it has fallen out that many of these matters have come to be incorporated with every notion we entertain of civilized society, and so solemnly consecrated in the regards of mankind, that they not only enjoy the most absolute security every where, but are actually considered wholly indispensable to the order, harmony, and happiness of men, under whatever auspices, however favorable to their interests, they may be composed into society.

Now it is, indeed, very certain, that there is scarce any thing in nature, which varies not, in its character of good or ill, relatively to man, though its own essence remain precisely the same. The infinite fluctuations in the moral and physical condition of this animal impose corresponding modifications of the influence upon his interests of all things which encompass his existence. So true is this, that a given matter, which today may be found beneficently suited to some exigency or necessity of our nature, shall prove itself, tomorrow, a most desolating evil.

I take it for granted that this idea needs no illustration to any reflecting reader.

That which of all things I have observed with the most attention in its bearing upon the interests of society, and have come, at last, to regard as the capital evil of all, in the class of which I have just finished the conception—is the machinery of law, carried out to the extent we behold it displaying itself in daily practice and operation. To the consideration of it, chiefly, have I dedicated the essay I am now offering to the public.

CHAP. IV.

Human laws imply human infirmity, and more: considered in their full extent, they imply vice in almost all its forms. But for what is called the evil of our natures, which incites us to invade the peace, order, and justice of the world, law would want both existence and a name. It would seem, therefore, that it has been devised to supply, by its efficacy, the weakness, or, if it be preferred, the absence of those principles in mankind, which, had they existed in sufficient vigor, would have rendered its introduction worse than superfluous. It might be affirmed, as entirely obvious here, that this artificial power, influencing the conduct of mankind, the offspring of their ingenuity and contrivance, which has been brought in to supply the supposed deficiency in their stock of moral sensibility, being, in itself, a self evident evil, can only be justified, so far as it is observed with reasonable certainty to exclude, by its presence, still greater evil from society. Its defence, to this extent, rests upon the authority of the plain maxim, to which all would be ready to accede—that of two evils, it is always the part of wisdom to choose the least. It cannot, necessarily, appear less obvious, when this power, by which is still meant law, shall be found, by the infelicity of its influence upon the affairs of society, to originate, by its own exclusive agency, a greater amount of evil, than that which it is introduced to remedy and remove, that mankind have indeed become, to the extent of the balance which may here be struck—the voluntary artificers of their own misery.

In such case, if they would be wise, it would seem there were no course which could stand any comparison, to their intelligence, with a simple return to the original disease, which they would now embrace as the salutary means of deliverance from the still less tolerable malignity of the cure

that had been found to repay their hopes with disappointment, and their confidence with treachery.

It is, indeed, but too true, that there is scarce a blessing under the sun which we do not, by some fatal blindness, turn, by abuse, into its opposite—either by enjoyment carried to excess, or some unwary application of the good which has been devised for our happiness. So deeply intoxicated, oftentimes, are we apt to become with some favorite benison we possess, that we are found, with voracious propensities, to be continually drawing on it for the most extravagant and excessive enjoyments—teasing it for new and additional favors, even in the midst of the most delirious satiety, in the mad hope that it is not only to feed us without respite or end, but to supply us with fresh appetites too. Our nature still remains the same when we are swayed by a strong bias in favor of any scheme or system of human invention, devised, it may be, to influence the interests and conduct of society. We may observe when any such device appears to be productive of benefit, in the sphere in which it comes first to be luckily and properly exercised, there is nothing more apt to engage us instantly, than some attempt, at least, to push it beyond the uttermost bounds that confess its utility; and there we force it to the most unnatural functions, vainly endeavoring to bring its virtues to bear upon a confused multitude of subjects which are wholly uncongenial with its true spirit, and to the last degree unimpressible by its beneficent influences.

There are many easy illustrations that might be offered of these notions. If we would turn our eyes upon the fanatic churchmen of the world, we shall see them laboring to bring religion into all the concerns of men, that they may make its empire supersede, or, at least, cast into insignificance, all other rules and motives of human conduct. They would, indeed, employ the whole world well nigh in continual prayer, pealing hosannas and thanksgivings to God; indulging their subjects with never more than the shortest respite from labor, in the endless maze of ghostly ceremonies. In such service as this, they seem to consider the chief, if not the whole, virtue of life consists. The distress that mainly disturbs their repose, if it do not embitter their whole hearts, is, that they cannot dragoon all mankind into a hearty concurrence with their notions, and a slavish submission to their authority. Could they but carry their influence thus far, they would quickly wrap themselves up in the conceit that they had fairly consummated the happiness and glory of the species.

There is scarcely a professor of any of the sciences who does not, in some measure, blow himself up with the fancy that the one which he has made the darling of his studies, takes rank of all others in the importance with which it is fraught to the interests of mankind. Influenced by this infatuation, he would bring it every where into play. The doctor of ethics comes forward, with the most towering pretensions, to mould the whole world into an exact conformity with his scheme of principles. He would not, indeed, wholly supplant religion; but he would give it its reasonable bounds; and in the establishment of rank and division of honors between his own science and what he himself might deem even the mysteries and behests of heaven, he would but too probably award by much the largest share to the former. His volume of sage opinions and precepts he would have universally embraced as the text book of all mankind, wherever they might be laying the foundations of systems by which they would govern themselves. Indeed, there is scarce any branch of knowledge, upon which he would not soothe himself with the thought, that his favorite science, if duly weighed and applied, would throw a very capital and instructive light. The most mechanical chemist even, for no other reason than that he had learned the art of

decomposing a few substances, shall boldly strut along the earth, and fancy that he has run down every secret in nature. His science, he does not doubt, shines at the head of all sublunary knowledge, and is worthy of engaging the first and last consideration of the whole world. There wants nothing with him but the power of imposing it everywhere, and forcing its application to all the important purposes of life.

All mankind are impressed with the importance and necessity of rules for their conduct. In many instances the worth of them seems so obvious, that it is no wonder they have come to be in great esteem.

Many there are, of a certain kind, that are, indeed, well calculated to save us from confusion in our operations, and to give point and compactness to our projects of every kind; without which we might oftentimes find ourselves lost in a wilderness of disjointed labors. Others there are, too, that may be allowed to exert a salutary influence in fixing the duties of men, and regulating the relations of society. Nothing, however, appears more difficult than to settle the proper limits of their empire in this respect. But here we see all mankind running wild again. So great is their prepossession for wholesome direction to their conduct, that there is no end to the rules, with which they would bind themselves up at every point. Because, to a certain extent, these rules may be regarded as a good, it would seem that there could never be too many of them. In this respect men appear neither to judge or act more wisely than would a creature who, shivering with cold and eager to warm himself, should fancy he was stinted in the article of fire, till the whole house above his head was in a blaze, and even then should not be able to content himself with that unusual quantity of the commodity he had desired. I would take upon myself, quite fearlessly, to call this the abuse of a blessing into a curse.

There does not, indeed, appear any species of error in the world more common than this; nor is there any one, as I think, more to be dreaded, on account of the insidiousness with which it slips into the mind, as well as of the plausible colors it wears there, to save it from detection.

Such observations of the curious turns and customs of the human mind enable, me, in part, to account for monstrous appearance of so *much law* in the world. There are, I think, other causes besides, which will be noticed hereafter.

But we should not here forget, that the legislator, too, thinks his calling of paramount importance to all others in the world. For this reason we find he is never at rest. He would hold himself forth continually as one among the great conjurers of human happiness; and, revolting at the idea of losing his prominence and falling into obscurity, he is ever engaged in sending out among men the most abstruse specimens of his craft and his wisdom. Even if the creature should happen to be honest and benevolent, there is still no little danger that he will greatly overperform his duty. But, on the other hand, (and this is the hand we should have to be very commonly looking upon,) if he should chance to be a KNAVE, how difficult would it be to set bounds to the mischief of his labors!

But be all this as it may, at this leisure day of the world, especially in this part of it, hardly can it be deemed either a useless or unprofitable employment, for us to enquire into this stupendous system of law, which has so long passed upon mankind for one of its capital blessings. Certainly, so far, it has been received with nothing short of a sort of implicit faith. Every thing in relation to it has been trusted by the great mass of men to their enlightened guides, instructors, and rulers. If the former have not been imposed on, it is an accident, for which they deserve no credit. Surely it

is getting to be high time they were waked up from their credulity—roused to a proper notice of their affairs—no longer to be content with being managed, as if they were so many puppets in the hands of a mountebank, or animals that had been tamed and were served up for a show. Let each one of all lift himself up to the full stature of a man, and look every thing which bears upon his interests, no matter where, full in the face. Let him scrutinize it fearlessly—keenly, and bend to no earthly authority but his own unbiased reason, in coming to a decision respecting it.

This is the mode, and the only mode, in which he can redress the rigors of his condition, explode the mass of imposture under which he is laboring, and rise to the full enjoyment and true dignity of his nature.

Should we here, in the first place, consider with what relentless assiduity the trade of legislation has been carrying on in the world through a long succession of ages that have passed away—with what pious care all the rules and canons of human conduct, in their wonderful diversity and minuteness, have been handed down from one generation to another, to accumulate upon the shoulders of the living,—we shall be the better able to form some notion of the weight we are all carrying, and thence be the more inclined seriously to enquire, whether this great burthen be, or be not, indeed wanting to our comfort and happiness.

Of *one* thing, perhaps, there is very little room to doubt, and that is this—that there is no civilized country in the world, which can with any reason complain that the number of its laws is too small. With an all sufficient quantity of this commodity, it may be safely affirmed that all nations, which acknowledge government at all, have been long since provided.

If, then, we are authorized to declare that the measure of our necessities in this respect is certainly full, it may not be amiss to carry our views a little farther, and see if it be not indeed overflowing. When we shall have arrived at the end of our reflections, we shall be in some preparation to decide, how far our supposed benefactors—namely, the law makers of the world—have confused us with their wisdom, betrayed us by their care, and oppressed us with their benevolence.

CHAP. V.

Having, in my own mind, reduced the proposition intended to be enforced, and, if possible, demonstrated, in this essay, to a definite and precise shape, it will not be amiss to give it in this place. This it is—That a system of jurisprudence acting upon those engagements of men, *which are the offspring of trust and confidence*, more especially in its application to the free states of America, instead of being, as it seems generally thought to be, wholly indispensable to the interests of society, is nothing better than a tax, and a grievous tax, too, upon its substantial happiness; that it actually abridges and encumbers, instead of extending and relieving, the sphere of human enjoyment; or in other words still, that the whole compulsory agency of law, (in regard to the class of engagements just described,) which certain plausible views of its drift and tendency may seem quite well to justify, does nevertheless fall so far short of its benignant aim, as actually to produce consequences in the highest degree mischievous to the best interests of society.

Nothing, I dare say, could appear, to most readers, more extravagant and chimerical than such a position as this. There is indeed great freedom in it. For this reason do I feel myself engaged by very high considerations to retrieve what I have asserted from the character of seeming absurdity

that now rests upon it—if possible, to unfold its truth, and drive the demonstration of it home to the understanding of every unprejudiced reader.

The sun of heaven is scarcely deemed in ordinary apprehensions more necessary to the day, than tribunals of justice to the very existence of civilized society. The truth is, that the minds of men have never yet, for a moment, contemplated them apart. We have all taken it for granted, that they must be joined together, just as we have them among ourselves and behold them everywhere else, for no other reason, perhaps, than because they have never yet been discovered asunder.

Is it, indeed, certain, that there cannot be justice among men, without coercive means to enforce the observance of it? And must they, of necessity, keep in employment, and subject themselves to the tax of, all this cumbrous machinery of law, to supply them, from abroad, with justice, as though it were a precious commodity, only indigenous in certain favored parts of the mass of mankind, and wholly in the hands of gifted monopolizers?

Are we never to think better of ourselves, than that it is necessary we should be driven, lashed into the practice of the plain principles of right? Is even this mode of *lashing* likely to prove more successful in time to come, than it has been in time past? Has it yet succeeded at all? Is there, I demand, no mode of engaging men voluntarily to comply with their duties and engagements to one another, by motives which are *wholly natural* to them, and of most adequate sufficiency, too, if properly cultivated and allowed to spring into action?

These are questions of some novelty and abstruseness, and will, therefore, demand the most careful examination.

Though it is easily to be inferred, from the delineation already given of the purpose of this essay, I would, nevertheless, particularly inform the reader, that in *this place* it is not my intention to hold any opposition to criminal jurisprudence, which, if wisely conceived and purely executed, MAY be necessary to prevent crimes, or to so much of what may be termed the civil, as might be expediently used, to coerce atonement from one man to another for private outrages upon either person or property.

CHAP. VI.

Before I proceed any farther, I would hold a sort of preliminary parley with the reader, and bespeak his attention to a single favor I have to ask of him.

By this time he has perceived, that the opinions which are to appear in the sequel must be a good deal extraordinary. Indeed, in so great a degree are they of this character, that there are many, I dare say, who will find them such as they had never even so much as dreamed of before.

It is certain, that the world is strangely taken up with its own wisdom and its own customs, in so far, that when any thing quite new is offered to them, which goes even so much as to hint, that they are all in the wrong, in any matter whatsoever, they do not scruple to indulge themselves outright in the most extravagant excess of merriment, and so clear off, as it were, in a twinkling, all the impertinences and difficulties of thinkers who presume, however modestly, to differ with them.

Such behavior as this, common as it is in the world, is, indeed, almost too contemptible for either comment or expostulation. It is, however, the very matter I have aimed at in the *request* I have to make of the reader—which is, for him to be well on his guard, so that he fall not into so

ridiculous a line of conduct with me. In this, I pray every one to be assured I mean him no disrespect; for it is to be remembered, that the wisest of mankind are not free from their faults and their follies, at which they would blush themselves, could they but be brought to open their eyes upon them. I should hope, then, it will not be deemed insulting in me to suppose it possible for the reader to be in some danger of dropping down into a species of error, from which the wisest are scarce ever exempt.

I would have him banish every thing like prejudice or prepossession from his mind, (a very hard task this, I own,) and set himself down in good earnest to look into my reflections with a serious and honest intention to do them *justice*, if nothing more. This, I am quite sure, is the only sensible way he can act in this behalf. If my advice prevail with him, he will, at least, have the comfort of reflecting, that he has behaved in a manner the very reverse of that, in which, I would take upon me to surmise, many an innocent simpleton will be apt to conduct himself; from whom the very best I would expect would be idle sneers and unmeaning scorn, of what he does not understand.

If the sensible reader shall find me absurd and visionary, after having bestowed a reasonable attention on my thoughts, he will lay me down with a kind of honest anguish and grave commiseration, and lament, if he please, that I should have taken so much pains for nothing, and had not otherwise employed my time. To him who shall observe toward me such treatment as this, I do now at once advance my most hearty thanks, which I would accompany with assurances of the most perfect respect.

But to all SLAVES OF CUSTOM, chuckling wiseacres, sycophantic politicians, starched pedants, effeminate schoolmen, literary fops, and the like, with whom the world is crammed, I have something very different to offer. It is a short story I casually fell upon in my reading of an old book. Whatever of egotism there may appear to be involved in it, when it comes to be applied, is a matter I am resolved to care but little about, when I consider who they are, to whom it is addressed.

That it may not, however, interrupt the progress of my more serious business, or jar upon the feelings of the grave reader who may be disposed to proceed with me in something better, I have thrown it quite out of this essay, to the end of the book, where he who chooses may find it.

CHAP. VII.

It is an observation of Montesquieu, and one that has very much engaged my attention, that laws should be relative to the nature and principle of each government, and that they should be adapted in such a manner to the people for whom they are framed, that it is a great chance if those of one nation suit another.

While all of us might be ready to admit the abstract principle, and concur in the theory, we can, I fear, never hope perfectly to agree in the practice. There will ever be a difference of opinion among us, as to what laws are *in fact* agreeable to the people, and the nature and principle of their government. This will result from the various shades of difference that would distinguish the views of speculators, in regard to the actual character of a people, the principle of their government, as also of the laws which are annexed to them.

For myself, however, I find it very easy to admit, that in those countries which are governed by monarchies and despotisms, so far as the success or maintenance of these forms might be regarded as a capital object, that the number of the laws can never be too great. It suits well with the genius of those constitutions that are founded in outrage, injustice, and usurpation, and maintained by force, that authority should be ever at work; every thing should be done to familiarize, in the minds of the people, their sense of inferiority and subjection; this can surely be best effected by visiting them, from the highest to the lowest, though never so often, with the mandates of power and the prescriptions of authority.

The bearing of this, in the end, is to bring every one to consider obedience as even a part of his very nature, so as never to look beyond the duties which are assigned him.

A people thus trained and disciplined to conformity to their superiors, make, indeed, very convenient subjects; and are no other than the identical sort of machines, that unrighteous power demands for the successful execution of its ends.

To the circumstance that the great body of mankind has almost ever been at the mercy of domineering masters, may we, as I think, with sufficient reason, ascribe a large part of the endless vexations they have borne from the authority of laws: their influence on the people being but too plainly congenial with the views and interests of their oppressors, as well, necessarily, as with the whole spirit of the vicious governments that have been exercised over them.

To descend to a familiar illustration of this idea—he who would produce an ordinary vessel of clay, entirely suited to his design, does not omit the previous preparation of the substance out of which his vessel is to be formed; he does not forget to employ the inferior laborer or artizan, whose business it is made to work with the raw material, for the purpose of expelling the unbending inveteracy of its nature, by means of suitable appliances, and of thus forcing it to the proper temper and pliancy. When this is accomplished, the material thus prepared and reduced to the desired fitness, may be turned at once to any shape which it may be wanted to assume.

In like manner, does it seem, that the unceasing operation of the vast machinery of authority upon the primitive unsophisticated temper of mankind, must, in the long run, terminate in moulding it to the views, conveniences, and purposes of those in whose power accident might throw them.

It occurs to me to observe in this place, that man in this free part of the world is a different animal, at least in the circumstances with which he is surrounded, from what he has ever before appeared upon the face of the earth. His condition is so essentially changed for the better, that one might almost doubt whether there was scarce even a single law, custom, or observance of any other part of the globe, (if we should except those which relate to the business of eating, drinking, and the like,) that could be fairly brought to fit in this. All the capital regulations and modes of society elsewhere, appear so specially adapted to the absurd and vicious institutions of government that are fixed upon men, that without further examination we might almost pronounce it impossible they could suit the genius of ours. Yet it seems we have adopted almost the whole body of the laws of one of these governments, and are full of the customs of its subjects!

Is it reasonable to suppose that rules which are suited to the characters and feelings of slaves, can by any means adjust themselves to the dignity of freemen?² I am not able to conceive how this can be, any more than I can see how the ordinary *dress* even of a Laplander could be comfortable to an inhabitant under the Line. Now in regard to the business of government and laws among a people who might be placed in a political condition like that of those of the United States, my reflections have brought me to this plain conclusion—that it should be confined, as nearly as might be, to the simple purpose of protecting the life, liberty, and property of the citizen from positive violation. Scarce any further than this, does there seem to be the least necessity for government, or any of its appendages, ever to interfere with the affairs and intercourse of men.

How simple would such a government be! How simple, too, would man himself be! Freed from the tortures of endless prescriptions—the maddening harassments and insolence of authority, and secure in all that is dear to him, his nature, for the first time on earth, would begin to unfold its beauties and exert its energies. How surely would this unfettered, unpolluted creature find out the true sources of his happiness, and, fixing his whole heart upon them, yield them up but with his life!

Whatever amount of good it might be shown, could be brought to the enjoyment of a people, by means of authority exercised for their advantage, still nothing seems more certain than that this good, great as it might be, could never fully compensate for the evil that would spring from the mere action of this authority upon them. It would not matter how beneficially it might be employed—it could not fail to make essential inroads upon the artless virtue, the essential dignity and glorious sovereignty, of man. Let these but be preserved unimpaired and unpolluted, and there is much reason for believing that they will cheerfully of themselves yield, in time, infinitely more good to the general condition of the species than any sort of authority, that could be *reckoned on as likely to accede to the control of its affairs*, would ever succeed in forcing it to procure to itself. If we should add to the consideration just presented, that of the highly mischievous abuses of all

² The idea employed here may, I dare say, be not a little shocking to a British ear. But this I cannot help; for it is certain that the subjects of the British government are slaves. How, indeed, can a subject, anywhere, be anything but a slave? The first word, to my mind, is entirely synonymous with the last. To be sure, the slavery of this people I allude to here is a very mitigated one; so much so, that they are all even proud of it. To me, however, they seem about as much above the more abject vassals of other countries, as a gentleman's body servant is superior to his ostler or cook. We see the first named enjoying a tolerable share of privilege, and in the actual possession of very clever means of making himself happy. He has oftentimes leisure upon his hands, fine clothes upon his back, and money in his purse. So excellent, indeed, are the appointments of his condition, that any where out of the immediate presence of his master, we find he can blow himself up into a very great importance. He will discourse after the manner of a perfect gentleman, and ape very craftily all the airs of one. When in the vein of his enjoyment and at the top of his pride, we see, too, that he looks down, upon the less favored beings of his own condition, as though they were a different species of animal from himself. But there is nothing that gives him more importance than the great rank of his master, and his connections—just as we see a Briton pride himself upon his king and all the nobility that surround him. There is little doubt that such as Mr. Burke's jargon about "proud submission," "dignified obedience," "subordination of the heart," &c., that he seemed to think had kept alive, even in servitude itself, the spirit of an exalted freedom,—goes very far to keep the whole nation spell bound in an illusion, that turns chains into ornaments, oppression into beneficence, and slavery into *something better than freedom*.

authority that was ever either usurped or delegated,³ that but too often, under pretence of doing great good, is found to be only plotting mischief and sowing the seeds of general evil, in the husbandry of partial and corrupt interests, and there would appear to be but little ground left for any one to stand on, who would advocate any interference of what is called government with the interests of men, beyond the limits which have just been suggested.

A very capital reason why the idea so prevails in the world, that mankind requires severe government—such watchful supervision and dogmatical direction, seems to me to be, that they never yet have been fairly favored with circumstances which might enable them to evince the contrary. It is certain that they have been duped, oppressed, and plundered, through nearly all past time, by their rulers. Despoiled of their liberty, and every outward good, the worst of all is, that they have been, at the same time, robbed of every incentive to virtue; while they have been chained down in a state of the most beastly and hopeless ignorance. They have been provoked by oppression, to plunge themselves into the depths of vice, and to wander wide into all the wilds of misrule and indiscriminate injustice. Brought to this pass, potentates and lawmakers cry out—with what wicked hypocrisy of address!—for new and increased restraints upon these ungovernable beasts of men, as though their very nature required it! Nature never did require it. The lust of power in the favored few, and the execrable despotisms that have sprung from it, have themselves engendered the necessity for all the fetters which have been forged for man, and have eaten into his heart.

The privileged robbers of the world, who are its emperors and kings, and their foul adherents, who are its nobility, backed by shoals of mitred confederates, have invented every conceivable

³ There is, *in many matters*, but little difference between the motives of one who exercises power by arbitrary assumption, such as we see in a despotic government, and of another who exercises it by temporary delegation, as in a republic. Neither are by any means indifferent to the acceptance of their doings with those upon whom they are to operate. But truth requires it to be asserted that both, in the general, (there are, to be sure, exceptions on both sides,) indulge themselves with a special view to particular interests which they would promote, as far as they can with safety to themselves, in utter disregard and violation of the public good—the *res publica* committed to their guardianship.

Nor is there much difference, *within certain bounds*, in the influence upon the subjects of it, between arbitrary and delegated power. This last is so often exercised, upon matters with which the minds of men have had, either but a very partial or no acquaintance at all, in a manner, too, so little vindicated to their understandings, either by reflection within themselves or by the views and explanations of others, that the prescriptions which come down among them, though dedicated to their service by their agents and representatives, and stamped with the nominal authority of their own will, are received oftentimes as though they were of no better than foreign imposition. For this reason we observe that in practice they sway the mass of men with but little more facility, than if they were so many injunctions of a tyrant. If we would regard the matter in a theoretical point of view, we might think that every one would cheerfully fly to execute his own will, which would seem to be expressed by every law passed by his representatives. But circumstances, we see, bring the practice to be very different. It is, perhaps, scarcely worth while to remark here, that the resemblance which may be observed in the displays and their consequences of these two kinds of power, only runs to a certain point. Beyond this point we know the despotic power flies off in any direction that may suit the passion or whim of the moment, and not only defies but actually overcomes all restraint, while, too, it outstrips all pursuit.

appliance of force, and precept of authority, to teach men happiness in the depths of misery, and patience in the midst of torture! They have torn their way into the earth, and scooped out dungeons—blackened its surface with rueful prisons; and, from the scaffold and the block, have drawn rivers of blood under the pretence of conquering the terrible depravity of human nature, and forcing it to the observance of order and the practice of justice.

Their object still is, as it has ever been, to terrify this hapless creature, man, into abject submission to their brutal will, devotion to his galling chains, and a cowardly worship of their hateful persons.

The giant crimes of all, that stamp disgrace the deepest upon mankind, these rankest felons of the earth themselves commit. What are those crimes? No less than shameless robbery of the liberties of millions of human beings, the ceaseless plunder of their property, and the wanton sacrifice of their lives!

Yet these crimes, heinous as they are, not only go unwhipped of law, but actually extort the praise, while they challenge the defence, of leagued and devoted nations! They are lost to human sight in the blaze of splendor that covers them and all their glittering incidents! All the while, the confederate perpetrators of these enormities hold themselves forth to the world as the doomed and careworn—guardians of mankind! In that character, how pathetically do they mourn over the frightful misdoings of their subjects!—with what rigor do they bind them up at every point, and with what remorseless cruelty do they punish them for every offence!

What has authority, which has been at work these thousands of years, done for the condition of human nature? Absolutely nothing. Has it produced justice among men? No one will have the hardihood to say that it has. On the contrary, it has produced injustice of endless complexity. All we can boast to have been achieved by it is a reluctant forbearance of violence and wrong that sometimes shows itself in what we call civilized society. In the mass of evil it has produced, it has, indeed, only been bounded by impossibilities. It has banished the practice of justice from the earth, and has only spared the spirit of it, because it could not be reached by any power, however desolating and destructive. There are those, I know, who think this spirit, in any thing like purity, is but a chimera—a phantom of the imagination—that it is not in nature.

As well might they urge, methinks, that in the moist day of the deluge the pure element of fire was wholly extinct on the earth, because there was so little appearance of any, and so much water to quench all there might be. But though all the actual fire was out, its spirit was indestructible—partly did it reside even in the very waves that weltered over its ashes.

The great boon of government, its liberty and security from outrage—these two blessings fully guaranteed, man wants nothing more than a field in which to exert his powers. Whether he be poor or rich, humble or exalted, let him but be *free* and *uninjured*, and his life cannot be a burthen to him. It must yield him gratification, and be positively worthy of his care. After sufficient checks are imposed, to prevent the liberty of men from running out into licentiousness, there is nothing which can compensate for the least subtraction from all that remains.

The power even to refuse a good, that arrogance would impose, confers unspeakable satisfaction, and is essential to freedom. Even the simple consciousness in the bosom of a freeman, that he is absolutely one—that he is the untrammelled artificer of his own destiny, is in its very self a fund of happiness, richer, purer, and more precious than could be purchased by all the wealth of the world.

What luxury is the very breathing of the humblest freeman, compared with the suffocated respirations of one bound up in the fetters of even benignant authority, and goaded on through life with ceaseless prescriptions? No matter what outward advantages this last may reach, he wears a humiliated, martyred, and debauched spirit, unworthy of a man, and degrading to his nature.

The positions I have taken here, deserve, as I think, to be much considered by all those who have a turn for reflection on such matters. I have, in this place, done but little more than given my own conclusions upon the most abstruse point, as I deem it, in all the philosophy of politics—a conclusion at which I have not arrived, however, without much reflection upon the character of man.⁴

4. I cannot forbear quoting, in this place, an extract from the labors of a pen, which, in the struggle of our revolution, was powerful enough to break the way for the march and swords of heroes; and did as much as they, to shiver the chains which tyranny would have perpetuated. It is not that I would avail myself of the authority of an immortal name, for names are nothing, but of thoughts, which, had they been delivered by an idiot or a madman, would be found, I think, to abide the test of reason and of truth.

“Great part of that order which reigns among mankind is not the effect of government. It had its origin in the principles of society, and the natural constitution of man. It existed prior to government, and would exist if the formality of government was abolished. The mutual dependence and reciprocal interest which man has upon man, and all the parts of a civilized community upon each other, create that great chain of connection which holds it together. The landholder, the farmer, the manufacturer, the merchant, the tradesman, and every occupation, prospers by the aid which each receives from the other, and from the whole. Common interest regulates their concerns, and forms their laws; and the laws which common usage ordains, have a greater influence than the laws of government. In fine, society performs for itself almost every thing which is ascribed to government.

“To understand the nature and quantity of government proper for man, it is necessary to attend to his character. As nature created him for social life, she fitted him for the station she intended. In all cases she made his natural wants greater than his individual powers. No one man is capable, without the aid of society, of supplying his own wants; and those wants, acting upon every individual, impel the whole of them into society, as naturally as gravitation acts to a centre.

“But she has gone farther. She has not only forced man into society by a diversity of wants, which the reciprocal aid of each other can supply, but she has implanted in him a system of social affections, which, though not necessary to his existence, are essential to his happiness. There is no period in life when this love for society ceases to act. It begins and ends with our being.

“If we examine, with attention, into the composition and constitution of man, the diversity of his wants, and the diversity of talents in different men for reciprocally accommodating the wants of each other, his propensity to society, and consequently to preserve the advantages resulting from it, we shall easily discover, that a great part of what is called government is mere imposition.

“Government is no farther necessary than to supply the few cases to which society and civilization are not conveniently competent; and instances are not wanting to show that every thing which government can usefully add thereto, has been performed by the common consent of society, without government.

“For upwards of two years from the commencement of the American war, and to a longer period in several of the American states, there were no established forms of government. The old governments had been abolished, and the country was too much occupied in defence, to employ its attention in establishing new governments; yet during this interval, order and harmony were preserved as inviolate as in any country in Europe. There is a natural aptness in man, and more so in society, because it embraces a greater variety of

abilities and resource, to accommodate itself to whatever situation it is in. The instant formal government is abolished, society begins to act. A general association takes place, and common interest produces common security.

“So far is it from being true, as has been pretended, that the abolition of any formal government is the dissolution of society, that it acts by a contrary impulse, and brings the latter the closer together. All that part of its organization which it had committed to its government, devolves again upon itself, and acts through its medium. When men, as well from natural instinct, as from reciprocal benefits, have habituated themselves to social and civilized life, there is always enough of its principles in practice to carry them through any changes they may find necessary or convenient to make in their government. In short, man is so naturally a creature of society, that it is almost impossible to put him out of it.

“Formal government makes but a small part of civilized life; and when even the best that human wisdom can devise is established, it is a thing more in name and idea, than in fact. It is to the great and fundamental principles of society and civilization—to the common usage universally consented to, and mutually and reciprocally maintained—to the unceasing circulation of interest, which, passing through its million channels, invigorates the whole mass of civilized man—it is to these things, infinitely more than to any thing which even the best instituted governments can perform, that the safety and prosperity of the individual and of the whole depends.

“The more perfect civilization is, the less occasion has it for government, because the more does it regulate its own affairs, and govern itself; but so contrary is the practice of old governments to the reason of the case, that the expenses of them increase in the proportion they ought to diminish. It is but few general laws that civilized life requires, and those of such common usefulness, that whether they are enforced by the forms of government or not, the effect will be nearly the same. If we consider what the principles are that first condense men into society, and what the motives that regulate their mutual intercourse afterwards, we shall find, by the time we arrive at what is called government, that nearly the whole of the business is performed by the natural operation of the parts upon each other.

“Man, with respect to all those matters, is more a creature of consistency than he is aware, or than governments would wish him to believe. All the great laws of society' are laws of nature. Those of trade and commerce, whether with respect to the intercourse of individuals, or of nations, are laws of mutual and reciprocal interest. They are followed and obeyed, because it is the interest of the parties so to do, and not on account of any formal Jaws their governments may impose or interpose.”—*Paine*.

CHAP. VIII.

What spectacle could be so rare upon the earth, or so gratifying to the philanthropist, as millions of freemen, united by the ties of patriotism and reciprocal interest, executing all the duties, relations, and engagements to one another, which might proceed from their convenience or necessity, from an ardent love of justice, under no other coercion than that of their own firmly established principles?

In the imagination, at least, this is certainly a very agreeable picture. How fortunate for mankind, could it be realized!

If, indeed, there be a possibility to exalt human nature to such a condition, or to one in any degree approaching it, speculation cannot be altogether idle, which endeavors, with however small success, to point the way to it.

There is no opinion which has ever occurred with more force to my mind, than that the *System of Law*, merely, employed to the extravagant extent we behold it every where in civilized society, must ever prevent the ascent of human beings to any condition that should at all approach, or in the lowest degree even resemble, such a one as has just been imagined.

For my own part I find it impossible to conceive of force and coercion exercised upon man, in any way whatever, that shall not degrade his character, and poison the springs of his nature. If we would suppose him ready, even rapturously disposed to enter upon a measure of any kind, in obedience to his own voluntary impulses, and at this moment would imagine an order assailing him from some imperious superior, peremptorily requiring him to proceed even in the very line of his inclinations, we would, I am persuaded, find the certain result to be, that he would suddenly revolt, in heart at least, from all thought of bestowing his action accordingly, whatever the dire necessity of his condition might oblige him to do.

The application of such unnatural impetus to the high spirit of man, when he is about to act, murders, even in an instant, all his energies—sickens all his appetites—robs him of every joyous impulse, and dooms him for the time to the most suffocating vacuity of purpose. I speak not here of those servile wretches of the world, who having been bought, and therefore debauched into slavery and dependence, are found to execute even the most arbitrary whims of their superiors, with an animation directly proportioned to the base reward they are to receive. The kind of being I am considering in this place, I suppose to be really a man, one who would, if he could, hold his spirit high and unpolluted. I persuade myself I do not err in the supposition I have just made, of the manner in which such a being as this would be affected by an incident of the kind I have imagined. It is by no means my business to enquire why he should be so affected, or dispute with any one, whether it were well or ill that he should be. It is enough that such is his nature; in which we may behold, if we will, that which exalts him above all other animals in dignity and independence. When we see a human being fail to be so affected under such circumstances, we may at once pronounce him fallen from his true nature, down to the low rank of the meanest reptile that crawls on the earth.

He who will attend closely to the character of man, will find that a sense of subjection, even to a standing resolution of his own, which I will call a law passed by his own authority, upon himself, will oftentimes produce a spiritless, difficult species of action, which, without it, had been, perhaps, free and cheerful enough.

There is, indeed, no doubt whatever, that men perform all the duties they owe to society, which are not enjoined by law, with a kind of satisfaction and delight they can never feel in the performance of those which are enjoined by it; and that they abstain from evils not inhibited or denounced by any other authority than the enlightened sense of mankind, with more readiness than they do from that which the laws undertake to restrain. The reason of this is obvious, if we would recur to the character of our nature. Where a human being acts under no necessity whatever, but that which he finds in his own free impulses, we shall be apt to find him cheerful and warm hearted in his obedience to the dictates of virtue, for here we see him enjoying his full liberty. But where he is subject to a necessity out of himself—a species of necessity he cannot fail to find in *law*, that is incessantly acting upon his discretion and his will, commanding him to *do*, or to *forbear*, there is an immediate resentment that springs up in his mind, against power which it is not in his nature to welcome as his guide. At the least, we find him here spiritless on one side, if he act at all obediently; and on the other, to the last degree perverse and rebellious, if he do not; and *this is but revolting at the least shadow of slavery*.

There is, indeed, little doubt, that men oftentimes, break the laws in matters of comparatively immaterial moment, with an excitement and a pleasure they could not feel, without being sensible that they were outraging legal injunctions.

We must take nature as we find it, and make the best of it. If I have here struck the truth in regard to man, I have reason to congratulate myself; for, proceeding from this point in his character, I shall find, I think, but little difficulty in unravelling the whole subject before me.

CHAP. IX.

There is another very obvious reason, which it may not be amiss to notice here, why men are spiritless and reluctant, either in doing good or forbearing evil, which the law requires on the one hand, or forbids on the other.

It is that they like not to lose any part of the full credit with society, to which they might be entitled, for every act of virtue, even down to the simplest forbearance of injustice; which, by the way, does not deserve the name of virtue at all. Wherever the law comes in, the enjoyment of this pleasing guerdon of good deeds cannot be theirs, except, if at all, in a very low and stinted degree. For let them be ever so ready of themselves, to do that which is enjoined upon them, they are, we see, still impertinently addressed by dogmatical authority, to beware of consequences, if they do not comply with its requirements. And thus they seem, at least, in some measure, to act from compulsion, even when they may not. This it is that jars through the whole man, strikes him out of all tune, and blasts the clear tone of his being. We see here a vicious ingredient flung into his natural impulses, to mix up with them, to give them increased animation, and, as it were, to insure them *out* into action; while that ingredient, we have seen, actually operates as though it were a kind of poison, wherever it touches. There is no reason to wonder at this. Who can be happy, or fail to become perverse and embittered in his temper, when dogmatical force stands at his back, ready to drive him, as though he were a slave, into measures which he might be willing cheerfully to execute as a freeman? To say nothing of his being robbed, at the same moment, of one of the capital incentives of all virtuous actions, the approbation and applause of his fellow beings.

To me, indeed, it seems that the laws, brandished over the head of a human being, demanding his obedience, leave him but little more credit for compliance, (let him be ever so independently willing) than we would assign to the most abject slave, who dreading the impending lash, in the hands of the brute that goads him through his toils, executes, without the hope of either honor or reward, the labors which are assigned him.

It would be difficult to calculate how much is lost to the cause of virtue, by the suppression of her free and voluntary impulses in the breasts of men, inflicted by the uncongenial and unwelcome interference of force. It may be safe, at any rate, to say that the whole mass of mankind, not even one excepted, is disparaged to some extent. All appear to act like machines, that are forced along, in matters of which the law takes cognizance; and the great bulk of them, it must be owned, are little if any better than they seem. Even those (and there are, I think, but few of them) who might be unconscious of any force impelling them to action, from a willingness they feel within themselves, which lifts them above it, cannot still escape a certain sense of necessity, foreign to their own independent will, which would be ready in an instant to constrain them in the contingency of their failure. This consciousness alone, plays the part of a sort of incubus upon their hearts, and makes it wholly impossible that their feelings can ever reach that joyous glow of satisfaction, that belongs alone to free, unforced, unfettered virtue.

If, then, we should even suppose that law actually succeeded in extorting a full compliance with its mandates, from all persons, in every matter whatever, to which it might be applied, we should still see it engendering a large amount of evil in the world: at any rate, preventing a great extent of conceivable, perhaps, too, possible good.

In the room of an active lively virtue, which we could imagine to glow in the bosoms of men, influencing their actions, and sweetening their lives, we should have a heartless, reluctant justice forced from them all; clumsily fulfilling the mere necessities of the moment, and promising no consequence, but the continued unhappiness, meanness, and degradation of the species.

Would that it had brought mankind even to such a condition as this—that it had effected this much good, and introduced no more evil. But the supposition here indulged, for the moment, will appear in the sequel, I think, to have been much too lenient for the reality, and fallen far wide of the truth.

Before we proceed any farther, I would observe to the reader, that he would, methinks, do well to pause at this point, and reflect with himself, how slowly we should ascend in improvement of any kind, under the dictation of authority and the lash of force; and to consider, on the other hand, what wonders might be achieved to our condition, by leaving us our own masters, to be virtuous if we please, and meet the rewards of being so; or vicious, and incur the inconveniences. To aid him in this last reflection, let him bring to his mind, among other things, that will of themselves occur to him, the countless heroes and sages of past ages, who have sacrificed every outward comfort, convenience, and interest of life, and finally laid down their lives, for their country's happiness, free and uncompelled.

CHAP. X.

If it be a part of the inevitable influence of law, to sicken natural virtue in the breasts of men, to paralyze and stint the growth of moral principles among them, I will suppose we would all be

ready to admit that its operation, were it to this extent only impressive on the characters of human beings, would be highly mischievous. Without in this place proceeding to mark its further influence, and the practices under it, I will turn for a moment to consider how far the amount of evil produced by it, which has just been unfolded, seems to be atoned for by opposite effects of convenience and benefit.

I believe it is generally thought, that whatever inconveniences and ills may be shown to spring from the operation of legal authority, upon the engagements of men, they must ever be found fewer in number, or more tolerable in their character, at least, than those which would be the concomitants of an order of things, that might attempt to succeed with no law at all.

It might be asked what would become of commerce, and all the varieties of trade and traffic in society, which so greatly contribute to its comfort and happiness, if the laws were withdrawn, which alone seem to keep all these things in motion? Are they not the principal security upon which men rely, that their various expectations and claims of interest will be met and fulfilled, with reasonable certainty, by those they may induce into obligations? Withdraw this security, and would not the members of society drop off from each other? Would not the stupendous continent of trade at once be split up, and subdivided into countless islets of petty insignificant traffic, that would be kept up by daily necessity alone, and proceed no farther than merely to alleviate the direct wants of a miserably confined existence?

It must be admitted, indeed, that under the shallowest view that could be taken of the principles of human nature, such a state of things would seem likely enough to succeed the removal of legal machinery, and would, perhaps, in fact, take place, were it not for other not less real and active principles of the same nature, which it is thought would operate wholly to prevent it. At present, however, that view of the subject will be postponed, for the purpose of prosecuting a further examination into the effects and influence of law.

The most plausible colors, in which the justification of its necessity could be dressed, perhaps, would be its animating influence upon trade, which, it might be said, was stimulated to the utmost limits it could bear, by the genius of law. Add to this, its binding influence upon the engagements of men, ensuring their fulfilment, by the resistless force it is ever ready to exert to that end.

Let us examine these imposing ideas. And first, it would be well to enquire how far the true economy of human happiness requires the extension of trade, the various negotiations of traffic, among men. The answer to such an enquiry would plainly be this just as far as their real wants required such an extension, and their substantial means, either present or prospective, of gratifying these wants, were actually ascertained and known to reach—certainly no farther.

Any extension, beyond this, must, one would think, be attended at least with suspicious effects upon the substantial happiness of society.

These effects could not fail to display themselves in the great multiplication of wild, capricious, luxurious wants of indescribable variety, extravagance, and complexity, which would be found agonizing the whole body of society, as well as in the endless miscarriages and failures, of those who might stand candidates for the gratification of them. For in how many instances must the pursuit of the various subjects of all these wild, superfluous wants actually end in abortion!" And when this might not be exactly the case, how often must it certainly happen, that those who pursue them with present success, would reap their enjoyment, in the end, at the frightful sacrifice

of even their very independence; betrayed, as they may be, to heavy engagements, on account of these follies, they may never fulfil!

There is, indeed, no civilized community in the world, in which we do not behold such wants as these cherished and indulged to the wildest extremes; and in which we do not consequently see trade pushed out to limits entirely commensurate with them. What immeasurable evil to man is plainly involved in this scene of things! How far does law contribute to produce it? A minute examination of its influence, will perhaps detect the fact that it is the sole cause of it.

How many are there in society, burning with the fever of gain, whom we find swiftly exalted into credit, and persuaded into the responsibilities—the whirling vortex of trade, while they are quite unworthy of confidence, wholly unfit for affairs, and actually prove themselves so in the end, notwithstanding all the assurances of law, which alone stands responsible for their faith and sufficiency! It is, in truth, nothing but the force of law, that lifts whole masses of the unworthiest parts of society, into the honors and adventures of traffic; supplying them with all the credit they ever possess, and engaging, besides, all necessary confidence in their undertakings.

What a harvest of disappointment, miscarriage, and ruin, must be reaped from affairs, set on foot under such auspices as these!

Again, what numbers of the worthiest, simple hearted members of society, do we find, unwarily seduced into ruinous engagements, by the artful and designing, whose reliance is wholly placed upon the aid of convenient law, which will enable them to extort from unsuspecting, deluded honesty, the fruits of the over reaching obligations into which they have beguiled it!

Next we may observe the shoals of knaves, that float upon the highest tide of fortune, and exert the widest influence upon society; whose whole strength has been supplied to them by law, which has opened them the way to rank and importance, and now sustains them on their eminences. We all know that these creatures, if they happen to be prosperous in their affairs, do actually meet with few or no obstacles in trade. Little concern is felt by any one for their knavery, if they happen to be possessed of substance which the law can conveniently reach. To that all eyes are directed, which, as soon as it is discovered, stands as a very sufficient substitute for good faith in every one.

What a frightful outrage here presents itself upon the fair and wholesome principles by which the affairs of society should all be conducted! In what labyrinths, what wilds of uncertainty and confusion, are not these affairs everywhere involved! Besides, what temptations and seductions fall upon men, to turn them to the practices of iniquity!

Do we not behold the chief incentives to probity, superseded by the more plausible and captivating influences of law, which bestows credit on the unworthy? and at least, the highest momentary prosperity on the wicked? Pitching upon the vilest knaves for its favorites, and the best of mankind for its victims.

In such a scene of things, good and evil, virtue and vice, seem indeed almost confounded.

This crafty conventional justice, we see, despotically usurps the whole empire of morals; adjusts all the principles, rules, and criterions of right; to which it exacts the almost universal devotion of men. It rewards with complete indemnity, even with credit and regard, the mass of iniquity which is fostered up by its policy, and enables the gain it procures its votaries, to buy off, well nigh, *all* the odium of injustice, and the infamy of crime! And yet, oppressive as it is to the good, it is not wholly faithful to the bad: for he who today may employ it as a successful

instrument of fraud upon another, shall tomorrow be the hapless victim of a delusive reliance upon its force.

But waving in this place all notice of its further influence, than that which has been hinted at, in the extravagant and bloated dimensions to which it pushes out the trade and traffic of society, and we shall have a spectacle of evil, which, I think, if rightly contemplated, would be sufficient to suffocate us with lamentation.

There cannot, certainly, be the least difficulty, in determining the foundation upon which the commercial credit of every member of society should rest, or in fixing the just limits of that credit. The first, we would all agree, should be the approved integrity of the man; and the latter should be founded on his perfect ability to fulfil his engagements of every kind, whatever they might be. Nothing could appear to be more simple than this, or more obviously true.

Yet neither such a foundation, nor such limits, does law, in the slightest degree, even pretend to respect. So far from this, we find it wholly disowns and despises them in practice. It has no rewards to offer to integrity; no discouragement to knavery; but the very reverse of both to each. For while it pretends to bring both up to the evenest pretensions, and holds out to them equal advantages, we find it bestows, in the end, by much the largest share of its favors upon the latter. In short, confounding all distinctions in the principles of men, it takes up the whole body of society, and *tosses it* in adventure. The bounds of this adventure, wild, wicked, and chaotic, as it is, are the limits of trade, it assigns to society.

How well these limits are suited to the true interests, genuine prosperity, and substantial happiness of men, it must be easy to decide.

We discover, now, I think, that what, at first view, we were almost ready to receive as some atonement for the evil that had been unfolded, must be regarded as an accession to and an aggravation of it. Can it be possible there is no order of things capable of being introduced into society, more exempt from evil, than the system we are now considering; more imbued, too, with the spirit of improvement, and, in the whole scope of its influence, more likely to adjust itself to the cause of human welfare and happiness? If, indeed, there be not, utterly hopeless were the condition of mankind. What were they but a blot, and a foul blot, too, upon the fair face of the universe?

CHAP. XI.

But the demoralizing influence of law, I am disposed to regard as the capital evil of all that it entails upon mankind. I know there will be a stare of surprize at this, especially among the hired devotees of the craft, who may have squandered—bartered away their consciences and their reason, for the hopes of lucre, and the gratification of professional vanity.

I feel myself assaulted, at once, with the reverend dogma, delivered down to us from the learned pedants of past ages, that *law is the refinement of human reason!!* Truly, these few words would appear to end the dispute at once; to strike all sceptics into confidence, and all talkers into silence.

To me, however, they seem but an ingenious device to stifle investigation, and defraud the human mind of the benefit of its most valuable labors, in a region full of error and corruption, which only want to be considered for a moment, that they may be exploded for ever. In this

imposing eulogy of law, I have just recited, I suppose there is a meaning, that it is something far too subtle, pure, intricate, and profound for the apprehension of vulgar intellects.

This being its miraculous quality, it can of course never be expected to be found among the attainments of any more than the small portion of mankind, that nature may chance to bless with extraordinary capacity, and that circumstances may incite to the severest studies. To them alone, it would seem, it were our part to be content that all its precious mysteries, its wondrous depths and beautiful harmony, should be unfolded; and to them alone, the gifted receptacles and conductors of the light of justice, it were becoming in us to rejoice that we were privileged to receive it.

What despicable trash and superstitious jargon is this? And yet how firm the league we everywhere behold between dupes and knaves, to consecrate it to the regard of men as though it were eternal truth, as precious as their creed of heaven?

I shall proceed to consider this boasted benison of men, more in detail.

If I should allow, even, that there was not a single law, in all the volumes of the craft, on earth, that had not received its conception and passage, from the best, the wisest, and the brightest of the human race; still, I affirm, notwithstanding all the care, benevolence, and wisdom of the lawgivers, that the evils I have charged, would be the inevitable consequence of their well intended functions.

Were all the members of society, as sincerely devoted to the ends of justice, as we may suppose the law makers themselves might be, then, indeed, I could have but little foundation for the position I have taken: then I might boldly declare there were no necessity for laws at all. Conscience, in such cases, would stand in the place of the legislature, to point out the path of right, and the love of justice, in the hearts of men, would supersede all the functions of the judge and his ministers.

There is nothing, we know, but the depravity of men, their tendency to step aside from the path of rectitude, and disobey the plain injunctions of justice, that brings them to the necessity of coming under the empire of laws.

It is from this same depravity, which authority is employed to control and overcome, that I shall endeavor to deduce the result I have charged in the beginning of this chapter.

It matters not in this place, how the depravity we may begin with has been engendered. A certain degree of it being assumed, all that remains is to prove that it takes a deeper dye from the operation of legal prescriptions.

We all doubtless understand quite well enough what it is that engenders the injustice we see in the world. It is nothing but the narrow selfishness, the crazy cupidity, of man, that incites him to prefer, in so great a degree, his own interest, comfort, and convenience, to those of all others, that whensoever they chance to come in collision, as they very often do, injustice is the aptest of all things to be the offspring of the strife upon one party or the other.

Can it be seriously imagined by any one, that the sending down laws among men, will have the effect of setting aside, or amending in the least degree, these oblique and grasping propensities of their nature; or that they will extort through the medium of the awe which attends them, submission to their authority and injunctions.

Those who are disposed to crime, may now and then be terrified by the denunciations of penal enactments, which threaten chains, the dungeon, or the halter; but the *civil knave*, it may be safely affirmed, would be the last to confess amendment from the lights of the statute book, or awe at its prescriptions. So far from this, indeed, each new law which might be intended, however

righteously, to set bounds to his dishonest contrivances, or totally to defeat them by the application of new guards, and the removal of old difficulties and ambiguities, which may have been found to favor his machinations, is, in fact, but a new tax upon his ingenuity—a louder and stronger call upon his scheminess and dexterity.

Here, then, we behold the legislature, upon one hand, exerting its utmost vigilance to keep pace with the craftiness of men, while, on the other hand, we see them ever on the alert to elude that vigilance, and all the injunctions that proceed from it; and what is worst of all, we see them succeed, too, in numberless instances. The reason of this is obvious. Their craft and invention neither sleep, tire, nor pause, even for an instant—while those in authority, who are appointed to watch and keep them in the paths of justice, necessarily leave their posts, and remit their duties for long periods. In these intervals, we find the game played all upon one side, by a world of sharpers, who have the shuffling, cutting, and dealing of all the cards just to suit themselves.

It would be wonderful, if, under favor of such advantages, they did not prove victors in the contest.

Under this view, therefore, I incline to consider an act of the legislature, in the general, in no better light than as a guiltless accomplice, and auxiliary of vice, serving as a kind of moral, or rather immoral, *whetstone*, upon which ingenuity and craft may learn to sharpen and brighten up their faculties, so as to bring them to the highest state of perfection. It is surely a dreadful evil, that knavery, instead of being disappointed of its wicked aims, by the deep, far sighted, provisions of the law, should be continually found to break out in a new and unexpected place, and there unblushingly call in the aid of some unguarded rule of justice, which it ingeniously tortures, to subserve the drift of its unholy projects.

The experience of all time, is, indeed, full and complete, to show that nothing is more impossible, than for legislatures even to keep up with the contrivances of men; much less to anticipate and guard against them by well timed enactments.

It is a pitiable, and far too sad a sight to be a ludicrous one, to see these grave, cumbrous, and enlightened bodies, lumbering along at an immeasurable distance behind those light and supple jugglers in legal chicanery, vainly endeavoring to overtake them with some new enactment, which is devised to make up, by the gravity of its terms, the depth of its views, and the parade of its publication, for the lateness of its birth, and the lamentable inefficiency of its application.

Were it, indeed, within the scope of human wisdom and penetration, to anticipate every conceivable inflexion of cunning; to foresee all the hidings, every resort, shift, and device of legal chicanery; to paint, beforehand, the infinite variety of hues and colors it can bring itself to assume, and provide against them, in terms of unequivocal description and application: why, then, indeed, the good which seems to be hoped for, from law, might be, perhaps, in some degree realized. But this task would not seem more easy of execution, than a delineation of the leaves of the next year's forest, or of the special colors of the clouds that are to float on the bosom of the air tomorrow!

It is something easier for any one to conceive, than specially to set forth the contrivances, by which the most circumspect, well guarded, and well intended provisions of a law may be wrenched from their true aim, and actually prostituted to the ends of injustice; how fraud may manage to bring itself within the *mere letter*, by the adduction to its aid, of certain nominal features of a transaction, which might be demanded by the requisitions of a statute, (features that

it may be quite easy to fabricate,) and thus obtain the the full benefit and protection of a legal provision, at the very moment its whole spirit is wickedly outraged.

This is what every one familiarly knows—has actually seen and experienced with his own eyes, and is, indeed, a kind of exploit, which is of no less than daily occurrence. It were needless to adduce special instances of this species of management.

For such abuses as these, there can in the nature of things, be *no remedy*; for they spring from the absolute and irremediable imperfections of the laws themselves—their pitiable inaptitude to the affairs of men. The terms of all laws must, to some extent, be general. They must needs take for their guide, certain standards, which are commonly considered as the least fallacious, many of which are at best but treacherous reliances. For example, in fixing the character of those transactions among men, to which they will lend their sanction, reliance must be placed upon the customary signals of honest, bona fide intentions on the one hand, and of dishonest, or mala fide, on the other; declaring those valid which are characterized by the former; those void, which are marked by the latter. But what in many cases appears so easy as for knavery to counterfeit all the first, and sedulously to avoid the last, and by these means clothe itself in benefits which were never intended for it.

Who is there that ever expects to behold the phenomenon of a man, turning over the pages of a law book, for the mere purpose of enlightening himself in the principles of justice, that he may, without fee or reward, conform to them in practice?

The earth will never, I dare say, produce such a simpleton, as he would be, who should expect to realize this imagination. It is, on the other hand, melancholy to observe the kind of spirit, with which a provision of law is commonly looked into, by those whose interest leads them to acquaint themselves with its character. It is, indeed, with the greatest solicitude they hunt out the page, but who does see that it is any thing but a pure concern for justice, that prompts and hurries on the examination. Manifestly, in all cases, they are only eager to see how far the law will be found to favor their interests, that may be at the moment in jeopardy, or to what extent it may lean against them; and then, in this last contingency, there can be little doubt, they study it with more intensity and minuteness, for the purpose of inventing some device, by which they may elude its force.

It may, then, I think, be safe to say, that the extreme and last polish of chicanery, its most finished education, proceed to it from the provoking pressure of the laws, which it aims to elude, while they are aiming to defeat its devices. Not to mention the countless instances of temptation that fall upon men, to turn good laws into engines of injustice, for their own emolument. Influenced by such excitement, there is little doubt that many a man becomes an accomplished and dangerous knave, who, under other circumstances, might not have been a knave at all; or at worst, a very bungling one, and harmless.

Among the uncivilized and savage, injustice generally displays itself in open force and unmitigated outrage, with here and there, perhaps, a few instances of short and shallow stratagems. No tedious concatenation of devices are seen among them, strung together, even by those who may be most distinguished for their wickedness.

These notable displays of ingenuity, denoting such wonderful reach of intellect, seem reserved to grace the civilized condition of man, and do honor to its refinements.

One of the effects of law, then, seems to be, instead of teaching men justice, and inspiring them with a love for it, but to animate their craft, deepen their duplicity, lengthen out the

labyrinths of their contrivances, and supply them with a practical villany, of which they had, perhaps, never dreamed themselves capable.

Again: many are the laws of every country, which are founded in mere policy; laws which do not so directly aim at the achievement of immediate justice, as at the procurement of future good of another kind. Such, for an easy example, are the statutes of limitation, and those which turn mere naked possession, of a certain duration, however unrighteous that possession may be, into clear indefeasible title.

Those of limitation, which discharge obligations at the end of a given time, in effect, making time a sort of paymaster, it is not even pretended, were made without the obvious hazard of inflicting injustice in individual cases. That evil it seems to have been thought wise to incur, and allow of, for the sake of preventing greater evil. There is surely, however, no reason why if I, being a merchant, indulge you for more than a year in the payment of a debt, you have contracted to me, that my generosity should be scourged by the total forfeiture of my claim; and yet the law, in effect, declares a forfeiture in such case, by withholding the energies which are necessary to enforce it, allowing *lapse of time* to be pleaded in full discharge of my demand.⁴

Other statutes there are, that oblige to heavier payments of this kind; requiring, in certain cases, the lapse of even six years, for a discharge, and in others, even a score of them. In these last mentioned instances, there would appear to be a waiting for the crime of indulgence to become so exasperated, as to leave still less doubt of the propriety of punishing it with a total denial of right.

Absurd and outrageously unjust, as such rules of law would plainly appear to be, in special instances, yet to deal fairly, it must be owned that, within certain limits, the good that proceeds from their operation greatly overbalances all the evil. The legislature, seeing the great inconveniences that would be likely to arise from the indulgence of litigation, upon stale claims and subjects of controversy, by reason of the natural decay of testimony, and the probability of error's taking the place of truth in their explication, has thought fit to ordain and announce, that in certain specially described cases, unless application be made to a tribunal of justice, within a given time, for the adjustment of rights which are wished to be enforced, there shall be no remedy. The effect of this, it has been supposed, would be to alarm men into a speedier attention to their interests, and thus, that the execution of justice would be achieved with more despatch—less inconvenience and hazard of error, than would be otherwise experienced. Yet, well enough do we all know, that men do still very commonly remain indolent, and let time pass, much as it is undermining and stealing away their rights; and so become, before they dream of it, the innocent victims of necessary injustice.

If the whole matter ended here, it would, perhaps, be our duty to rest satisfied. But there is yet another view of the evils of such rules as these, which, much as it deserves to be considered, I incline to think, has been ever entirely overlooked. The reason of this oversight, here, I doubt not, is because the evil I allude to lies a little too far out of the way of easy observation; and besides, requires to be nicely searched after and examined, before it can be at all either seen or comprehended: this it is—that these rules of policy come at last to pass for rules of justice, in the minds of men whose judgments are ever sure to be debauched by their interests. There is, indeed, no such thing as limiting their subtlety and pitiable resorts, when they go in quest of arguments to

⁴ In most places, merchants' accounts are dead in law, the moment they become a year old.

help out their lame pretensions, and vindicate their unjust assumptions. Now it is certain, that *whatever is law*—no matter how dry, hard, and unjust it may be in special instances, passes through the great body of society, at least as an excusable rule of conduct for every one. All the injustice which is produced by so venerable a cause, there seems a very general willingness to consent to and allow of.

Whoever will reflect, however, upon the mass of injustice, which is the inevitable fruit of laws founded on mere policy, will be able to form some proper conception of the *reputable pollution* of principle and knavery of practice engendered by them, through all classes of society.

To expand the circle of our observation here, what immeasurable evil discovers itself, as we contemplate how large a part of all our innate notions of right, our purest, noblest conceptions of natural equity, are given up in spite of ourselves, and sacrificed to the superior authority of legal prescriptions. Every one knows that his own ideas of justice, with whatever care he may form them, are not for that reason law. Well is he aware that let him reflect and determine, no matter how wisely, upon any question where the principles of justice are involved, that in most cases, they are all inveterately settled beforehand, some way or other, and will certainly prevail, in utter disregard of either his opposition or consent, and that, in respect to them, his wisdom or folly are alike impertinent and indifferent.

Anticipated and disheartened by authority, which it is vain to oppose, mankind, in general, wholly forego both the pleasures and labors of speculation, upon subjects that most nearly concern them.

They soon learn that they are commanded to look elsewhere for their rules of action, in matters of the highest moment, than in their own bosoms, where, though they may find justice, they may by no means find the rule to which authority is about to constrain them to conform. Thus are they, as it were, hurried *out* of themselves, and made impatiently to look abroad for foreign criterions of right, which they well know they are bound to respect, indeed, implicitly obey, whether they approve them or not. It is, surely, an influence of no slight malignity, which thus fatally checks the career of investigation, even suffocates in the bosoms of men that joyous spirit of free enquiry and discussion, upon all subjects affecting their interests and their happiness, which is so essential to their improvement and amelioration. But this we have seen is but little of the evil. Would men but faithfully yield even a mechanical sort of obedience to authority, which is imposed on them for their government, we should have nothing more to lament than a general inaction, or rather inanity, of intellect—we should see them nothing better or worse than a herd of ignorant, innocent slaves, ready to be driven, without thought or remonstrance, whithersoever their superiors might direct.

But man is not yet so tame. Nothing is more difficult than to cleave down his faculties. He is intuitively bent on action, and whether he be beset by propitious or adverse circumstances, we see the impression of his labors stamped in large characters upon his destiny. Though he is eminently capable of virtue, when placed under auspices which are sufficiently favorable to its exercise, he is nevertheless lamentably prone to vice, in all its conceivable declensions, when the necessities of his lot conspire to give that turn and direction to his propensities.

When these propensities, be they good or evil, have once fully obtained their sway over his actions, we find they incite him onward to the most tedious labors, and carry him out to the most arduous enterprizes, which he is found to execute with the most patient, persevering industry.

Animated by an invincible spirit of action, he makes shift to redress, in a degree, every rigor that is mixed up in his destiny, and every inconvenience and ill he has not strength to remove, his ingenuity labors to transform into a benefit.

From despotism, which he can neither overthrow nor fly, he makes out to fancy, at least, that he draws protection; at any rate, he derives to himself the partial ease of affected submission, even while his bosom is heaving, ready to burst, with the fires of rebellion. From the wildness of anarchy, he distils something of the sweets of liberty, and from every species of authority he feels himself bound to obey, his subtlety enables him to extract some benefit to himself, by so nice an examination of its prescriptions, as to find out all the secret conveniences they contain, which he artfully appropriates, with the least possible admixture of their opposites.

Thus, in the particular of laws which address themselves to his interests, seeing there is no such thing as eluding a plausible compliance with their requisitions, he finds it the suggestion of policy to adopt and obey them to an extent, as near as may be, commensurate with his convenience; even to plant them in his bosom, too, and having done this much, then, as far as possible, to naturalize these exotics in the new soil to which necessity has transferred them.

At this point, we hear the voice of conscience breathing to our ears the suffocating agonies of its final dissolution.

CHAP. XII.

If we should consider the nature of a legal rule, its absolute inflexibility—that it ever occupies the same rigid dimensions—is endued with no property of ductility or diffusiveness, and, on the other hand, contemplate for a moment, the nature of human affairs, in their infinite variety of hues, complexions, and circumstances, we shall at once perceive the lamentable inadequacy of the former, to reach with any degree of certainty the various exigences to which it may come to be applied. For we see plainly that it is bringing an insignificant finiteness of remedy, prepared and finished beforehand, so as to defy all subsequent modification to cope with infinity of confusion and disease in the relations of mankind.

A given matter comes up soliciting the arbitrament of the law. There is one prescription for it in the books, it may be, and no more; and though it should be proved instant death to justice, it has to be administered, we see, with full professional solemnity. In the science of medicine, we know that the remedies which experience has found suited to certain physical disorders, do almost ever undergo essential modifications, that they be made to touch, with the nicest possible fitness, the peculiarities of cases that occur. The physician, to be sure, is well informed, beforehand, of the general principles of the science he professes, and of the various remedies which experience has assigned to different diseases; yet, when he is called to a patient, and proceeds to the business of examining the symptoms of his case, though it is true he avails himself, as much as he can, of his general knowledge, in regard to the special disease he detects before him, still, at last, he is apt, when he comes to prescribe, to consider it as something, the precise like of which never occurred before. In this event, if he be a man of parts, he will probably apply a remedy whose exact nature and quantity never were administered before. He has, it may be, discerned a peculiar complexity of disease, whose special character he has never seen delineated. Here, then, employing the nicest exertion he can of his professional skill, he does not fail to risk a modification of all the remedies

in print, which is of course a departure from them all, in order to reach the peculiar lineaments of the case before him.

It will scarcely be pretended that moral evil, which the laws to a certain extent undertake to cure, presents, in the flow of human affairs, a less diversified character, than do the ills of the body. It would be hard to say which of them exceeds the other in the matter of variety, if either does in fact.

In the one department, we find, however, prescribed remedies constantly modified, to suit cases as they occur; in the other—*never*. If an instance of disorder, which occurs today, in the affairs of men, has not, indeed, been actually foreseen two hundred years ago by the sages of law, they have, at least, been wise enough, it is thought, to furnish the exact remedy.

What would be thought of a doctor of medicine, who should carry on all his practice by the express letter of his book? It is certain that ridicule and detestation could fail to pursue him, after many a superfluous grave had testified his stupidity.

It might be thought that the institution of juries ensures a suitable molification of the rules of law—that they supply all that delicate perception of the peculiar hues of cases which may be deemed essential to the ends of justice. To this notion I could by no means assent. For, though, indeed, I consider juries as a very great blessing, when contrasted with the mass of evil to be found in the system with which they are incorporated; still, I have an idea that the full extent of their beneficent influence in affairs of litigation, falls almost infinitely short of the complete ends of justice, hampered, as they always are, by the iron rules of law.

They have, it is true, in many cases, a sort of scope and discretion; but all the space in which they are left free to act, seems to be little more than that in which it has been impossible to fix fetters upon them, for the law still guides and domineers over them, as far as it can even pretend to see the path they should follow. Encumbered, as they are, always, in this respect, I would liken their condition, even when they might be full of the nicest discernment and purest intentions, to that of some good natured being, who, implored for assistance, by one, I will suppose, in no other place than down in a ditch, where he had lucklessly fallen, should suddenly find that his hands were somehow or other mysteriously snatched from his use, at the very moment he would freely employ them both for the relief of the sufferer, whose cries were assailing him. Touched with the distress before his eyes, we see him ready with all *his heart* to reach out the aid his poor petitioner requires; but embarrassed, disabled, indeed, as we see him, it is plain that all the assistance he can give, must be rendered with his foot.

To return. If all men were of the same specific organization—in the course of their lives, should actually meet the very same trials—should find themselves, too, impelled in these trials, all, by motives precisely alike, perhaps then, indeed, this uniform likeness of character, state, or condition, impulse and action, might suitably meet the appliances to it of all these unbending prescriptions. But the characters of men, as we see them, closely examined, we shall find them a wonderful mass of discordant materials, presenting dissimilar features and traits to the last extreme of variety. How uniform laws can possibly meet such wondrous confusion of persons and things, I confess that, for one, I am not able to see.

In short, it would not seem a vainer task to prescribe paths to the winds, and really count on their faithful obedience, than it is to attempt, with even a world full of books, to properly touch all

the essential relations, interests, and duties of men, and hope by these means to mould their affairs, all to a state of felicitous order and innocent harmony.

CHAP. XIII.

I dare say there is scarce any one, who has not observed how much injustice actually flows from the fullest operation of law, even in the most enlightened tribunals.

My purpose now, is to show how this happens, in cases where there is the freest play of every principle of law, which the most sensitive conscience and learned head can bring in to throw light upon the judgment, and give complexion to its decrees. Many cases there are, it must be owned, that fall out so perfectly plain and simple in themselves, that all the confounding artificial wisdom of the law will not be able to obscure or complicate them. But such cases are certainly but of rare occurrence, and deserve not to be considered in excuse of the entangling influence of legal rules, upon far the greatest portion of all the disputed concerns of society. I might avail myself here, in the first place, without descending to particulars, of the universal sentiment of men upon the failures of justice, which are daily visible throughout all its train of *shops*, even from the highest benches in the land, where grave judges sit with oracular gravity, brooding over the deep chicaneries of their science, down to the meanest bar room lodge of a brainless magistrate, who dispenses *Saturday evening* law, under the brightening inspiration of half pints and clamor, to a pack of squabbling knaves, for but little more compensation to himself and his minions, than twice or thrice all the amounts in controversy.

There is, certainly, no one whose mind is capable of reflecting at all, that is not often struck, first, with the tedious delays he observes to beset the progress of almost all cases of legal litigation, and in the conclusion, when all is over, and the parties are dismissed with the sentence of the law upon them, that will not be confounded with the result, which, to his unlearned intelligence, shall seem so entirely anomalous, as to be actually monstrous for its meeting no simple view, which any unprofessional mind could possibly conceive of pure justice. These judicial results seem, indeed, to wear, oftentimes, about the same resemblance to the healthy, genuine conceptions of right, that the mangled carcase of an animal, prostrate in death, would be acknowledged to be like one of the same species actually' alive, upon its, feet, in all the luxury of bounding health and roving liberty.

So deeply grounded is the conviction of men, in the uncertainty of the law, its blind inaptitude to most of their affairs, that a resort to it has actually become, to a certain extent, a matter of common jest and ridicule, with all the more intelligent, better thinking part of mankind; who, though they may themselves be sometimes found calling for its aid, are desperately seeking the only means, imperfect and despicable as they are, which the necessity of things has left them for the redress of still more insufferable grievances.⁵

⁵ What is more common in the world, than the trite expression we every day hear, *the glorious uncertainty of the law!* Though it is used in ordinary speech merrily enough, still it is grounded in serious truth. However it may appear as though it were nothing but jest, still it is no *jest* at all. It has sprung in earnest, from the sober experience of men, on the subject to which it relates.

It is called glorious uncertainty, and properly, too, for glorious it is to the craftsmen of the *science*, or rather the dealers in the article, who are found to thrive, even to marvellous fatness, upon it.

We have only to consider the boasted inflexibility of the laws—their uncompromising rigor, and the wonderfully profound policy with which they have been conceived and brought into existence, at once to comprehend, how all this frightful martyrdom of pure justice comes to be perpetrated by their agency.

First, we see they take no account in the general, and cannot, of the infinite variety of human conditions, feelings, circumstances, and characters. These, it is plain, should be specially considered for the purposes of clear, unclouded justice. This very inaptitude in them, has had the strange good fortune, however, to procure to the system the credit of pure inflexibility! There is nothing more required than certain nominal features in a case, to exact the application of a legal rule, which attaches at once, as it does ever, in all cases alike, with the very same energy, however substantially different in a thousand other particulars the cases may be, notwithstanding the mere nominal similitude. For example, a man of overflowing wealth stands indebted to a poor fellow being in some amount, which the severe necessities of the latter make it the extremest injustice in the former to withhold. Yet he does withhold. The consequence is, that resource is had to the law, and it may be supposed, redress actually obtained. This is as it should be. But again: some honest creature, whose wretched hovel is the picture of poverty and distress, happens to be indebted to one of immeasurable wealth, no matter in what amount. In reply to a demand of the due, for which he stands obliged, he pleads poverty and impossibility. But this plea, touching and conclusive as it is, has the ill fortune to be scoffed at by his lordly unfeeling creditor, as utterly idle and impertinent. Without the least touch of compassion or humanity, this man of wealth flies to the law, and demands its speediest action upon his victim. The consequence is, we do not fail to see the law apply itself with precisely the same promptness and force, in the latter case here, as in the other, that has just been supposed—pronouncing the same sentence, and inflicting the same execution of that sentence.

But can there be conceived two cases more unlike in every essential particular. In the one justice is really attained—in the other grossly and inhumanly violated. I do not of course here mean, when I employ the word justice, that technical legal justice, which knaves, fools, and hirelings⁶ affect to *revere*; but that pure, enlarged, liberal, informal justice, which both faithfully recognizes and warmly embraces all the essential interests and duties of humanity, as far as they can be possibly perceived.

How ridiculous is it to talk of any other kind! The hapless creature I have just supposed, is stripped of his earthly substance, and exposed, with his wretched family, to all the horrors of want—houseless, homeless, penniless. An hour before, they had a shelter, and some few of the necessaries of life; now the beasts of the field are far more blessed than they. What has produced such bitter, unmixed distress? Legal justice.

I make no attempt, here, to delineate at large, the countless instances of hardship, which are daily proceeding from the inflexible operation of the laws. My purpose is merely to present a

⁶ I mean by hirelings, the whole tribe of judges, lawyers, and their minions of bailiffs, bumbailiffs, constables, and the like. At the same time, I would observe that I mean no reflection whatever, on the great mass of men, who, forbearing all particular thought on the subject, do, rather from habit than judgment, seem to respect the whole system of jurisprudence among them; seeing that something like it is the decided *fashion*, and a very old fashion too, of all civilized countries.

glimpse of these reverend, unscrutinized evils—to show the way into the wide field in which they spring, to blacken' upon the sight of all who have eyes to see. If they be rightly contemplated, they cannot fail, I think, to give to every one some just conception of the pitiable imbecility and pompous silliness of a system, which has so long extorted, and still extorts, the grave approbation of the great mass of men throughout the civilized world.

To proceed with the glimpse I propose—the observations I am about to make will relate to that part of the law which is called evidence, that spreads, over most parts of this republic.

It would readily be admitted that nothing could be more important to the proper understanding of a matter in litigation, than evidence, the office of which is to unfold *facts*, that are to establish the true obligations of the parties. It has, therefore, justly been considered that great care was necessary in fixing the rules of evidence, not only in regard to the important consideration of what matters should be deemed admissible, in respect of their pertinence to the questions requiring explication, but also to the persons who should be received as competent to testify.

One great criterion seems to have been long ago settled, as to the persons, namely, interest or no interest in the event of the controversy. Perhaps a better could not well have been hit on; and yet, if we consider it well, through some of its bearings, we shall quickly perceive its ridiculous weakness, as well as the solemn evils which the rules founded upon it must of necessity entail.

It seems that all persons, without exception, are declared incompetent as witnesses, who have any direct interest, however small, in the event of a matter in controversy; and that all who have not a direct interest, are admitted to testify. This capital rule receives its sanction, no doubt, from the experience we have of the bias which interest has ever been found to put upon the minds of men, oftentimes swaying them into falsehood, even when under the strongest obligations of justice to others to observe nothing but truth. Seeing that there was *some* portion of mankind, that were known to be capable of such depravity, under the incitement of their interests, for the purpose of disqualifying them under these circumstances, it became necessary, from the very nature of the subject, to disqualify *all others*, however they might be supposed, and known to be, too, superior to the influence, which only technically is used to render them incompetent. For well do we all know, that there are actually thousands of men, whom no interest, however direct, could at all betray into the crime of perjury; yet we see it has been impossible to excuse them from disqualification, by reason of the impossibility of ever distinguishing, in practice, between those who are, and are not, above the corrupting influence of interest; for we have no means of measuring the integrity of men, and even if we had, nothing could be more absurd than for us to think of employing them for judicial purposes.

We see, however, that the effect of this single rule is actually to shut out, in numberless cases, information of the highest value to the ends of justice; for the mere want of which, we oftentimes see injustice triumph, under the grave sanction of a tribunal of the laws.

It is worthy of being particularly observed, that the rule goes to the full extent of disqualifying *all men*, alike, for the least—most diminutive interest that can be conceived, so it be direct.

There are some few exceptions, which policy has established, to suit extraordinary cases that may occur; but they are not worthy of being considered here, since they are only those in which, from the nature of the subject, owing to the *numbers* interested, if testimony were not received from them, it could be had nowhere at all. But these cases must obviously be of such rare occurrence, as to make little or no impression upon the general rule.

Now we know, that in fact, it is not any more than a few, and these of the lowest and basest of mankind, whom an *insignificant interest* will sway into perjury.

But the rule is founded upon the presumption that *all mankind* are liable to this corruption—would *certainly* be guilty of it, for the *least possible gain*. If this be true, what are we but a pack of diminutive devils? If it be not true, but, on the contrary, utterly false, what were the rule but a libel upon human nature, and a disgrace to common sense?

We find, then, by its operation, that men of the sternest virtue lie under its fictitious denunciation, and are actually excluded, with all the valuable intelligence they might be ready to deliver in a cause, for no other reason, than because they may chance “to be interested to the amount of a paltry shilling; while any vile knave who happens not to be so interested, however much he may be actually biassed, as he is ever apt to be, by other considerations and causes, towards one side or the other, is freely admitted.

The rule, then, is still bigger with absurdity for this, besides proceeding, as it does, on the presumption that the only bias upon men, worthy of being considered, is a *pecuniary* one.

Now, we all very well know, that nothing is more untrue than this. For if we would turn our eyes upon the mass of mankind, we should find them influenced towards one another, by a great variety of prejudices, with which pecuniary interests have no sort of concern. We shall see, everywhere, real partialities and antipathies, the offspring of causes which no intelligence could hope to unravel.

So subtle, indeed, are those causes, that the very persons themselves, upon whom they have operated, would not be able to arrive at and disclose them by any effort of their intellects.

They are only conscious of a strange, unaccountable bias, in relation to others, either for or against, which they feel that they can by no means whatever discharge from their minds.

Yet all bias and prejudice of this kind, powerful as it may be, in its actual influence upon men, the law chooses to disregard. To speak truth, it cannot do otherwise.

But this only shows the more plainly, how absurd are its pretensions, in interfering at all with the subject—in aiming to fix and establish criterions, to denote the credibility of men, as though they were so many *machines of uniform action*; whereas, they are animals marked by the strangest diversity of character, often impelled by the wildest confusion of motive, and of whose credibility, therefore, no intelligence short of omniscience could, without the greatest presumption, even attempt to reveal the criterions. Yet, upon the *single* criterion of pecuniary interest, which has been mentioned, shamefully unfaithful as it is, to the moral essence it would denote, is it the doom of the great fabric of human justice to rest, in a large part of the civilized world.

In legal estimation, one would think there is no such thing as perjury, by reason of the marvellous invention that has been fallen on for distinguishing those who are worthy of credit, from all who are not.

But, in fact, *how much* really takes place in the world? The precise quantity, lies, we must own, entirely beyond the possible reach of human knowledge.

But we all know there is a *great deal*. Whatever there may be, we are certain, at least, that a vast amount of injustice actually flows from it.

There is, indeed, no end to the instances which might be adduced of the plain insufficiency of law to reach the ends it aims at. The countless deficiencies, absurdities, and follies we detect everywhere in it, however, even after all the efforts of centuries to bring it to perfection, what do

they prove, but that it is, even in its very nature, wholly unsuited to the important ends it proposes to reach, the real interests of society.

There is, in my own mind, much reason to imagine that it was hit on as a device in barbarous ages, to restrain violence, perhaps, in the first instance, and then carried out into all the concerns of men, (who were generally in those times the *slaves* of potentates,) under the authority of an apparent necessity, which displayed itself with regard to the kind of humiliated beings it was meant to control.

This, though, was at a time when the principles of human nature were but illy understood, and the happiness of mankind at large but little considered, by those whose privilege it was to rule over them. Thus, from being once interwoven with the interests of men, does it appear to have passed from one generation to another, as insidiously as if it had been some dreadful malady lodged in the very blood of their bodies. Each one seems to have adopted it from a kind of necessity, which, as they could not well know how to elude, they have wholly spared themselves the trouble even to think of eluding. In this way, all speculation upon its utility having been wholly restrained, there appears an universal sentiment to have spread among men, that it was quite as necessary to society, as society was to it; that they must exist together, and that the dissolution of either, would be alike the extinction of the other. There are thousands who would cry out, there is nothing perfect under the sun—that whatever evils may be shown to exist in jurisprudence, are necessary evils, and will somehow or other have to be borne—that human affairs admit of no change that can by any possible means succeed in relieving us of them. *That is, indeed, the question.*

CHAP. XIV.

There was so remarkable an instance of the blindness of law, to the obvious rights and essential merits of persons, which occurred in this country, that I cannot forbear to bring it here into view. It fell out in a decision of the highest tribunal of justice known to the republic.

As it affected a large part of the citizens of one of the states of the Union,⁷ the matter may reasonably be thought one of the highest importance.

The opinion was one founded on principle, as its advocates have it—than which, there seems not, to me, a trickier refuge to be found among men, or a more convenient instrument they can ever employ for the justification of gross blunders and palpable hardships, that are too often found to proceed from the mazes of learning and dogmas of science.

The interests involved will presently be seen. The circumstances that led on to the *law*, must, however, first be made to appear.

It may be remarked in advance, that owing to the peculiar manner in which the exigencies of the time produced the settlement of the state, and conferred titles to its soil, it inevitably fell out that the seeds were sown for an almost interminable crop of dispute in respect to them. This may be briefly explained.

When the first adventurers penetrated into this region, it was swarming with savages. It may be well supposed they were ready to dispute with the new comers, any footing upon a soil, which

⁷ Kentucky.

seemed to be the gift of nature to themselves. The adventurers brought with them authority, which bore the name of land warrants, to *take up*, as the phrase was, such parts or quantities of the soil of the country, as these warrants of theirs might happen to specify. Their mode of proceeding now was, after taking up their lands, to comply with a parcel of forms, enjoined by the law, whose object it was to make all they might do both special and public. The purpose of this was to prevent mistake and confusion thereafter with others. The whole business, in short, was so to be managed, that each fresh adventurer, who came, might certainly know what parts of the country were already appropriated, and thence be enabled, at once, to conclude what portions there were that still remained vacant. Supplied with this knowledge, when he came to act for himself, in the difficult business of locating land, he might, it was hoped, steer clear of other men's tracts, and in this way avoid dispute and confusion.

Here seemed a full measure of precaution to prevent the difficulties that were reasonably feared.

But so great is the real discrepancy oftentimes found, in affairs of the world, between practice and theory, that clear and explicit as were all the directions and rules on this subject, it did not fail to result that they were after all but poorly observed. There was reason more than enough to account for it. We must not forget the state of the country—its wild and savage condition—that will explain the whole matter at once.

It was, indeed, wholly impossible, in the midst of continual dangers, that business of any kind could be soberly executed. There was a constant dread of the natives, that hurried men *out of themselves*, which had the real effect of producing the utmost confusion in matters requiring the nicest precision.

It was an injunction that all should *especially* describe the lands they appropriated. This was, indeed, entirely proper and necessary. But however necessary, it yet was a matter which there were *causes*, we see, to render wholly *impossible*.

With but few exceptions, the entries of land were, in *fact*, extremely vague and uncertain. From thence interferences followed of endless complexity, entangling the titles all over the country.

In this confused condition of things, all were, however obliged to proceed. The country was doomed to be settled, with whatever dread of future perplexity. Population flowed in, chose out their spots, and everywhere struck for improvements.

It will not be amiss just to observe, in this place, that the time had knavery more than enough to fill the whole field that was open before it.

Thousands of innocent, credulous men were imposed on with titles known by their owners to be utterly worthless.

But the greatest evil of all was, in short, experienced in this—the very great number of titles there, were of such doubtful validity, that no human intelligence could hope to unravel their mysteries, and duly decide on their merits.

It was, however, the doom of all of these titles to await the day that was coming. Criteria there were, it is true, fixed by the laws and opinions of courts, in some way or other, (abating the changes that were every day making,) which could, indeed, test the merits of all of them, and banish, at once, whatever of doubt or confusion there might be respecting their various pretensions. But these criteria were hard to be come at—such precious commodities could by no

means be drawn into every day use. They were safe in the heads of the learned, the gifted, and wise, and could only be had on certain conditions.

In such a scene of confusion, how wretched the lot of innocent ignorance!

We may now suppose the whole of the country far advanced in its settlement—farms everywhere opened—indeed, every kind of improvement daily increasing.

Through all this time it is now material to mention that persons there were, scattered all over the world, in actual possession of title to these very lands, which others were fast bringing up into value and notice by the sweat of their brows.

These titles were gotten, no matter how—they would show for themselves. Whatever their genuine merit might be in *the hands of their owners*, the law would be ready, at least, to treat each one of them all with the highest respect.

Here, then, is the strife we are now to consider; between the guileless settler—the honest occupant of the soil, on the one hand, and foreign claimants, under *paper* titles, on the other. Reduced to its real elements, first, and then fairly expressed in suitable English—it was nothing but *ink, paper, and knavery*, pitched against *sweat, labor, and honesty*.

Countless were the controversies of this kind, that harassed the old, confiding, respectable settlers.

In many cases, as may be easily supposed, the titles of these foreign claimants, tested by the *fixed legal criterions*, did actually prove triumphant.

But now, how the victors should come into possession of lands, to which a tribunal of justice had gravely pronounced their superior title, became a question, at once, which was everywhere thought to be serious enough.

On *first principles*, there were some to contend, that all should be let in at once, without terms, obstruction, or hindrance of any kind or nature whatever, seeing that the *improvements*, the sole difficulty now, were everywhere made wholly without their consent, by persons, too, whose business it was to have taken better care of themselves, than so unrighteously, indeed, unwillingly, too, to *meddle* with property, *now demonstrated not to be theirs*.

Many there were, on the other side of the question, who thought they perceived much in the peculiar circumstances of the subject, to weaken the force of these boasted *first principles* even greatly, indeed, to disparage their sanctity, as it respected their application, at least, in these special instances.

The result was, that the legislature of the state, whose citizens, to the number of many thousands, were were about being brought to the frightful condition of losing their homes, and the honest earnings of long lives of the hardest labor, under circumstances unparalleled in all the history of mankind, interposed with laws to protect and relieve them in so much distress. These laws, in substance, provided that compensation should be made by the successful claimant, to the unhappy occupant, for the *improvements* merely which in good faith, and in perfect innocence, he had made upon lands he was now to lose, after years of secure, uninterrupted possession, under title, too, which he had been accustomed to consider as wholly sufficient.

In obedience to these laws the courts of the state gave their decisions.

There was a mode, however, by which the question of their constitutionality was brought before the supreme tribunal of the nation.

By this tribunal, it was decided that these laws of the state were made in violation of a *certain* compact, no matter what—were for this unconstitutional, in every way unauthorized, and should therefore be held void and of no effect!!

Now, for *one*, I will make bold to assert that there was never a human mind, which was not of a wonderfully base and anomalous construction, nor wholly debauched of the shallow depths and technical mysteries of the law, that would not revolt at this decision for its gross absurdity and shocking inhumanity!!

For how plainly does it omit to take any, the least, account of *circumstances*, the *special hues* and *genuine essence* of things? While it openly sacrifices human happiness, which is, at last, the sole object of all human institutions, with a pompous despotism and silly parade of insensible learning, on the cold altar of first principles and inflexible justice!

These first principles, I dare say, are found in a case something like this. Some knavish creature enters upon land which he knows is not his, and there wholly without the consent of the owner, perhaps against his remonstrances, expends his labor in making improvements. These improvements, it may be, are the very reverse of any that might at all suit the views of the owner. Here, then, is open wilful injustice, which there is nothing, whatever, to mitigate. The occupant, in such case, deserves no sort of indulgence; for, with his eyes open, he has cut and carved for himself. If he incur loss, it is nobody's fault but his own. The real owner of the land must certainly be allowed to be the last man in the world he should look to for any indemnity or pay for *labors* which have been not only unasked for by him, but actually obtruded upon him.

The principle of justice, which would deny to an outrageous usurper like this the least compensation for *impertinent* labors, we find paraded by the learned wigs of the world, through every conceivable case that might in any manner whatever occur; in which, ever through innocent error, one man might chance to hold the ground of another, and, in ignorant honesty, bestow on that ground essential and valuable labors.

Is there any one, who is not really an idiot, that could fail to see the essential difference between these cases? Yet the *law* does not perceive it for it actually applies the very same rule of adjustment to each.

Those who administer it, entrench themselves behind *deep views of policy*, and while they perceive the immediate hardships they inflict, console themselves with the thought that *ultimate good* will come of them, not to the sufferers, who are so many letters of the alphabet to their judicial sympathies—they, indeed, are ruined for ever—but to *future society*—and this is called justice!! admirable for its inflexibleness and consistency!

What pompous terms are these to vindicate the silliness of learned pedants!

It is not to be denied that stern, unbending resolutions, compacts, and the like, do justly claim our applause, when rightly exercised, for the real welfare of society; but when they are practised to the actual production of general discomfort and unhappiness, without any atoning good, save that which mere speculation may predicate of the unknown future, they at once must be esteemed, even crowned as they may be with all the honors of consistency and inflexibility, too, nothing better, in truth, than so much vile, pernicious, murderous nonsense!

This POLICY it is, which can never be separated from a system of laws, that wholly debauches them.

It is ever *postponing* the *good* that it promises, and is incessantly sacrificing the *present* to the *future*.

It is certain there were never two cases, demanding the interposition of justice, *precisely alike*—and yet the world's conventional justice, inhumanly reduces thousands of cases to the same exact dimensions. This it can no otherwise do, than by a species of butchery, which cuts off all impertinent features that stand in the way of the fitness which is aimed to be reached, between laws and prescriptions, that are ever the same, and persons and things, that are never alike.

There is an idea crept into the world, that justice is a spiritual, abstract something, they scarcely know what, except that they think it consists of *inflexible rules* of this, there seems not a doubt. These rules it is thought are all of infallible virtue—the clearest prescriptions of reason and truth. For this they are held to owe no sort of obedience to what we may call the casual altitudes of human interests, and may justly despise the claims of any temporary convenience.

To this mysterious authority, constant appeals are made, to justify manifest evil that may appear to proceed from its injunctions.

How often do we hear language like this? “Justice sanctioned the act, yet was it a most outrageously cruel one.”⁸ What but a blind devotion to some insensible criterion, drawn from a mystical nonentity of abstract excellence, could ever have given birth to such an infatuated dogma.

There is no mystery in justice. In truth, there is nothing more simple. What is it but well doing, under the best impulses which are known to our nature? Or it may be rather that action of a human being, which, with regard to all the circumstances attending upon it, is found to produce the highest amount of good that is possible. Genuine justice lays hold of all the hues of human character—duly considers all its imperfections—all its errors—all its frailties—bends to all the inevitable necessities of men—regards them all as inseparably linked by the ties of a warm, enlarged, and glowing humanity, to which it incessantly pays the freest and fullest devotion.

If this notion of justice comport at all with the reason of things, then all which the world has ever yet seen or experienced of that which has passed so pompously under its name, is worse than mockery. It has been, and still is, a horrid demon of injustice, dressed out by the prejudices of men,

⁸ There is an idea that occurs to me, in this place, that I would like to submit to all who would choose to reflect on it—and that is this: whether a given amount of misery, in a single human being, is not equal to the same specific amount, suffered by any imaginable number of beings. There is, certainly, no such thing or existence in nature, as the suffering of two or more considered as an *integral* matter. You cannot add the suffering of one man to that of another, and make of it an entire or single quantity. Now, indeed, if the separate sufferings of millions of people could by any means be engrossed into one great mass of agony, and all this mass could be packed upon a single being, why, then it were obvious enough that his suffering would be greater than that of any one of these millions.

It is common for a man in his single capacity, to incur a less evil, for the sake of avoiding a greater. This is certainly wise. But we find society, everywhere, for no other reason, perhaps, than because it has always the power of doing whatever it pleases, in everything, has, with a most absurd ingenuity, made of itself a *single personage*, and carrying this rule of wisdom (which appears to be true of a single *creature* only) up to its own affairs, conveniently found authority under it to pass whatever amount of injury or evil it pleases, upon one, or a few, for the sake of preventing the accrual of greater evil to the many. The justice of this, I confess, I doubt; and therefore I question, much, whether laws which deal injustice today, to a few, for the sake of bringing good to thousands, tomorrow, are not matters to be wholly abominated.

in the imposing habiliments of a terrestrial god, to whom they render unbounded homage, along with the cruelest, frightfullest sacrifices.

CHAP. XV.

There is a passage in Montesquieu, which says, “that it is exceedingly difficult for the leading men of a nation to be knaves, and the inferior sort to be honest—for the former to be cheats, and the latter to rest satisfied with being only dupes.”

I confess, when I fell upon this passage, I was not able to forbear making a serious application of it, to appearances in my own country.

I have already sufficiently considered the demoralizing influence of law, as far as respects its own unaided operation, on the temper and principles of men. But I have yet to unfold another influence, of an entirely congenial stamp with the former, that operates, as I think, with wonderful force, to inflame its mischievous power. It is that of a certain class of men, who are professionally concerned in the administration of what is called justice. A class of men, in short, we know by the name of lawyers, whom we find swarming in every hole and corner of society. I fear I shall present in them a picture of the seeds of depravity, at which philanthropy may fold her arms, in utter despair, and weep as though the cause of mankind were indeed irredeemably lost forever!

We have seen that men in general, of their own accord, without any advice or incitement from others, feeling themselves bound up by arbitrary prescriptions, and depraved by their malign influence, would be apt enough to exert all their craft in turning the laws to their own advantage, with but little regard to the whispers of conscience, or to the dictates of justice. But who can set bounds to their iniquity, when these natural impulses come to be instructed and fomented by the learned and licensed jugglers in legal chicanery, creatures who are ever *at hand*, and ready the moment they are roused by a suitable *douceur* to point out the sinuous labyrinths which lead to gain, while *themselves* heroically lead the way. How can mankind resist such council and such temptations!

These men are, in truth, the lights of all the land! The very sun, moon, and stars of all intelligence. Bright bodies it must be owned they seem to the stupid gaze of innocent ignorance—the lustful admiration of congenial knavery. Yet how malignant are the beams they shoot over the whole surface of society, shedding upon it the pestilence of discord, strife, and injustice! It is, indeed, the result of inevitable necessity—the very fiat of nature, that these men should be, as we find the most of them all under the present constitution of things. That is to say, that *knaves* they must be in practice, however upright in principle. To be sure, indeed, custom and the laws, which can do anything, sanctify their conduct and loudly proclaim their indemnity. But in the meanwhile, what have become of conscience, and of right, that existed before written laws had either shape or name, and before the introduction among men of all this multitudinous machinery, in the shape of judges and justices, counsellors and attorneys, bailiffs and bumbailiffs, with the long train of congenial agents, blood suckers, and caterpillars of the state? At the very onset of this mighty corps of undertakers—these slippery factors of justice—their doom, the doom of conscience and of right, was sealed forever; that doom has been a hopeless and eternal banishment from almost every bosom into which its victims have been hurled, as dangerous pests, as *paltry*

things, which enlightened experience had found too *inconvenient* to suit the newly invented, highly improved condition of society.

I think it proper to remark, here, that I am treating of those men I began with in this chapter, as a *gross* body. My business is not in this place to make plausible exceptions, which may be found to exist in real life. Besides, I am discussing the necessary effects of certain causes and principles in their general operation, and deprecating those effects. I have nothing to do with individuals.

To proceed: I have said that these men must be as we find them. Gain, I assert is their animating principle, as it is, in truth, more or less of all men. They assume their professions for a livelihood, and all their studies take that turn which seems most likely to lead them by the shortest route to the end at which they are aiming. A tremulous anxiety for the means of daily subsistence, precludes all leisure to contemplate the loveliness of justice, and properly to understand her principles.

That, indeed, would be a species of truancy—a sinful extravagance a wild expenditure of time: common prudence would cry out against and denounce it at once as a sort of insanity.

Their business is with statutes, dictates, decisions, and authority. They go on, emptying volume after volume, of all their heterogeneous contents, till they become so laden with other men's thoughts, as scarce to have any of their own. Seldom do their sad eyes look beyond the musty walls of authority, in which their souls are all perpetually immured. And now, as soon as their minds have come to be duly instructed, first, in the antique sophistries, substantial fictions, wise absurdities, and profound dogmas of buried sages, and then fairly liberalized by all the light of modern innovation, and of precious salutary change, do we see them step forward into the world, blown with the most triumphant pretensions, to deal out blessings to mankind. Now, indeed, are they ready to execute any prescription of either justice or injustice—to lend themselves to any side—to advocate any doctrine, for they are well provided with the means in venerable print. Eager for employment, they pry into the business of men, with snakish smoothness slip into the secrets of their affairs, discern the ingredients of litigation, and blow them up into strife. *This is, indeed, but laboring in their vocation.*⁹

Abject slaves of authority themselves, these counterfeits of men are now to be the proud dictators of human destiny, and withal the glittering favorites of fortune! How immeasurable must be their influence, and imperial their power, holding in their hands, as they do, the *property, lives, and liberties of the citizens!* Their opinions, principles, and conduct, through all their inflexions, vindicated to the great mass of common intelligence, by their actual consequence, beside the

⁹ There is in the world a very common, because it is a very convenient mode of argument, which is that of drawing large and general conclusions from a few particular facts. There is many a one, I dare say, who would be apt to be shocked here, by this severe handling of the lawyer 'gentry, because he might happen to know some one or two of the profession, within the circle of his own acquaintance, who were to all appearance perfect gentlemen, and very honest men. Polite and liberal at the bar, as practitioners, and in their private affairs of excellent characters and conduct, the conclusion would probably be, from these rare instances, that all the members of the profession, no matter where, with but few exceptions, were exemplary characters, too. Now this would be, I think, quite a capital mistake. For an honest lawyer, if, in strictness, there be such a phenomenon on earth, is an appearance entirely out of the common course of nature—a *violent* exception, and must therefore be esteemed a sort of prodigy.

imposing aspect of their powers, do not fail, we find, to engage the homage of general consent, and provoke, far and wide, an universal emulation. Their practices, in the general, supersede all other criterions of right, and where they fail of being imitated in a greater or less degree, the instances would be found to be rare ones, at most of uncommon integrity, or singular stupidity; the first of which disdains a conformity, which the latter might lack, perhaps, the faculty to achieve.

All this is, at last, nothing more than the plain and natural result of things as they are now constituted.

This order of men certainly come from the hands of nature, with as fair susceptibilities of virtue as any other creatures of mortality. But a malignant destiny overtakes them in time to turn them far off from all the benign purposes of nature, to serve the corrupt contrivances of men; and here, in this devious devotion of their powers, we see them under the tutelage of custom, and the provocations of cupidity, in proportion as they are conspicuous, depraved—and, with the power to be useful, inclined only to be vicious.

Happy were it for mankind, if instruction from these sources were less accessible, and more sparingly dealt out to them; but unluckily it is ever at hand, enters into every door, woos its votaries in cities and in villages, on the fields and in the highways, and, with equal insidiousness, glides into the castle and the hovel.

But it is said of these men, that they have their *good sides*, and bad, like all other men. Though their professions subject them to much imputation, and involve them, besides, in many obliquities, that still they actually render a *great deal of good* in the world, being always at hand to step in and cure the miseries of strife, that occur among men, duly compose their affairs, and restore them all back to peace and good order. This idea seems, it must be admitted, in some degree plausible, but then, after all, it is only plausible; for if we will rightly examine the matter, we shall see that a very great part of all the difficulties they remove, and of the confusion they clear up, are actually engendered by themselves. So that we see them loosing knots with marvellous dexterity, which even themselves have tied, and getting well paid for it, too.

Less than this could be by no means expected; for mere policy instructs them in the necessity of rendering, at least, some *show* of good to mankind, for the high privilege of being their masters, plunderers, and sinecures.

Again we hear it urged in their favor, that from dire necessity they must be true to their clients, at whatever cost of principle to themselves—that this fidelity to their client, who consigns his dearest interests, it may be even his liberty or life, to their official custody, sufficiently cancels all the claims of morality, and amply atones for every obliquity they may find it convenient to practice, in the faithful discharge of grave professional duty. By the force of this venerable custom of thought, we find it has really become a matter of conscience, of high professional honor, for these men of the law to go all lengths that are possible—snatch all advantages, too, in their crafty endeavors to gain even the most unrighteous ends of their clients. Nothing, indeed, is more common, at this time of day, than to hear them gravely extolled as patterns of excellence, for no other merit, than, merely, the cunning trick and devotion they show in the unconscientious cause of their client.

To be true and faithful to him, through all the stages and colors, lights and shades, of his knavery, and even to thunder long and loud in the arduous defence of his most wicked pretensions, is at once to lay the sure foundation of all their happiest fame, and brightest prosperity, too.

It is worth while to examine this sentiment of approbation into which most people in the world seem to have got themselves betrayed. We will see, by narrow observation, that it has proceeded from a principle of feeling in the mind, that is virtuous enough, but has certainly erred in not accurately distinguishing between the subject it praises in the instance before us, and the true one to which it justly belongs. This last, though it bear a striking resemblance to the former in its external features, will be found, when properly considered, in every essential particular, widely different. For example—a fellow being, whom I will suppose to be entirely destitute of all worth, has obtained the pledge of your support in a given emergency. It may be he has formerly rendered you some signal service, which a sense of gratitude sways you to requite, even upon one who no longer deserves the concern of any one.

You protect him with no little cost of convenience to yourself, it may be supposed, even from the pursuit of justice, having pledged your word in a moment of unreflecting sympathy, to render him so great a service.

In such case, your fidelity, if it be not exactly worthy of commendation, surely deserves forgiveness: but it is plain that a special instance of this sort of favor to villainy, into which you have been surprized by a rare and inevitable accident, from motives of gratitude and humanity, by no means constitutes you the established friend and harbinger of malefactors. It is your motive of action, and the strange predicament in which you were placed, that save you from the censure of mankind, and give you, perhaps, its applause. But suppose you undertook, thenceforth, to protect and countenance knaves of every sort, and actually received from them, in the way of business, steady compensation for your care and support of their persons and their interests, how different is your character become—now, indeed, you deserve the execration of mankind! Though the instance I have first supposed, in which you have gained their applause in every outward feature, exactly resembles any single instance of the kind, which now loads you with infamy.

Will your occasional service, however cheerfully rendered to honest men, whenever it might be called for, in the slightest degree, serve to better or retrieve the last character I have given you? One would think not.

It is, perhaps, needless here to raise up a parallel in words, which must be in every one's mind, who has bestowed any attention in this place.

Can there be a more pitiable sight than that we are here constrained to behold? Quite certain it is, that the law, if it do not absorb all the talents and genius of the country, attracts, at least, the choice of it all, and leaves but little more than the refuse for other callings. What then is this sight?—*genius putting itself to sale*—the brightest intelligence of the land offering itself a loose prostitute to the capricious use of all men alike, for gold!

We shudder at the hapless female, who yields her person, indiscriminately, to the lust of libertines, for hire.

Though there is even a total wreck of virtue in these creatures, yet, in no given instance of prostitution in them, is there involved any thing like the pollution of spirit, which we must observe in your talking hireling of justice.

For he is not a passive instrument in the hands of licentious wickedness, but an active, ardent, furious, agent of injustice, that wholly supersedes, for the time, with his superior qualifications, the less gifted craft of his knavish employer.

He is set in motion, all on fire, by a purse full of vile trash, of “rascal counters,” for which he freely sells all the breath of his lungs, the untiring service of his tongue, and with them, his whole heart and soul, to boot. Surely the system, which involves such a spectacle as this, through all its parts, to its deepest depths, must be *rotten!* Let us consider for a moment how genius should be employed. Certainly in the great cause of philanthropy and morals. What should be its reward? The pure *light of nature* which it would woo to its heart, the indestructible treasure of inward satisfaction with itself—an unquenchable ray of brightness, that a conscience, pure and unsullied, would shed on the soul, and the whole face of visible creation!

But this genius, we have seen, instead of flying heavenward, with the whole race of man, is *meanly sold* to knaves, for that which procures the assassin, to plunge his dagger into the bosom of innocence—its best and faithfulest service, actually bought like the meanest commodity, anywhere to be found in the filthiest market, even as it were tainted meat for the epicure, or base confectionary slimed into color and shape, for greefy brats, or silly women.

What I have written in this chapter, seems adventurous matter enough for an humble, solitary being, such as I am. If I did not feel its truth now I am at the end of it, actually sweetening the very pulsations of my heart, I would not venture it on the world; but my own conscience being entirely easy and calm on the subject, the thoughts I have offered go from my hands as freely, and fearlessly, too, as though they were even a grateful eulogium, framed for the men, whose trade they have labored to damn.¹⁰

CHAP. XVI.

Besides whatever evil there may be, be it much or little, in the corruption throughout the mass of men, produced by the influence of law upon their characters; besides, too, whatever injuries to mankind may proceed from it in the name of justice, acting with all the parade of learning, under the most impressive solemnities of form, there is yet, I think, a further inconvenience, necessarily incident to the system, which is entirely worthy of being observed upon here.

This inconvenience discovers itself in the whole swarm of legal functionaries, who draw their subsistence from the heart's blood of society. In this swarm I would number every creature, in any wise concerned as an actor in the great farce of law, from the highest chancellor, or judge, who delivers the oracles of the craft, down to the meanest constable, that executes the pettiest sentence of a stupid magistrate.

Here we behold a kind of commerce, which may be likened somewhat to the extravagant pay that might be demanded by even some vicious empyric in medicine, for the service of ignorantly administering to his patients impertinent nostrums, whose proper nature is to protract disease, and ultimately to destroy.

To me it seems, we have a great burthen of men, who, in regard they are the special artificers of misery, the confederated authors of evil to society, are compensated with the largest privileges,

¹⁰ It may serve, perhaps, somewhat to excuse the severity with which I have treated the profession of the law, for me to confess that I myself was one of the faculty, up to a time that is now very recent; when, by a solemn resolution, I renounced the detestable calling forever. I have learned that it is at least some virtue for a man to condemn himself—that much, at least, I may claim for myself, in what I have done, if *no more*.

the fairest honors, and most affluent fortunes. The ploughshare turns up the land, and shines along the furrow, with how much purpose? That these specious idlers may be lodged in fine houses, flash abroad in splendid equipages, and be richly fed on all the choicest luxuries of the land.

What countless numbers of litigants, enamored of the chicaneries of the law, and full of the glory of being involved in them, may not be observed, in the daily habit of stinting themselves, and all who depend on them, the commonest necessaries, just that they may be enabled to warm into still more fervent concern for their interests, some shining advocate, whom they would freely supply with the affluent means of increasing the stock of his nice superfluous dainties? Not to mention the sad herd of unwilling victims, whom wayward circumstances betray into the toils, which subject them to the despotic tax imposed upon their misfortunes, by those who are privileged by custom and authority to rule over their interests, and dictate their adjustment.

The frightful extent of this evil, any one may calculate, who has any idea of the numbers of human beings in society of the class here alluded to, who are voluptuously enjoying the bloom of the earth, and regaling themselves with the choicest fruits of human labor, while they lend no hand in the production of either one or the other.

There is, however, no part of the civilized globe, where the evil here alluded to exists in a more mitigated form, than in this republic, extravagant as it is even here. In other countries, especially in that whence we have taken the body of our laws, the expenses of legal proceeding are indeed so very excessive, as almost to defy belief, among those who might chance to be ignorant of their wild, unrighteous, extravagance.

But *there*, the superior severity of this grievance owes itself, I am apt to think, to an established policy, that has long since been hit upon over the face of the earth, to trick mankind out of the beneficial use of even the common sense which the God of nature has given them, to say nothing of the contents of their pockets. This policy is to substitute *show* for substance, *pageantry* for merit, and *mystery* for wisdom. The purpose of this, so far as relates to the matter in hand, has been to produce a notion, now indeed very current among men, that it is necessary, to the true dignity of all official callings, that their various encumbents should be liberally compensated; to the end that they may discover themselves, *at least*, by their exterior trappings, fit for the stations they occupy. In England, the laws are part of the importance of the king: they are indeed feigned to have flowed in a great measure from his divine wisdom: all the courts are his courts: he gets, we all know, a large allowance for his services, or rather for the precious privilege his subjects enjoy at his hands, of gazing at his pomp, and worshipping his fictitious greatness. We see, then, plainly, it is but consonant with the policy of his government, that his officers of the law, from the highest to the lowest, should be paid suitably to their rank and dignity.

If the allowances which authority accords to them, be so extravagant as to bewilder common reflection, so much the better. This it is that enhances the mystical importance of the system, which, to be useful, must, the wisecares will tell us, impose, in a degree, upon the credulity and ignorance of men. They must not understand, but rather reverence it, as something beyond their comprehension. In this, as in many other matters, we see that the very mystery of the absurd institutions, and cruel oppressions, which proceed from the rulers of mankind, has often the good fortune to ensnare them into loyalty, and a cheerful patience under the burthens which are laid on them. The wealth, too, which these legal extortioners acquire, enables them to shine upon the common eye, in lights and colors that bewilder and delight it, to the extremest infatuation. Thus,

when they have ensnared the senses of the multitude, they hold them as a sort of *hostage* for the good behavior of their reason. In this respect, to a very large extent, is the public mind imposed on, even in this free country. The system of laws, (I cannot call it a science,) is, as far as possible, kept intricate and unintelligible to the mass of men, by those who are professionally concerned in its administration. At any rate, if they have themselves had no hand in making it obscure, and difficult of comprehension, they seem more than willing that it shall remain so. We need by no means wonder at this. The deep mystery in which the arts of the trade are wrapped up and concealed from vulgar intelligence, has the effect, we see, to impose them on the common mind, as the boasted refinements of reason, which are quite too subtle and profound ever to be reached by plain, uneducated faculties. The consequence of this, is, that the professors of the craft are looked upon as so many prodigies of learning, profound doctors of order and of justice, and most blessed caduceators of human contention! They find their account richly enough in this illusion of the vulgar. Their *full purses* and *fine houses* are the comfortable token of it.

It cannot be too often repeated, that this blind reverence of men, for what they do not understand, is the thing, that, through all time past, has not only fitted them to be dupes, but actually made them so; and will inevitably, through all time to come, continue them in the same character, unless they will take courage to themselves, and renounce it forever.

We see, that when one of these ignorant, credulous creatures is driven to apply to the mysterious virtues of the law, for the cure of his grievances, he is ever sure to count on large advantages. The very moment he enters into the hallowed presence of one of the jugglers of the profession, surrounded, as the latter always is, with the imposing insignia of his calling, a sort of universe of books and papers, the former feels his heart begin at once joyously to beat in his bosom, and a pleasing ecstasy to run through all his veins. Whether his cause be just or unjust, it is entirely certain he is passionately intent on gaining it. Nor can he believe, for a moment, that so many volumes as stare him in the face, when brought to bear in his behalf, can fail to confound his adversary, and procure to himself a most triumphant victory.

Add to this the sage look and encouraging expressions of the man of law before his eyes, actually condescending to look into his affairs, with so much interest, so kind a sympathy of manner, and the poor creature's infatuation is complete. Now when his senses are all in such a pleasing whirl of delight, and his heart in so bounteous a flow of confidence, is the time for the leech to apply himself, for it is quite certain his patient will bleed freely. The result we all know, too well to require any further strokes to the picture.

It may not, however, be amiss to observe, that the adversary of the dupe we have here, is passing through a similar scene of delight, at the next corner, or across the way.

The degree of cheerful acquiescence we see displayed by these creatures, in whatever terms are imposed upon them, in the way of compensation for the benefits of law, I incline, myself, to surmise, they are persuaded into by a notion they are apt to have, that the high price they pay for the great good they are in quest of is, in itself, a strong guarantee, that that good is pretty certainly to come.

We know well, there is an idea which runs through all the world, that the mere cost of things stamps upon them their value, and fixes the preciousness of their essence. What else could make diamonds so much more prized and sought by the foplings of the world, than any other hard and shining substance? Certainly whatever extracts the highest sums from our pockets, extorts, at the

same time, the highest admiration of our hearts, and decks our imaginations out in their sweetest illusions. I have little doubt that men swayed by this common infatuation, really fancy, when they are involved in the law, that their very outgoings are a capital sign they are wisely following their interests. So, feeding themselves on hope, which is the brighter for the mystecism which involves its objects, they make out, in any event, to impose upon themselves a comfortable deception, that they have been all the while anything but dupes.

Let the result with them be however calamitous, they bear off a feeling of importance, that they have been critically, gravely, and expensively engaged in the law, and this feeling is happily turned by them into a sort of compensation for all their sacrifices.

I have nothing more to do in this chapter than simply to desire the reader to fancy in his own mind, as he very readily can, the entire subtraction from the heart's blood of society, of all these devouring leeches of the law, who are gorging themselves into bloated fatness upon it, and then try to conceive how much relief the extirpation of these countless vermin would afford to the real interests of mankind.

CHAP. XVII.

Abstractly considered, nothing could seem, it must be owned, a greater blessing to mankind, than wise laws for their government. Many persons, perhaps nearly all, take it for granted, that good laws in the books, are but another name for justice among the people. Such a conclusion, I incline to believe, proceeds from a want of attention on the part of thinkers, to the unhappy discrepancy which is but too often found in all sublunary affairs between theory and practice. We all know how many schemes we have seen put down on paper, by ingenious men, which have exhibited, to the common run of minds, marks of the utmost depth and felicity of conception. Indeed, to all appearance, are they oftentimes so perfect, that every one who has been graciously let into the secret of the theory, is ready to triumph in the wonderful good that is to be instantly achieved by the practice. It is almost superfluous to continue a picture of the consequences of miscarriage, which are daily occurring from these specious reveries, or, if any one please, idle wool gatherings, as they are somewhat more technically called.

Let it be sufficient to say that they are often exploded, by some strange, unexpected obstruction in the laws of nature—some latent, hitherto unperceived peculiarity in the constitution of things, that to be sure does actually seem at the time a very great flaw, and defect, but which, since it has been dignified by a long association with the general perfections of the universe, no one has the temerity to hope can be easily gotten rid of. All, however, have still the sagacity to perceive, that but for this *error in nature*, wonders had been achieved by the ingenuity of man.

Good laws would indeed be a very great blessing, if men would only take pleasure in obeying them; or would obey them without taking pleasure in it. But if I have anything to bear me out in some of my preceding considerations, they do neither the one nor the other.

It may be said the laws have proceeded from wise heads, are the oracles of justice, and propose the utmost good to men. What is that, if, indeed, with all their good intentions, and maugre all their wisdom, when reduced to practice, they not only wholly fail to produce that good, but, on the contrary, straight bring up evil. Here come in, we see, these impertinent flaws, which nature has, somehow or other, so perversely fixed in the constitution of man, to interrupt the success of these

benevolent provisions of the lawgivers, but for which all would be well enough, there could be no one to doubt. Excellent, then, and pure, as law seems upon its face, gracing in beautiful fair volumes the chambers of the judge, and shops of the practitioner, I am not ready for that to admit its innocence. At present I am arraying it as a culprit, and stand somewhat pledged to make good against it my charge of guilt. Its advocates would hold it pure and stainless, no doubt, even though they might to some extent admit its agency in producing evil, saying, there is no fault in the law itself, which is indeed all wisdom and justice, but that the whole blame lies at the door of mankind, whose shameful wickedness alone stands in the way of its successful influence upon their natures and affairs. I do not mean here to be over nice in my speculations, but it would be well, it seems to me, to enquire, for a moment, what it is that determines anything which concerns mankind either good or evil. The only criterion that can be dreamed of, is its conformity or nonconformity to the comfort of human beings, when applied to their exigencies. Even poison is denounced as something evil, obviously for no other reason than because its natural and certain effect is to impair the health or destroy the life of animals. If no such effect as this proceeded from it, the thing would be innocent enough. Why is it that truth receives our commendation and reverence, while falsehood is scourged with the detestation of mankind? Certainly because our experience has taught us, that the first, influencing the conversations of men, conduces to their happiness, and that the latter is productive of inconvenience and injury.

Were the known effects of each to be exactly reversed, though they might still, both of them, wear the same appellations, we should not fail to see truth go down loaded with the ignominy of falsehood, and this last to rise crowned with the honors of truth.

But this is, perhaps, taking almost too much pains to prove a position, whose truth must be entirely obvious to all, who have ever given themselves the least trouble to reflect upon such subjects. Perhaps there are others, again, to whom this little may be of service, and for whom, too, it may suffice.

If, then, the characters of systems and things are to be wholly determined and fixed, by a view of their special effects alone, within the spheres of their operation, we shall find no trouble, I think, in condemning as evil, whatever is found, by its action, to bring up that *bane* of our happiness in greater amount, than can be atoned for by any good it engenders. However imposing and plausible, or seemingly proper and innocent, the matter in hand may appear, abstractly considered, without regard to the consequences seen to proceed from it, (all this will import nothing at all,) the same conclusion exactly must settle upon it, of perfect disgrace, we would find ourselves ready to fix upon any matter whatever in nature, of even the hatefulest cast to our senses.

There is, indeed, scarce a system or theory of any kind whatever, should it but possess the least share of merit, which, under some view of its conceivable application to the affairs of mankind, might not seem worthy of their approbation and acceptance. The great cause of the difference among men, in respect of systems that concern them, proceeds never so much from any material disparity of actual intelligence between them, as from the accidental mediums of prepossession and prejudice, through which they conceive and consider the practical operation of these systems. Add to this the necessary variety of sentiment, ever to be found influencing the minds of those that survey their fellow beings in mass, in regard to their genius, necessities, rights, privileges, and probable exigencies, and to all the multiform complex causes of their happiness and misery. It

is not to be questioned, that there have been advocates of even monarchy in the world, who were men of the brightest genius, and most extensive philanthropy, which incited them to desire with as much vivacity the general happiness of their species, as the most enlightened and liberal republican could possibly do. The difference of opinion between the republican on the one hand, and benevolent monarchist on the other, (who is a being one can really conceive of,) springs, there is little doubt, from an entire dissimilitude of view, in the minds of each, as to the *actual* operation of the system he defends or opposes.

The monarchist, under the guidance of his prepossession, in portraying to himself the practical operation of his favorite system of government, arbitrarily imbues the agents he would employ in it, with the most enchanting hues of virtue, and fitness to the parts he assigns them to act. Or if he allow possible delinquencies from his imaginary standards of excellence, he consoles himself with the thought, that they would be of such rare occurrence, and comparatively light impression besides, upon the main result, the great and important ends of government, as fairly to leave a large balance of good on his side of the question. The republican sees nothing through the same medium as his opponent. The whole list of incumbents throughout the monarchical form stand out to his conception, disgraced by the most unworthy lineaments, destitute of all pretention to virtue, and seem, in short, a host of solemn puppets, set forth in a splendid drama, of unmeaning pageantry, voluptuous dissipation, and shameless robbery.

This much will serve to unfold the probable reason, why there is oftentimes so much radical difference of opinion, between equally well meaning men, as to the merit of systems they contemplate.

How important it is, then, when we take upon ourselves to reflect upon such subjects, that we should employ the most untiring exertions of our minds, after disencumbering them of every prejudice, and renouncing all indolent contentment with views of things that are merely show, and plausibly to detect the full operation, through all its infinite details, upon the extended interests of men, of any system that either exists or may be proposed for their happiness.

There is, I am persuaded, not a subject of human concern, upon which careless thinking would be more apt to betray one into error, than this very one I am treating on here.

If the question should be put—Are not good laws diffused among a people who have enacted them by their own authority, to insure justice and good faith among themselves, entirely worthy of their approbation and support?—I own the question would seem to answer itself in the affirmative, by the mere force of its own terms. The mind, however, in arriving so quickly at an acquiescence in such an answer, would be apt to be greatly imposed upon, by the convenient and happy conception it would form to itself of the actual operation of these laws. It would, perhaps, arbitrarily suppose them to be conceived, in the first place, by heads and hearts both sufficiently wise and pure, and to be either warmly embraced and obeyed by those upon whom they are to operate, or enforced upon the reluctant with the purest ministry. Now nothing would appear to be a more natural consequence of all this, than *good order*, and *universal justice*.

But how shallow a view of human nature seems here to sanction such a conclusion! The whole labor of any mind that would arrive at it in the way I have supposed, would be to glide over an imaginary surface of the human character, not even a real one, so far would it be from descending into the depths of that character, detecting all its retiring essences, mastering all its colors and developments, and unfolding fearlessly and unrelentingly to itself, the frightful chaos of obliquities,

the loathsome mass of turpitude and depravity, which might be seen to be engendered by these laws it reverences. From the severe exercise of thought, which would be necessary to penetrate into so disgusting and gloomy a labyrinth of effects, every one is disposed to excuse himself, while, of course, his eyes are firmly closed against the view, or even the apprehension, of them.

The probable ignorance and turpitude of legislators, judges, lawyers, and the whole tribe of ministerial vultures, are commonly as much overlooked, as if they indeed belonged to some other subject, instead of being what they unhappily are, there is too much reason to suspect, the actual causes of the utter mis-carriage of the system in which they are found inherent.

Nor less disregarded in ordinary reflection upon this head, are the almost universal shifts of men, to elude the laws which are inconvenient to their interests, and their deeply practised craft to avail themselves of those they can ingeniously torture to the ends of injustice and their own emolument.

This much have I deemed it proper to urge, with a view to meet so much of the arguments in favor of law, as may be drawn from a consideration of the wisdom of its construction, and the benevolence of its purposes; to the end that the question of its merit or demerit should rest, where, I think, all must allow it ought exclusively, upon a view of its practical effects only.

CHAP. XVIII.

If there be any evil in the world, which will be allowed, on all sides, to stand preeminent above all others, in both the extent and malignity of its influence, perhaps it is that which is familiarly known by the name of pecuniary distress. War, pestilence, and famine have their periods, the first of which, even in its wildest ravages and most desolating effects, carries with it so much to captivate the imagination and delude the senses, that half its ills are obscured and lost in the sublimity of its ostentation. In so great a degree do we discover this to be the fact, that countless numbers become so deeply enamored of this mighty scourge of mankind, as passionately to seek the destruction which it promises, and too faithfully discharges, on its votaries. The two other calamities of mankind are known to visit it at such long intervals, and are ever of such short duration after they arrive, that they constitute a very light theme of human lamentation. But the evil which stands at the head of this chapter, appears to us in a guise which is wholly unmitigated by any traits that might serve to delude, while it destroys, and is moreover of such malignant tenacity, as to take no respite from its unrelenting vexations.

We find it aggravates its natural and appropriate influence, which would seem to be a blow at the senses, merely, in the withdrawal of their customary subjects of enjoyment, by bringing along with it every species of moral agony, and inflicting the most pitiable degradation upon all who are set apart and devoted to its vengeance. Unluckily, the suffering which it inflicts appears to us in colors which, in the general, are only calculated to offend 'the taste and disgust the sympathies of mankind. Too abject for admiration, it merely shocks the sight, and sickens contemplation, or if it succeed in awaking any strong feeling of our nature, it is that of a loathful contempt, or merciless indignation, and this only when it is not allowed to pass off into the dull oblivion of even an unknown obscurity. Strange as it may be, every other species of human calamity seems fitted to draw to it either the notice or sympathy of mankind, but despised and degraded want!

The clanking of the felon's chains, the stationed guards, his loathsome dungeon, even his very crimes, of treason, robbery, or bloodshed, provoke an agreeable horror, and light up the imagination. Every bosom palpitates at the recital of his sufferings, and devours the poetry of his destiny; insomuch that the eyes which do not stream with tears at his final exit from the scaffold or the block, refuse the spectacle which threatens an overpowering sensibility.

It were needless here to raise a discussion of the causes which conspire to produce this strange injustice in the course of human sympathy—an injustice, however, that displays itself more in the partiality with which that sympathy is distributed, than in any excess that is bestowed upon the subjects of it, above the quantity which their misfortunes seem to require. The task, in this place, is rather to enquire into the cause of the capital evil adverted to here, and, coming at that cause, to devise a remedy which shall banish it forever from the world.

Still further, however, to remark upon the nature of its influence, and especially upon the firmness and fortitude of men, we have only to call in the aid of our experience, which will sufficiently inform us that the only calamity to which the nature of man must be esteemed wholly unequal, is this one of pecuniary suffering, exasperated, as it always is, with degradation, the contempt of the world, and the cruel harassments of civil authority. And here we see this mighty creature, man, the lord of the creation, who controls, almost defies, the elements, sink beneath the burthen of pecuniary cares, embittered as they ever are with the persecuting machinery of the laws.

That courage which serves him in the pestilence and the battle, lifts his spirit high above the fear of death, through the endless hazards of human existence, and faithfully attends him through all the other trials, privations, and exposures, to which his life is subject, on the wastes of ocean and of land, is found at last to betray him here. It is indeed a sight almost too sad for human eyes, but one we all have seen, that even the very creature who could have given himself to the mouth of the devouring cannon, or bared his breast to the bolt of heaven with unwinking fortitude, behaves himself a trembling coward before the meanest tool of office, the poorest minion of authority; and there, too, we see him sacrifice, with rapid haste, all that is precious in his nature—his pride, and his honor, to procure deliverance from their terrors.

What shifts, what tears, what supplications, what falsehood, what treachery, and what mean submissions, do not now form the policy of his procedure! Dark and hopeless is the ruin here, in which his fame, heart, and fortune all lie wrecked forever.

What, then, is the cause of this unmatched evil? I have already had occasion to notice a certain effect, that I took to be fairly deducible from the operation of law, in which, it seems to me, the evil here depicted is fatally and inevitably involved. That *effect* was the unnatural extension of trade beyond the limits which either common sense, common honesty, or rational policy would at all justify. Every thing worthy of human respect, under this influence, seems pushed aside from its true foundations. The genuine virtues are banished to give place to meretricious substitutes, that hold their empire over the passions, and dictate their aspirations. An infatuated desire of wealth takes the place of a laudable love of independence, splendor displaces simplicity, an overweening spirit of perilous speculation silences the voice of prudence, unprincipled cunning bears off the honors of inflexible honesty, while brilliant successes and splendid gains become the accepted substitutes of worth, whose fair pretensions they openly insult and brutally overthrow, and whose rightful dues of homage and of rank they wickedly ravish to themselves.

In a society marked by such a moral complexion as this, it were no wonder that poverty and want should be regarded as a disgrace! How plainly, however, does this complexion proceed from a diseased excitement, a malignant fever that rages in every bosom for gain. Besides, it is certain that mankind, in this delusion of the senses, this depraved condition of their passions, lose sight of their true interests, and the genuine sources of their happiness. This fatal blindness seizes on them because the laws have struck down the barriers which should set bounds to the graspings of their cupidity, and wholly obliterated the just yet nice criterions, which should regulate their reliances and fix the true extent of their interests and negotiations. To sustain all these extravagances, we find there is offered, by the system we are considering, a blind and insensible force to fulfil the wildest engagements of reckless speculation, and realize the silliest dreams of frenzied avarice. And now of this boasted force, we have but to observe the full action with proper care, to enable us to discover that instead of its proving itself the friend and benefactor, it is one of the cruelest scourges, of mankind.

After the season of delusion has passed away that had been excited by its promises, it endeavors to atone for its treachery to one party, by the infliction of barbarity on the other.

Then do we see the countless packs of its obdurate ministers let loose from their kennels upon the defenceless victims it has prepared for the sacrifice. First, however, the sage incumbent of the bench, disguised, we need not say disgraced, in the gloomiest colors of profound and thoughtful gravity, now duly enlightened by the venal auxiliaries of his wisdom, at the bar of the tribunal he presides in, with due measure of sententious pomp lets fall the withering sentence of the law, that soon with wicked promptitude is seized by his official servants, who are ever at hand in eager waiting, like mastiffs for their sop, to execute his imperial orders.

And here begins the sorry work of desolation and of torture! For it is to be remembered that the judgment has been pronounced in the most obdurate ignorance and unconcern, as to any ability in the subject of it to obey its requisitions. Debts and damages to high amounts, in precious and substantial coin, are exacted unconditionally by its terms, perhaps from one whose frame is wasting for the want of bread, and whose family are piteously looking to his empty hands for the food and the raiment that are needed to keep them from starvation and from shame. Yet in despite of these obvious evidences of distracting want, these crying tokens of unmitigated suffering, does the remorseless organ of the law execute, to the full, the mandates with which he is charged. With imperial stride he enters the wretched hovel, which contains the shivering victims of misfortune and disappointed hope, and unfolds the warrant of his power that tolls the knell of freedom to one and of happiness to all. The loathsome prison now is the appointed purgatory for the sin of his want and his distresses, whose all that he can boast on earth is but an honest heart. The only, yet cruel, alternative accorded to him in the absence of that substance he cannot render, is the hated walls that soon are now to swallow up his liberty, or the cheap *halter* by which he may elude them. No matter for how short a time this purgatory is to be endured, the very touch of it is pollution to the captive. The sunshine that falls upon the walls appointed to enclose his wretchedness blisters his sight, and the air he breathes in them withers his very soul, and stains and darkens it forever; for he cannot forget that he is exposed to a merciless world, who are so ingenious as to discern disgrace where there is no dishonor, and so cruel as to award infamy where there is no crime.

It may be said this is an exaggerated drawing, or that if indeed there be anything like it in society, it is an evil of but rare occurrence, and such a one, moreover, as must always be found

incident to any general system, and which, for the sake of the greater good that springs from the same cause, should be borne with patience. But if I do not err, the instance just adduced is one of a very alleviated character, when contrasted with some others that may be brought up, of the same parentage.

In the case just supposed, the chief affliction is that of humiliated pride and insulted dignity. Conscience, so far from being an accuser, is indeed joint sufferer with the passions. No remorse comes in to embitter the pang of degradation, for there have been no iniquitous shifts or fraudulent devices to evade the sentence of the law, by sequestering the substance which it seeks. The suffering is that of innocence and integrity cruelly oppressed, brutally trodden down by the blind cruelty of justice.

Should we now consider the instances which are daily exhibiting themselves in the world, of those who are eluding the inquisition and coercion of the law, which threatens to snatch the substance which they really have, perhaps too scant to satisfy the devouring claims of justice, and yet far too essential to the call of their necessities to be surrendered with cheerfulness to the power that hunts them down, we shall see calamity and evil of a tinge so dark as almost to defy comparison. For here is nature, upon the one hand, asserting her high claims in the character of the sufferer himself, the hapless wife of his bosom, and the helpless offspring of their blood; on the other, conscience, urging the cause of justice and of right, as they are conceived and fixed by custom and the laws, in terms that carry daggers and desolation to the soul. The condition of that bosom, which is the seat and scene of such a strife as this, how pitiable must it be! doomed to choose between degrading beggary on one side, and blighting infamy on the other. Unhappily for the temper of mankind, we observe, with the deepest commiseration, how unwisely this alternative is but too often disposed of. Invincible self love, blind to its distant, more permanent good, continues madly to defy the denunciations of conscience and the voice of justice, and avoiding the transitory pang of dependence, incurs the enduring penalty of infamy. Strange as such a choice would seem in the eye of philosophy, it is sufficiently plain when referred to the standard of ordinary intelligence; for the good which is rejected in it we see is quite too uncertain, theoretic, and remote, when compared with that which is embraced, to hold the least competition with the latter. For this consists of the palpable goods of life which are actually in hand, and subject to the senses. The evil, too, that has been avoided, namely, that of poverty and dependence, has pressed with such gross and visible frightfulness, as wholly to overcome the dread of that to be incurred, whose horrors are unimpressive in proportion as they are undefined, and undefined they must be in some measure, as they have necessarily to be viewed in the obscurity of the future. Ordinary minds, we know, in moments of distraction, are apt to yield to the most seducing aspect of present comfort and convenience, and cannot be expected to act with that reach and profundity of thought, that would do honor to a sage or a philanthropist.

In all such cases as the one here imagined, we see unbounded distress—all the tortures of the law, exhausted, and still the aims of justice entirely defeated!

I dare say there may be those who would be ready to meet me in this place, with what they would deem, perhaps, a triumphant justification of the distress here depicted. This justification they would find in the plausible idea that great as the distress might be, it is, nevertheless, the portion of those only who deserve it. Great as the evil is, *under providence* it falls upon the heads

of the guilty alone, who only suffer the punishment their unhallowed contempt of justice has provoked.

There is a question which might bear some discussion, how far any punishment, no matter how well adjusted by the customary feelings of vindictive justice, to the guilt it would chastize, is justifiable upon any principle of either policy or reason, when it is suspected, by its practical effects, rather to aggravate than cure the evil it is devised to remedy.

That is a dark philosophy, surely, which delights in and justifies gratuitous agonies and calamities, inflicted upon our nature for transgressions, which, without punishment, might not exceed, perhaps not even reach, the extremes of turpitude they do with it.

However that may be, of this there cannot be a doubt, that no system can be defended or justified in the severity of its operation, and the affliction it produces, under the flimsy pretext that its penalties fall only upon vice that deserves them, when that very system has, by its own unhappy influence, engendered the vice which it now triumphantly punishes.

If there be any truth in some of my preceding reasonings, law does engender vice, and quite enough to give an air of plausible justice to its own severity.

If it should be said that the degree of suffering depicted in the kind of instance last supposed is much exaggerated, or that, if anything like it be found actually to display itself, it still is of but rare occurrence—that, in fact, men pass through these scenes of pecuniary embarrassment with comparative callousness and unconcern; especially that those in the last described class come off, not unfrequently, with a sort of triumph, even with feelings of concealed joy, I might ask how much is gained for the cause of mankind, admitting these notions to be true.

In the room of a nice sense of honor and personal dignity, we have *brutal insensibility*; and in place of a healthy contrition that wrings the soul to purify it, we have an obduracy that winces not at the consciousness of vice, but glories in its achievements. For the infamy, too, which should degrade him who deserves it from the ranks of men, there is a momentary sentiment of easy disapprobation, which is, perhaps, freely expressed for a time, by far more than feel it at all, and at last disappears, so completely that it is, indeed, entirely lost in that large fund of vicious charity, which the present policy of society has established, for the benefit of a long list of fashionable knaveries and current depravities, we may observe to preside over its interests. This policy we find given into by each one, with various degrees of scruple and concurrence, for the purpose of establishing comfortable precedents of absolution and forgiveness, for possible delinquencies he may some day or other, for aught he knows, be swayed by temptation, or compelled by necessity, himself to fall into, from the principles of good faith, and the requirements of justice.

If, however, this insensibility to vice, which there can be none of us to deny we observe everywhere in society, owes itself to the influence I am arraigning through these pages, namely, the influence of law, its advocates must find themselves reduced to a very desperate search for the real sources of its glory and honor.

For, the sensibility of mankind destroyed, their cause is indeed lost forever.

It will depend very much on the force of preceding views upon his mind, how far the reader will concur with me, in fixing the derivation of the evil last alluded to.

CHAP. XIX.

I have, in the preceding chapter, given but little more than a sort of miniature sketch of human suffering, produced, as I have endeavored to show, by the influence of pecuniary embarrassments.

I now proceed to present a view, somewhat more striking, of the same subject, as unfolding a higher order of that species of calamity, and the more interesting and imposing, as well for its obvious importance, as for the loftier heights of its appearance.

I mean here the wide wasting bankruptcies, that every year come on to desolate the face of commercial society.

The petty straits and necessities of the humble and the vulgar, deep as the affliction certainly is they always bring with them, are observed to pass off unheeded by the world, as being quite too insignificant to deserve its serious concern. But when sudden reverses of fortune seize on the hitherto wealthy, prominent, and powerful, and hurl them from their dazzling eminences, we are all for the time usurped by the spectacle of such showy calamities. To deal fairly, it must be owned that such events, heart breaking as they are, to those upon whom they may chance to fall either directly or indirectly, do entirely change the character of their influence upon almost all besides whom they affect, there is too much reason to suspect, with feelings of concealed joy, however they may induce everywhere the heartless language of affected, hypocritical sympathy. This joy, despicable as it is, and inhuman, too, if it were not found in human nature, hath its root, surely, in the malignant rivalry which burns in the bosoms of all, for the highest reach of gain—the most pompous fame of fortune. There is, indeed, much reason to believe, that even those who have sunk below the hopes of either success or distinction in anything, make shift to draw a strange and vicious happiness to themselves, which amounts, for the time, to almost a full alleviation of their own abject destinies, by *feasting on the mournful miscarriages of others*. How malignant a disease is this, in the principle of self love, which brings it to receive comfort and nourishment from such sources as these!

Is there any language necessary to depict the suffering of these exalted victims of wild speculation and extravagant trade? With them, at least, the sorrow inflicted by their misfortunes is real, bitter, and unmixed, and draws no relief from even the proud spirit with which they would try to hide it from the world. In their hearts is the torture, that wakes ever, though it do not speak. The pretty phrase that depicts it, lives in the world's mouth, that bestows it with most voluptuous generosity.

There are but few people in the world, who are so far in the habit of forgetting themselves and their own concerns, as ever to consider with any degree of attention the nature of the suffering which is endured in the instances I here suppose, of blasted prospects and ruined fortunes. Could they but bring themselves to reflect, with the least concern, on the subject, they would, I doubt not, be greatly surprized to find this sort of distress so much greater than they had ever before considered it to be.

We are, indeed, the creatures of circumstances. Those whose destiny places them, from the cradle onward, at the bottom of all human conditions, become, in time, so inured to the poverty and humility of their lots, as rarely, if ever, indeed, to feel any keenness of suffering on account of them. They trudge along in a sort of callous endurance of their poor fortunes, free from the throes and harassments of refined anxiety, at least, since they do not dream of bettering themselves, and

since, too, unbroken habit has made all the circumstances of their hopeless doom in some measure natural to them.

Like the poor steed they seem, upon the waste and fenceless common, that grazes on the scant herbage it affords, so busy at the serious labor of keeping himself alive, that he has no time to indulge himself in ruminating upon rich pastures that are far away.

This luckless class of mortals, we find, not only appear to bear all the privations to which the straightest poverty may subject them, with a certain measure of patience and resignation, but discover a very happy indifference to the world's gaze upon their wretchedness, which they are often induced rather to court, than make the least endeavor to shun.

But, in the higher spheres of society, we observe the keenest sensibility to outward circumstances, where we behold an incessant labor employed to keep up a show, that may be suited to assumed or acknowledged rank. Endless, indeed, are the devices, shifts, and contrivances, on the part of almost all, to seem what they would be, and hide what they are. To all this they are impelled, how plainly, for the purpose of maintaining that joyous currency in the circles to which they are attached, without a communion with which, life would be an insupportable burthen.

In respect to the members of all the higher ranks of society, there is little doubt that these remarks are true. In my own mind, I fancy, at least, that I behold a large part of the whole body of society, in an agonizing posture of unnatural elevation, each one madly sticking to the height of his station, which he has reached by the strangest, most subtle manœuvres, and many a one, indeed, holding it, too, safely enough, by means so entirely mysterious as actually to defy all comprehension; yet the foundations of thousands, to any nice observer of these things, would appear to be tottering and crumbling beneath them at every moment.

Now, it were easy to decide from what causes such violence of most human conditions proceeds. Plainly, they must be certain false criterions of respectability, that relate wholly to outward appearances, which have been fixed by the insensible pride of mankind, and consecrated by their extravagant customs.

Having indulged ourselves in this glimpse at the kind of feeling which not only marks the aspirations of most parts of society, but pretty well determines the reputation and dignity of its individual members, we shall find but little if any difficulty in conceiving the full amount of bitter distress, which falls upon all those who find themselves suddenly snatched from an imposing eminence in society, conferred upon them by wealth, and all the luxurious superfluities it affords, and then violently plunged into the depths of poverty and dependence.

It were perhaps as unnecessary, as it is certainly impossible, for any one to describe the hopeless desolation that settles upon the spirits of those in the higher circles, who become the subjects of severe pecuniary calamity. For language can by no means enter into the wilderness of agonies in which their very hearts are lost, and all their hopes lie buried.

This is a rueful field for the imagination to survey alone, in speechless sympathy.

Let it be sufficient to observe, merely, that those to whom thousands have been an easy mean of current enjoyment, find it now their doom to embark their trembling hopes upon no more than a paltry shilling, precariously procured, and swiftly to be expended; that the dreams of vanity they have indulged, even to a sort of elysian extravagance, have now to be exchanged for the withering dread of languishing, even for a single meal of the plainest diet.

It were no wonder, when the night comes on, they grieve not for the farthing light they cannot purchase, since darkness now is far more welcome to their hopeless bosoms, than even the cheerfulest light could be, hat would but show them to themselves in tearful helplessness. A taper in their dreary mansion now, would seem a lamp within the sepulchre, which might indeed serve well to show the grimly horrors of the place, but still could never wake the dead.

This may be thought a sketch rather too highly drawn, and so it is, indeed, for ordinary instances, yet surely not for some; a few, at least, we may observe, of special character, that now and then occur. Yet any one can see in it much to correspond with what he would allow must necessarily make all the cases he could imagine, of persons who were the splendid subjects of blasted circumstances. He who will consider with himself but for a moment, how numberless are the miscarriages in trade and speculation, which bring about the kind of consequence just depicted, will at once be struck with a proper conception of the vast amount of misery that attends them, and so sadly deforms the smooth and happy surface of society. Misery it is, too, that is surely none the less real, for its being commonly quite overlooked and unheeded, and none the less agonizing, that it is in general so little either pitied or relieved.

The cause of all this species of distress, we cannot fail to see in the *dark culprit* I am trying in these reflections.

CHAP. XX.

From what has thus far been delivered, there can be no one to hesitate in admitting, that the condition of human nature, even here in this free country, where it is more favored than in any other part of the world, is a very degraded and revolting one, full indeed of all manner of folly, misery, and vice.

Now I think proper to affirm, in this place, that mankind, in the great mass, are capable of virtue in a higher degree, than the world has ever yet witnessed in any age or country that the records of history have brought to our knowledge.

Were it not for the few instances of eminent virtue in men, that shine out to our view from the gloom of times that have gone by, like so many thinly scattered stars in a dark and cloudy sky, the picture of the beings that have gone before us would have been but little better than a boundless spread of one most hateful color—an unrelieved gross daub of infamy.

History teems to us with accounts of wars, plots, treason, rapine, treachery, assassinations, and all that is odious in the character of man, and treats us with but little indeed of opposite features, that might serve to reconcile us to our natures, and relieve the pangs we feel for the mournful depravity of the species.

With what a pure delight, however, does a well organized mind dwell upon the few sketches which are scattered here and there up and down the pages of history, of those rare creatures of mortality whose exemplary virtues distinguished them so widely from all the rest of mankind. Perhaps we find nowhere that inequality so great as in the instance we may here fall upon, of the immortal Grecian¹¹ and his countrymen, when we put in contrast the godlike excellencies of the

¹¹ Socrates.

one, with the shameless corruptions of the others. Save him, well nigh, alone, the gross of mankind that composed his country was but *a mass of vice*—had even reached the lowest depths to which it could be either dreamed or feared the race of man could ever sink; yet firmly did he keep his post among them, nor fled the bloated insolence of shameless wickedness, or yet the vengeful madness of unbridled power.

On every side his eyes were turned, though effeminate pleasures stared him in the face, spreading their loose bowers over the very graves of sages and of heroes, and every voluptuous passion, too, that finds its fire in the heart of man, poured out its rage around him, till all morality, patriotism, virtue, seemed carried away and lost in the headlong flow of sensual indignation, still stood he up to reprove and to exhort, even with the *tenderness of a father*, and the *dignity of a god!* to call his countrymen off from their wanderings, and lift them up from their degeneracy.

When we ponder upon such accounts of our species, it is difficult to repress either the sadness or the delight with which our souls seem alternately filled, while we in vain sometimes endeavor to decide, whether the pictures we contemplate are fitted best to seal our despair for the cause of humanity outright, or enliven our hearts anew with the promises of hope for its ultimate regeneration. In such a dilemma of feeling and reflection, there are few of us either so thoughtless or diffident as to forbear all consideration of the causes which might, in our own regard, have conspired to produce the amazing inequality we are oftentimes brought to observe, between one man and millions of others; an inequality so great, it may be, as even to impose a doubt upon the mind whether those who were the subjects of it could be of a common species. One would be apt first to enquire with himself, whether it were at all probable, that nature had herself established the difference he would account for. However manifest that difference might be, or extravagantly wide, still he would be slow to admit the truth of such an hypothesis, should his mind bring itself to consider, with the least attention, how many *circumstances* of a character, wholly accidental, may have lent their influence in bringing about the phenomenon he is considering. If he cast his eyes around, and survey the numerous tribes of inferior animals, he would look in vain to find among the members of the same species any appearances analogous to the matter which engages his reflection; but, on the contrary, he would perceive, that nature had dealt with a very great measure of impartiality, in distributing among her creatures of the same class the peculiar properties of their existence. If he would turn his eyes upon the fields of air, among all the birds that stretch the wing there, of the same species, he would see no remarkable advantages bestowed on any one or more, which they could boast over their fellows. Whether he would pry into the rivers, dive into the bosom of the deep, or survey the boundless extent of field, wood, and wilderness, still would he observe the apparent equity of design with which the great mother of creation, all bounteous nature, had dispensed the blessings of life among the children of her bosom.

Seeing all this, he would at once perhaps discharge the hypothesis I have supposed him to assume, in his attempt to solve the difficulty before him. Very naturally his mind would now set out on an excursion of enquiry, how far the various circumstances of education, custom, and all the countless accidents of life, which are observed to impress themselves upon the rude materials of nature, would serve to give solution to his perplexity. In this view, if he should consider how strange a medley the face of the earth has presented in all its ages—here a nation of men, famous for their valor and prowess; the stern rigor of their institutions, civil and military; their contempt

of death, and scorn of slavery—there another, debased by effeminate pleasures; pitiable for their meanness and cowardice, as well as execrable for their indulgence in every vice—the true light methinks would now begin to dawn upon him. Should he proceed, then, to add to this sketch with which he had served himself, a further view of other tribes, nations, and confederacies of people, presenting still different hues and lineaments of character, to an almost endless diversity and extent, he could not fail to become deeply penetrated with the persuasion, that man was indeed, in everything material to his existence, the mere creature of the circumstances that attend him, and that he must ever be found exactly to conform to the nature of their influence upon the susceptibilities of his character.

The persuasion, however, that would be apt to fix itself on the mind, from so large a view as the one supposed to be taken here, would, there is little doubt, greatly exceed the ordinary sentiment of men on this head, which, in proportion as it is trite and familiar, seems to be dull and undefined. The idea is found, indeed, on the tongue of every one; but of all who mouth it in conversation, there appear to be but few who annex to it any determinate limits. Or if, in the minds of some, the notion has come to wear any precision at all, there is reason to suspect that it goes the length of admitting, and freely, too, the *extremity of evil*, as being a point which we could very conveniently reach in the easy line of declension, while it by no means allows, on the other hand, anything like a corresponding *extremity of good*, to which we might be thought capable of ascending, under any possible auspices of favor that we might bring to our amelioration.

This is indeed the question, and nothing could be so interesting to all mankind as its solution. Whether indeed the mass of men are capable, under the benign influence of any conceivable circumstances, of attaining a pitch of virtue, as exalted and glorious as the point, of depravity, to which we would all own they could easily be brought to fall, is abject and despicable. However this may be, he I am supposing to reflect upon the difficulty in hand, would be apt to rest satisfied with the kind of reasoning concerning it, which has been imagined to be employed by him. If any one would enquire how Socrates himself came to be so bright an exception, to the influence of circumstances which had so deeply debased his countrymen, it may be answered, that some accident¹² peculiarly favorable to him must have occurred, to give his mind a turn to philosophy and virtue. Proceeding in the practice and cultivation of both, the very excess of vice into which his countrymen were running, it is easy to suppose, may have served to inflame his disgust to such a pitch, as necessarily to exalt him to a clearer height of excellence, both in principle and action, than by any other circumstances he could have been stimulated to reach.

To proceed—such, I am apt to think, has been the unhappy destiny of mankind, as far back as we have any accounts of it, that there never was a government on the face of the earth, under which it has been possible for the great body of men to rise to any thing more than a mere approach, and that in the meanest degree, to the state of dignity and virtue it is easy to conceive of their reaching, until the government of these United States came to bless the world with something like a taste of the true privileges which belong to every being that bears the name of

¹² I do not mean by the word accident, something proceeding from chance, for I do not believe there is any such thing in the sense the word is commonly meant to convey. A feather, it seems to me, is no more lost by *chance* in the air, than the sun is fixed in the centre of the solar system. I mean, then, by the word accident, an occurrence merely.

man. Hitherto, and now everywhere else than here, the direct tendency of government has been, and still is, to debase man to a point immeasurably below the level to which it may be admitted he is fitted to rise. Every one knows that nothing so powerfully influences the character of human beings, as the political institutions, and civil regulations, which come directly upon them to sway their feelings and conduct.

Should we pause here to consider the subjects of a despotism, whom the mere will of a single man can appoint to any condition however high or low; whose single spirit is the kindly inspiration of all, save those of whom it is the dread, that turns them into fugitives, malefactors, and cowards; whose very eye is watched as the omen of destiny, blessing and cursing with its brightest glance; and who, in his loosest moments of reckless inanity, enjoys more actual power than the millions that obey his sceptre, we should find little difficulty in both perceiving and admitting the deep degradation of all, whose fate might involve them in such a condition of things. In a scene so full of every temptation to crime, whatever we behold that is either pitiable or despicable in man, we need be at no loss to refer to the accident of government, which has robbed him of every incentive to honor, and every conception of virtue.

But little better than such a condition as this, has been that of the species in general, in all parts of the world, through all time that has past.

We hear, indeed, of a kind of monarchy that is called mixed. This its eulogists seem to hold up as the very perfection of government. Because they perceive it embrace a certain portion of the principles of democracy, small as that portion actually is, they fancy that every good in the greatest measure of abundance is thereby happily secured. They do not fail, at the same time, either to forget, or wilfully overlook, the predominating principles, of an entirely opposite character, that go to pollute the whole system they reverence so much.

Not to bestow any more than the smallest measure of notice away from the line of other and better reflection, we may for a moment consider, what a ridiculous arce the voice of the people actually makes, or rather, how perfect a shadow it is in a government, which really grants to the higher and opposite classes the affluent means, in *sterling coin*, to *purchase it up*, and so virtually make it their own. When this is accomplished, strange would it be, if it were not employed for the open oppression and plunder of those who have been so depraved and blind as to sell it. But that which renders this commerce still more marvellous is, that the means which sustain it have all, in the first place, been snatched, by the force of despotical power, from no other source than the pockets of these very people, at the rate of extravagant thousands, and are then, how graciously, only in part though, be it remembered, dribbled sparingly back to their owners, in the sorriest paltriest shillings, to debase and corrupt them!

Surely the human nature that can on the one hand enforce, and on the other freely submit, to such practices as these, must on all hands be allowed to be far enough gone in knavery, servility, prejudice, and stupidity. It must needs be, of course, far below its true level.

There have been indeed republics, in time past, where, in some sort, the people were the fountain of power. The most famous were the Grecian, that flourished a long time ago—near 3000 years. Yet there, though it is true there was much in the forms of government merely to favor the condition of the people, still a great deal there was engrafted in the common pursuits, practices, customs of the time, which went far to seduce men from the true paths of life, the wholesome sources of their happiness.

Wild superstitions, false glory, capricious wars, unholy conquests, and luxurious wealth, acting by turns upon these more favored parts of the world, did not fail, in time, to undo them all. These splendid trifles having engaged the minds of men, instead of the plain just objects of human concern, it is no wonder there was neither happiness in their hearts nor duration in their governments.

If there should be any one to ask what these just objects of human concern are, the answer could be very conveniently given, for they are nothing but Independence—Virtue.

These achieved, and man has at once reached all the good he need ever to hope to taste on earth. In their room, however, we have seen the subjects of a universal infatuation swaying the passions and engaging the labors of men, through all ages. Under the guidance of this infatuation, it has been, that they have preferred shadows to substance—gewgaws of vanity to the plain provisions of reason—slippery heights of lustful ambition to the secure plains of virtuous content—turbulence to tranquillity—vexatious and embittering toil to serene and happy repose; in short, a gorgeous *outside* alone, in every conceivable matter devised to catch, deceive, and ensnare, to the bright and durable treasures of virtue, which are at last the only true food of the soul, and lasting enjoyment of spirits that are pure and exalted.

To return. There was, too, for a time, the commonwealth of Rome. But we may observe the same faults in the pursuits and practices of men, there, which we have seen conspired to debauch the republics of Greece.

The consequence we all know. What few other governments have had place in the world, which partook at all of the democratic principle, are scarcely worth taking into account here, since they were only for a time, or full of alloy, and but of limited influence. The best of them might be compared, perhaps, to the smallest spots of azure in a dark tempestuous sky, which are subject at any moment to be overrun by the passing clouds that fly in all directions, over the face of the heavens.

This brief sketch of the political condition of our species, I have deemed it proper to give, in the hope that I should be able thence to evince that if all mankind have actually been no better than *bad*, and *very bad*, too, through all time that has past, there seems to have been quite reason enough to account for it.

Besides, I have been solicitous to refute, as far as I could, a kind of argument that is commonly used to force a conclusion from what we *have been*, of what we must all *continue* to be.

In plainer terms, it is rung in our ears, that if for so many thousands of years, through all the changes of all their affairs, mankind have steadily shown a proneness to vice, in practices strained to the wildest extremes of corruption, *therefore*, it can with no sort of reason be hoped that they will ever become materially better.

This I am sure is the notion of many who think they reflect coolly, and sensibly, too, on the matter.

They are greatly afflicted, indeed, at conclusions so gloomy and hopeless; yet it seems they must be indulged, at the stern command of reason and truth. The consequence is, they, sit themselves quietly down and give up the cause of humanity quite, as one that can never be gained. I confess I do not envy such philosophers their turn of thinking on the gloomy results to which it leads.

I would fain *hope*, at least, for something better than this, as long as I am a breather myself, and die with the fond delusion in my bosom.

When we come to consider the moral condition of the people of our own country, who, in a political point of view, are doubtless more favored than any other. under the sun, we shall, I think, be somewhat pained to find that that condition is to the last degree depraved and imperfect—that it answers but little to the hopes that might have been entertained from the establishment of those great principles of natural liberty and equality, without which, indeed, it must be owned that human nature can do little more than vegetate or live on, in the stain of every species of depravity. All essential as the enjoyment of pure liberty has at last come on all sides to be allowed as a mean to the end of exalting man to his true dignity, yet experience, it seems, is beginning pretty clearly to show that that great boon, albeit it is the *foundation* of all other blessings, comprehends *not* within itself *all* that is necessary to fix the true condition of mankind. Because it has been for a time so long—well nigh all that has past—the great desideratum of this degraded earth, men seem to have been drawn into an impression, even a sort of conviction, that now it is achieved, there can be *nothing more* wanting to sweeten or enrich the cup of their felicity.

How great is the oversight here—how deep the delusion!

Still will we hope that the time is coming when we shall all see, and, seeing, confess, how little we have gained—in fact, how much we hold of illusion—how poor we are in every thing that's good—how rich in all that is evil.

CHAP. XXI.

Thus far have I labored to show, as well as I could, the causes which may have conspired, in part, to keep mankind continually ignorant, even of themselves, as well as to debar them from the genuine sources of their happiness.

The institutions of men, their governments, customs, and laws, are all that have been so far considered as being the cause of so much evil.

It seems to fall within the spirit of my design to bring into view another circumstance, still, which perhaps may be seen to exert an influence of no very slight or trivial malignity, in fixing the principles and actuating the conduct of mankind, in a direction the very opposite of that in which their true happiness was ever to have been found.

The matter to which I refer, is no other than merely an error, or rather a doctrine, I think an erroneous one, which seems to have been diffused throughout the world by metaphysicians and philosophers in regard simply to two classes or kinds of human actions, they think they have clearly discovered, and appear to believe in. These classes they easily distinguish, one by the name of *interested*,—the other, *disinterested*, so that we have not only by their authority, but by the general consent of mankind, human actions of these two very distinct and opposite kinds.

There is rather more importance attending this matter than may at first strike the apprehension of the reader. It is curious, however, to observe how plausibly, at least, the exaggerated estimate that has ever been put upon wealth, may be brought in as the cause of this famous distinction. Even Mr. Hume, who was, indeed, a very clear headed writer, and withal a modest sceptical thinker, (I observe, too, Mr. Godwin, a man greatly his superior, agrees with him,) seems to imagine that he, in a short essay on this very same subject, had so conclusively

demonstrated the reality of the difference between what are called interested and disinterested actions, as for ever to have put the matter to rest. Yet he admits that there were philosophers who had insisted, with some plausibility, that there was no conceivable action, whatever, whose moving cause could not be resolved into some modification of the principle of self love. It is only wonderful to me how two such men as those. I have mentioned,, could have missed perceiving the solid ground held by their opponents, and failed to concur with them.

Now, *to me it seems*, that a very few words will suffice to place this subject in a light which shall, if I mistake not, exclude every shadow of doubt, and prove that the distinction in question, which is maintained by all the world in ordinary conversation, and by writers, too, of eminence, in serious discussion, is so wholly fanciful, as by no means to hold even a possible existence in nature.

It appears to be based on a principle, or rather a vulgar notion, that there can be no *recompense* worthy of consideration, for any action of a human being, which does not display itself in some *visible return of tangible exterior good*. From this, it follows, that those actions which are performed to that palpable end, are to receive the name and style of interested ones, while all others that are signalized by generosity, humanity, and the like, are to be crowned with the imposing title of *disinterested*.

There is little doubt that some extraordinary compliment was intended to our natures, by this distinction, which implies that men are capable of acting for the benefit of others, while they take no sort of care of themselves. I should find no fault with the compliment, were I not impressed with an idea that it is a sort of outrage upon common sense, and that it is really calculated, if it be founded in error, to work incalculable mischief to the real interests of mankind.

So predominating have ever been the motives of human conduct, inspired by external interest, or rather the subjects of mere cupidity, that men have unanimously concurred, without further thought, to set down the most of all else they could perform, without regard to such excitement, as being action wholly without good to themselves. This would imply that there was but one way of bringing good to an intelligent being, and that was by administering directly to his cupidity.

It were proper in this place to enquire, in what it is that human happiness, the great object of the whole race of man, consists. Any one would reply, and truly reply, too, by saying, in agreeable sensations and pleasing reflections. Can it matter, then, what produces these effects in a human being, so they are produced? Do they flow from splendid acquisitions of wealth or station procured to one's self, or from munificent donations and endowments extended to others? Are they not in each case *equally* real? Can, then, the character of an action which acquires, and another that bestows, as far as respects the influence of each upon the actor himself, be at all distinguished, the one from the other? This were impossible. With what show of reason, then, can the opposite terms be employed, for no other purpose than just to express the widest possible difference that could be conceived between essences, which are, as we see, exactly similar.

There is no one who can seriously doubt the pleasure experienced by him who exercises his generosity, magnanimity, humanity, towards his fellow creatures.

It is certain that, by the display of any of these virtues, he procures to himself agreeable sensations and pleasing reflections. Can bags of gold, though piled up to the moon, do more for him whose rare fortune it might be to call them his own?

The writer referred to on the other side of the question enquires, "What interest can a fond mother have in view, who loses her health by assiduous attendance on her sick child, and afterwards languishes and dies of grief, when freed by its death from the slavery of that attendance?"

It would scarcely be doubted that it is quite as selfish, when the attendance of two inconveniences is presented to us, to choose the least, as it is to embrace some positive good when the opportunity invites us.

In the case just cited of the mother, what can it be but her self love, which the wisdom of nature has made so expansive and sympathetic, that impels her to wear herself out in solicitous attendance upon her child?

Let no one be shocked at this idea. For if we would imagine her, for a moment, making the endeavor with herself to be deaf to its cries, we shall see, at once, the intolerable feeling of remorse, suffocated tenderness, and conscious barbarity, which must accompany conduct so cruel and unnatural.

Do we not find, here, a state of sensation in her, which she would be ready, with the extremest alacrity, on her *own account*, to exchange for the far less disagreeable sufferings she would have to incur of wasted health and untiring watchfulness?

It would seem that the mind falls into the error of supposing an action free from the incitement of self love, when its exterior object and aim is exclusively the good of another. But we see it forgets to consider that that good may be so ardently desired, even by *ourselves*, that we can in no wise forbear to extend it, however much we might exert ourselves to that end, and that it must, of necessity, flow from our hands to the object which engages our benevolence, by a motive as strong as any that could impel an action whose whole import might be to return good directly to ourselves *alone*.

A friend in distress calls on me for some favor adapted to the exigency of his necessities. By a principle of my nature, I feel at once the liveliest sensations of sympathy and concern for him. The means of assistance, which he solicits, are conveniently within my power to bring to his accommodation. An irresistible impulse seizes me instantly to employ them for his relief.

To say nothing of the positive enjoyment which is mine, proceeding from the exercise of my benevolence in such a case, do I not act from the principle of self love, in eluding the unhappiness to which a refusal of the desired favor would necessarily subject me? Whoever will fancy himself in such a condition, will quickly conceive the kind of feeling in himself, which, having relation wholly to his own happiness, would render it quite impossible for him to thwart the anxious hopes of his friend.

I would not deny, however, that he may be as eager to remove unhappiness from that friend, as to elude it for himself.

If the happiness which is experienced by one who exercises his generosity and humanity towards his fellow creatures, should be thought to disparage its merit, that circumstance, of itself, will be scarcely allowed sufficient to overthrow the principle I am endeavoring to demonstrate.

But whatever may be lost, to a generous or humane action of any kind, in honor or praiseworthiness, by reason of the selfishness which we have seen is mixed up in its performance, there is much reason to believe, is very fully made up by the substantial good secured by that alloy,

to the great cause of humanity at large. For without it, I freely confess I am not able to conceive, how there could ever be a single noble or benevolent action among men.

To desire with any vivacity the good of another, is necessarily to dispose us to act, towards the achievement of that good, with as much certainty, oftentimes, though not always, perhaps, with quite as much zeal, as we would for our own.

The very existence of the desire, implies enjoyment to ourselves, when its object is secured to the person to whom we would extend it. Of necessity, then, a degree of unhappiness must afflict us in the event of its failure.

Without a liability to such feelings, in those conjunctures, how could there be any action at all of the kind under consideration?

But the evil influence of the doctrine, which draws the distinction referred to, would be found to lie extensively in this, namely, that men understanding, by the notion of a disinterested action, one that is wholly unattended by any good to the actor, are inclined, under a persuasion of that view of its nature, to regard it as of the lightest obligation in the affairs of society. They even go further, and are found many times even to contemn generosity, magnanimity, and the like, as no better than a species of good natured folly. Or if the notion be at all indulged, that sometimes this might be indeed well and proper enough, still they are supposed to return a merely *ideal*, fanciful, species of happiness, which is allowed to be greatly below the serious estimation of one of sound sense and perfect discretion.

There appears here another distinction, that seems to be held up somewhat by the world, in regard to happiness itself; making one kind, they denote that as substantial, and another ideal or visionary. It is curious to observe how one error becomes the parent of others. This last distinction certainly owes its existence to the one mainly under consideration, which, recognizing no real interest but that which can be actually seen with the eyes, or touched with the hands, *outside* of the person to whom it belongs, of course regards all other interests as purely imaginary; in so far they are reckoned below the substantial dignity and real importance of the first named. Now it is certain that whatever produces happiness, whether it be reflection, action, power, or matter, acting upon our hearts, its essence must be precisely the same. He who procures to himself agreeable sensations, by even a cheap gaze on the stars, for the time, at least, enjoys a happiness fully as real, as that of the miser surveying his heaps of gold. For this gold of the miser does no more impart to the mind, or incorporate with it, its essence or substance, than the beauties of nature communicate theirs to him whose soul thrills at the sight of them. The pleasure experienced, too, by the performance of a humane action, must be allowed equally as solid, as any that could possibly visit the heart of man.

Yet circumstances seem to have conspired, if not wholly to conceal this precious truth from the minds of men, at least, so much to cloud it to their view, that it is actually found to exert an influence which is scarce perceivable in the common intercourse of society. The notion of *disinterestedness* is the very cloud that darkens up the mind here, when light is so much wanting. For it fixes upon a class of actions the most essential of all to human welfare, a sort of senseless character, which consigns for its patronage to the rare casualties of triumphant nature, accidentally overleaping the received dogmas of philanthropy and the misguided persuasions of the time, the whole cause of humanity.

This is indeed well nigh cutting off its whole support; for this cause, to be advanced to its highest pitch of possible prosperity, obviously requires the active, incessant exercise of the warmest, most universal benevolence. Nothing is more common, when we hear a man winding up an account he may be giving of some exploit of his generosity, than for him to say, “all this I have done without the least interest—the smallest shadow of compensation.” True, indeed, his purse has not experienced any increase of its contents, but has his heart not been enriched with an increase of its enjoyments?

The misfortune of this sort of delusion is this, that a man in such case is apt to imagine, that an action like this, which is wholly without any sort of good to the actor, it would be of all things in the world the easiest for him to have overdone. The consequence of such a reflection we find to be, then, that he grossly deceives himself with even laudable considerations of prudence, and so forbears in many an instance to do the good in the world, which it might be, perhaps, fairly enough within his power to accomplish.

It may be his persuasion is that he has already done *wonders* in that way, and that more would amount to extravagance and folly.

It were in vain for any one to say, that the name of disinterested, to actions, investing them with more honor and attractiveness, must necessarily engage men, by superior considerations of glory and applause, to rival each other in the practice of them.

The history of mankind, and the whole face of the world, pretty conclusively show, that whatever *witchery* there may be in the invitation, on account of the *name*, there are but *few* to accept it.

If we should imagine now this doctrine of disinterestedness to be wholly exploded, (as, if it be erroneous, surely it ought to be,) and mankind retrieved from its baneful influence, to be duly enlightened in the truth of its opposite, the smallest consideration would show that the principle of self love in men would go on, extending the sphere of its sympathy and affections, till every creature of the earth we inhabit would come to be embraced within its lively, beautifying benevolence.

Then would it clearly appear, that the most magnanimous, generous actions of men, for the good of the species at large, were indeed the most interested and selfish, because they would be found to include the greatest amount of general happiness to themselves.

Could this important, precious truth be but demonstrated to the understanding of mankind, seeing there is nothing more certain than that they will pursue their happiness by the light of their plainest interests, then were the world *redeemed*, indeed.¹⁵

It has been a sort of bad luck, that the word, selfish, has come on all sides to be allowed a term of reproach, in common use. It seems indeed to be considered as quite too disreputable to be employed upon any occasion, where approbation or applause are intended to be expressed. We all mean in truth about the same thing, when we speak of actions that we would disgrace by the name of selfish. They are no other than such as include in their purpose, in too great a degree, the

¹⁵ If we would imagine the world given up to benevolence, what a change should we have!—Soldiers turned into citizens, kings into philanthropists, statesmen into *honest men*, and all *other* knaves to the same. Strife, bloodshed, and war, succeeded by harmony-innocence-peace. This were indeed a grand metamorphosis! The serpent changed to the dove could not be a greater.

exclusive convenience and interest of the actor, under circumstances which invite care and regard to others; it is the excessive narrowness of their aim that excites our dissatisfaction and provokes our censure.

Inspired, then, with constant distaste against only a certain kind of selfishness, or rather against the manner in which it displays itself, we have wildly broke away from the truth, and set it down in our minds, that every action to which we might properly affix the epithet of selfish, deserves to lie under the odium of our aversion.

In this way, it seems that mere fright at a word has produced one of the greatest blunders ever committed in the philosophy of human nature. But do we indeed disparage the merit of benevolence, and calumniate our nature, when we maintain the selfishness of all actions however generous or humane?

If the assumption be founded in truth—truth that springs from the fixed necessity of things, and moreover consists with the beautiful economy of nature, he who would attempt to bring it into disrepute, would, methinks, find himself laboring to a very poor account; for he would do no less than impute folly to nature, and aim to substitute an absurd impossibility in the room of a necessary fact.

Under a view, however, of the principle of self love suitably enlarged, these notions, in regard to the discredit of its influence in all the actions of men, must certainly vanish; for we have only to make it sufficiently expansive and intense to perceive, that every being within the sphere of our perceptions becomes at once, as it were, a part of ourselves.

This idea may be inexpressibly shocking to some, who carry in their minds a long list of objects that greatly disgust all their senses, and excite their extremest aversion; creatures whom it would appear to them to the last degree impossible, they could ever admit into the least intimacy of affection, or privity of existence.

Yet if these *dainty, delicate pieces of clay* would but consider for a moment with themselves, they would find, that *hate* for an object was by no means wholly inconsistent with love for the *same*. The truth of this notion they would find even in themselves, without going any farther to find it; for it is certain the man has never yet lived, of the least pretension to virtue, who was not to *himself*, at times, a subject of even the very extremest dislike.¹⁴ It were easy to account for this in the very nature of man, a creature that is ever

“Contending with low thoughts and lofty will.”

How can his finer parts escape disgust at his grosser? It was something more than a mere imagination of Seneca, that *we are all limbs of one great body*. The notion might have been carried still higher, so as to make the universe itself, or all we perceive of it, one *great personage*, of which every atom that composed it, however distant it might seem in a separate existence, was, in truth, but a mere fraction. Under this view, we should see that each particle, inspired with the warm quick spirit of the whole, in a state of freedom from all disease, would necessarily bear towards all

¹⁴ Yea, from the gloss faced flatterer,
To Apemanlus, that few things loves better
Than to abhor himself.—*Shakspeare*.

other particles, relations as congenial, benevolent, and sympathetic, as the component parts of any single animal in creation are found, by the mystical economy of their organization, to conspire for its conservation and happiness.

If any one would enquire what I would do with snakes and reptiles—how I would include them within the circle of human sympathy, my reply would be, that if they could not enjoy the affections of our hearts, they might, at least, hope to escape wanton injury at our hands. Besides, it might be said, and truly, too, that distinct as they might seem from us, and abhorrent to our feelings, we could not wish them further away from our sight, than we sometimes do the horrid productions of our own bodies.

But if some animals there are, joint tenants with us of the earth we breathe on, which we must needs except wholly from the sphere of our affections—how few are they? It is certain that with far the greatest part of all, we hold an agreeable sympathy, whenever circumstances bring us together and excite a mutual interest.

The sturdy horse that ploughs our field, the honest dog that watches for us in the night, the simple cow that faithfully appears both at the morning and the evening tide to yield the teeming pail, the peaceful herd that graze upon our meadows, and the artless sheep that spend their nibbling lives upon the green, all—all call out our affections, and find a home in our hearts. They are helps to our lives, and we know it. Their very beings are mixed up with every idea that sends its sweetness into the hired treasures of our bosoms, and therefore it is, we do *love* them.

The experience of every one would, I dare say, inform him that there is scarce even any inanimate thing in all nature, with which he does not at times experience thrills of the most witching sympathy Flower and tree, field and wilderness, the parting zephyr and the howling wind, the fading leaf, dying glow worm, and rising moon, and all besides, that language could but fail to paint, how do they woo and chain the spirit to their loveliness.

Such sympathy as this, methinks, does something more than hint the wondrous relationship that each thing bears to all things, in the great system of the whole.

By the magic blaze of its intensity, it seems even to demonstrate that an enlightened self love, in every human being, is capable of embracing the whole visible universe.

Do we not include in our idea of the god of heaven, that he is good from the necessity of his nature—that he cannot be otherwise—that his goodness constitutes his happiness? Does that imputation of his character disparage it? We do not think it does. Can the same imputation of his creatures disparage them? Strange would it be if it did.

As, then, all the designs, and let me suppose actions, too, of God himself, however excellent and pure they may be, are necessarily *interested*, by reason that his own happiness is essentially involved with them—for how could it consist with any other kind?—we may, I think, all of us safely came forth, and, renouncing an error that has been only embraced to hide fancied disgrace and impute to ourselves impossible excellence, openly confess the actual predominance of self love in all our actions, and vindicate its honor by the resistless argument of its indispensable utility.

CHAP. XXII.

There is yet another capital obstruction to the cause of human improvement, which seems ever to have exerted an influence upon the whole race of men. It is that they have never yet come, with

sufficient calmness, to perceive that virtue and happiness are inseparable, or rather, it may be, identically the same; and that vice and misery equally run into each other; so that, with a small measure of exceptions, the name of the one might be received as the name of the other.

It may, I think, be reasonably surmized, that one cause of the darkness in which the human mind has been always involved, in respect to this important truth, has been that all religion has dealt with it both unfairly and cruelly, by imposing upon it a host of insensible duties, and holding up an *unmeaning* perfection, to the achievement of which it has both invited and commanded the labors of men.

Swayed by this influence, they have lost sight of the interests of earth, and the duties of humanity, in the anxious pursuit of chimeras and deep concerns of futurity. They have allowed themselves to be cruelly taxed with the tedious performance of endless ceremonies—usurped with a ceaseless succession of withering labors, which they have all been led to believe were required to win the favor of heaven, as well as advance the cause of its glory.

The effect has been to seduce their minds from the path of duty, which lay plainly before them on earth, and set them to blundering, all in the depths of the skies, where they have ever found knowledge in dreams, facts in phantoms, and sense in the wilds of absurdity.

Thus have they been made to waste their labors in a cause that could not want their support, and grown perfect for heaven, while they have become traitors to earth!!

Their teachers have snatched from their view the precious truth, that good among men was at once the whole of their duty, and the reward of that duty. Making commerce of their credulity and gain of their ignorance, these ghostly instructors have debauched their simplicity with the mazes of spiritual knowledge, distracted their hopes with the terrors of heavenly vengeance, and filled up their days with impossible tasks and endless requirements!

In such a wilderness of horrors and difficulties, how soothing are comforters—how valuable are guides!

There must be no wincing at truth. Here do we see the lost and distracted become the prey of their saviors—plunged *now* into hell, even by those who affect to light them hereafter to heaven!!

It were easy to see how far this game of solemn deception played upon men must lead them astray even from themselves, and *blot* from their hearts the *light* of their nature.

I have said that virtue and happiness were inseparable, or, rather, the same. To this position, perhaps some slight correction is due. For it must be allowed there may be virtue in special conditions, that might not, to an extent entirely commensurate with its own essence, find the happiness which were its proper meed. There are, we know, rare instances of persons who are the subjects of extraordinary Visitations of such bitter calamity, as no virtue, however exalted, could possibly disarm of its force.

I would, then, be considered as taking the position, with reference only to the ordinary condition of mortals, which we know to be attended with a sort of tolerable mixture of fear and hope, care and ease, sorrow and joy, labor and repose.

And now, I demand if there was ever a virtuous, action performed in the world, by any one of all the race of men, (unless, indeed, it might be one already occupied with agonies that wholly usurped and absorbed him,) which did not visit on its author agreeable sensations and pleasing reflections? Very sure I am, there lives not the monster, in the guise of humanity, that to this question could dare reply in the affirmative.

Again: Is it possible to conceive of such sensations and reflections residing, with the least stability, where there is not a large measure of virtue to bear them company? There would be no one, I dare say, to answer this question, either, in the affirmative.

If, then, truth *should* authorize a negative reply to each of these interrogations, the position I have taken would appear to be sufficiently demonstrated.

So entirely, indeed, do the ends and interests of virtue appear to concur with the happiness of those who give themselves to the cultivation and practice of it, that it is quite impossible for any one to indulge himself, even in reflections, upon fancied instances of benevolence, humanity, heroism, magnanimity, or the like, without being soothed, harmonized, and exalted in all his feelings, and that to a degree, which amounts for the time to decided happiness. It were nothing to the purpose, that we may not be able to find the reason why all this is so. It is enough, that what we observe in this respect is nature, and belongs to her immovable economy.

Nor would it appear less obvious, that the practices of vice are equally inseparable from the bitterest suffering.

There is this to be observed, however, with respect to them, that the perpetration of a vicious action does not always so immediately inflict the remorse, which we find in the nature of things to be ever adjusted to it, as the execution of a virtuous one bestows the recompense to which it is always entitled. The reason would appear to be this; that those who indulge themselves in the practices of vice, are commonly apt to be carried away by headlong passions, which leave neither time nor space for reflection. There, too, is their joy at success, it may be, which suppresses for a time the voice of conscience, and wholly suspends her judgments.

But when the heat and storm of action are over, there comes inevitably the still action of remorse—the withering vengeance of insulted virtue and violated justice!

It cannot matter what the exterior results may be of vicious *exploits*—*conscience cannot be brought off*; for speak it will, as well in the transporting rivalry of sumptuous pleasures, as in the cold recesses of the closet, or the gloomiest depths of solitude. Suppose there should be splendid gains; it were impossible they could be viewed with unclouded complacency. There must ever be an afflicting absence of genuine confidence in the rightfulness of the possession—a total want of that easy, heartsome, joyous proprietorship, which would freely invite both the scrutiny and participation of the world. Besides this, too, there could not fail to be a constant succession of dark and withering shadows, which would be thrown by an unquiet conscience over the very face of all that has been viciously achieved.

These shadows would be such as no art or ingenuity could exorcise. How would they conspire to embitter the memory of the foul deeds which produced them, as well as depreciate the *value* of all that remains of their execrable fruits!

"He that commits a sin shall quickly find
The pressing guilt lie heavy on his mind,
Tho' bribes and favors shall assist his cause,
Pronounce him guiltless, and elude the laws
None quits himself—his own impartial thought
Will damn—and conscience will record the fault."

[Creech's *Juvenal*.]

If it should be said there are those whose consciences, have become easy, from long acquaintance with injustice and crime, still I would say they have by no means escaped. For their very *apathy*, as long as it lasts, is a sort of hell, compared with the thrilling sensations of virtue.

All the enjoyment which can be theirs, must needs smell of the beast, that gloats upon the fruits of its cruel and bloody rapacity.

But the memory of a virtuous deed *comes never* like that of a vicious one, marked with the frightful lineaments of a fury or ghost, to curdle the soul into dread, and lash its very depths into bitterness; but rather as an angel of light, to assure it of its purity and worth, to bestow upon it the balmy reward of a deep and tranquil enjoyment, not to say even a thrill of the sweetest ecstasy, which savors of the purity of the skies, and glows through the soul with the brightness of heaven.

Contrasted with such feelings as these, how poor are all others known to the bosoms of men? Even those which he, the monster, might boast, who ruled the face of the earth, with all it contained prostrate before his lustful dominion, must be esteemed to the last degree trifling, brutal, and sottish.

Were we to indulge ourselves in speculation upon this subject, it might be affirmed as wholly against the economy of nature, the essential harmony of things, that vice should ever be attended by real happiness or permanent prosperity. For were it to be so, men would be, far more than they now are, the hateful enemies of each other. Lust, robbery, and murder would run riot through the world—a scene of things, which clearly enough demonstrates the absurdity of the supposition.

To speak, then, of permanent prosperity, as being annexed, in the nature of things, to vice, is to deliver an absurdity not less glaring than would be incurred by one that should assert that a stream, at the moment it is gliding down its ordained declivity, was actually running up it. All the courses of injustice are necessarily moral declivities, though some of them, under a narrow and partial view, may not exactly seem so. They may, indeed, be taken, sometimes, for the very opposite of declivities, and then might they, with great truth, as I think, be compared to petty acclivities, such as we oftentimes meet in descending a mountain, to the very bottom of which we are fast and constantly tending, even while we seem to be constantly rising.

The remorse, then, we see attend the performance of a vicious action, is but one of the means which have been devised, by the wisdom of nature, to keep down excess of *evil*, and conserve the predominance of good. It belongs essentially to our nature to delight in the latter, which is no other than the great object and end of our being—to languish under the former, because it is the foul, unqualified poison of life—a something that utterly blasts the genial hopes of existence, and with them the bloom of all its enjoyments.

Thus, would it appear, that by no art can nature be defrauded of the omnipotent rule which she has carefully diffused through all her works, to confer the greatest amount of durable good that she can upon every *atom* of creation.

The ever returning, undying complacency and pure delight—the elastic ecstasy which the memory of a virtuous action must ever bring to the bosom of its author, diffusing its healthful influence through the soul, are nothing more than necessary effects of the laws of the same nature, that appoints inevitable happiness to those who execute as they should the duties and offices of humanity.

Even when we execute the very smallest matter of good, we feel a depth of happiness which greatly exceeds, we would ourselves confess, the moderate guerdon of our merits. There is a sort of wildering, undefined conceit, that we are indeed, our very selves, coming to be a bright appendage to the pleasing harmony of things—that we have, it may be, added one more beauty to the countless beauties of the universe!

We may observe, when we pause, and give ourselves up to languor and apathy, in the duties of humanity, we suddenly fall into a kind of complex disquietude. At least the spirit loses its elasticity, if it do not find itself laden with even a bitter remorseful vacuity.

From this there is no escape, but in an immediate flight back to the bright achievements of virtue.

And here we may somewhat liken ourselves even to the feathered voyagers of the sky, we sometimes see loitering on the way to climes that have invited them to happiness.

The divinity of an infallible instinct, we find, fails not to rebuke their delay—to retrieve them from their lethargy, and send them back into the skies they had deserted, renewing the consciousness of their happy destination, and the swift labors of their untiring wings.



PART II.

CHAP. I.

Having touched upon a few of the capital evils and errors, that have seemed to me inherent in all of the world's civilized societies, I come at once to suggest the measure I have to propose, as a mere start to their improvement and amelioration.

The *repeal of all law*, as far as it has been treated on in this essay as matter of evil, I have brought myself to believe, would be at once the beginning of human prosperity.¹⁵

There is, however, no part of the world in which such a measure as this were at all possible, except where the people are free. They must have the power to do as they *please*, if they would throw off abuse and strike for their happiness.

We should see, as the striking result of even this change, that the self love of men would be everywhere set on the *side of their virtue*. In so far would this be the case, that the interests of all, of whatever kind they might be, could not fail to be found obviously harmonizing with their open integrity, and as plainly at war with their knavery.

In short, there could be no one so stupid as not clearly to see that *good faith* would bring up, by means of infallible certainty, the highest results of thrift and prosperity to all who should practice it; while bad faith would as surely be seen to entail on its votaries every form of affliction.

It would have to be received as a truth, that even in societies the most depraved we could conceive of, perfect integrity, or, in other words, fair and sound dealing, would produce more genuine fruits of prosperity, than would be found to proceed from any other species of action whatever.

But, unluckily, in most societies, which we find at the mercy of laws, whose influence, we have seen, is to deprave and corrupt, this *truth* is by no means a self evident one; so numerous are the circumstances to set it at a distance, to cloud the medium through which it is its fate to be seen, if not wholly to shut out its light.

These circumstances may be gathered, in a great measure, from views which have been already expressed. Mainly, however, they may be seen in the great lenity we find everywhere shown to successful knavery, as well as in a sort of showy prosperity we know to be often achieved by means entirely oblique and unworthy.

This is the reason we see the mass of mankind involved in the deceitful labyrinths of contrivance and chicanery.

¹⁵ "It would be well, I think, if monies might pass upon the same condition with other benefits, and the payment remitted to the conscience, without formalizing upon bills and securities. But human wisdom has advised rather with convenience than virtue, and chosen rather to force honesty than expect it. For every paltry sum of money, there must be bonds, witnesses, counterparts, powers, &c., which is no other than a shameful confession of fraud and wickedness, when more credit is given to our seals than to our minds, and caution taken lest he that has received the money should deny it. Were it not better, now, to be deceived by some, than to suspect all?"—*Seneca*.

There are those, it is true, in every society, who are wise enough to resist with success the flattering temptation of present interests, which they might only advance at the expense of their characters. But how rare are those instances?

Encouraged by loose examples and corrupt customs, all the balance give themselves up to a blind and stupid cupidity, and may be observed to take at once the nearest route they can find to their present convenience and interest.

There requires, in fact, some reach of reflection to bring home the truth adverted to here, with so much force on the mind, as seems necessary to ensure its practical influence in the actual conduct of affairs.

But this reach of thought we know is but seldom displayed. The consequence is, that chicanery and trick are continually carrying the day.

The old adage, that honesty is the best policy, is constantly rung in our ears, even by knaves!

While they speak it from their mouths, they laugh at it in their hearts, as a sort of Utopian silliness, a kind of conceit that exclusively belongs to the closet gentry of philosophers, moralists, and the like, but is wholly abroad and out of its climate, in the *cutting* affairs of the world—the general scramble for gain.

However given over to knavery any people may be, we should have to admit that if they are stirring, industrious, and enterprising, their affairs may be brought to present an air of thrift and prosperity, engaging enough. They may ravish the eye with scenes of beauty and sights of splendor, that would serve at last no other end, if rightly considered, than only to sicken the heart.

For what were the face of the earth, though dressed, in the bloom of Elysium, if man, in the midst of it all, to the *guile of the snake*, add the *rage of the vulture*.

How well do all of us know that glittering houses hold breaking hearts, and the rudest huts joyous ones!

What does this prove, but that *outside show* is but a cheat. Yet, whatever it be, we see it has power to turn the whole earth we inhabit into something deserving no better name than an open, brawling, furious bedlam.

He who would gaze upon a city, its gaudy colors of persons and things, might probably fancy that all he saw was real. There, might he say, at last my eyes behold unclouded happiness. There, is not a man he sees, but seems the glass of fashion—the pampered favorite of wealth; nor a woman, who might not play the angel upon earth, to his deluded eyes, in all but wings. To feed their dainty senses, the land and sea seem but to emulate each other, in pouring into the laps of all the luxuries of the world.

Still, do we know, that this is all but miserable illusion.

We cannot be too cautious, then, lest we take the *pompous shine of things* for the *pure happiness of human hearts*.

The truth is this, there is no prosperity for man, but what is found in innocence and virtue—all else is trash.

CHAP. II.

I would now suppose that all law, which undertakes to enforce the engagements of men that are founded on credit and confidence, was at this moment repealed.

What were the consequences? They would, indeed, be serious enough, and fraught with great inconvenience to thousands. But who would they be? We should find them, I think, the dishonest and crafty alone, who would now be left quite without aid to their cunning, or the least hope of success to their knavery.

For it is certain that honest men would all stand wholly unaffected by the change, except to be greatly advanced in society.

And, here we could not fail to behold a striking phenomenon.. It would be that of the wickedest men seriously mourning the absence of law, which themselves took delight in eluding! There could be nothing, I think, more natural than this. Would not their consequence now be utterly gone? How could they win the least footing in trade? There is nothing by which the loosest credulity could hope to hold them to any sort of engagement.

Let us suppose, for example, a man even of wealth, no matter how great, yet one notoriously shifty and knavish. He calls at his tailor's or bootmaker's, and orders a given commodity.

Hitherto it has been, that from that class of men he has constantly, met the promptest compliance with all his orders. In respect of his wealth and importance, alone, they have constantly aimed to fit their performances, all, with the nicest regard to his convenience and interest.

The reliance has been that, at worst, the laws would *oblige* him to meet his engagements. But how is it now? The *force* which was formerly known to exist for such an occasion, it is seen, has expired. What then, I would ask, can be the reliance? The *good faith* of the man? We have supposed that in this he is utterly wanting. The question now is, can he be served as formerly?

If the tradesman be wise enough just to be true to himself, will he not pluck up the courage the occasion requires, and give out a hint, at the least, that terms must change with the times. Could he, in short, in such a conjuncture, fail to demand immediate pay for his goods, and wholly refuse to deliver them without?

At this very moment steps in a man, a customer, too, of famous integrity. He orders, too, in the way of his want. Do we find *him* annoyed with hints about the change of times, and a consequent call for change of terms?

The tradesman does not even dream of offending his feelings by useless precaution and silly suspicions. The consequence is, the smoothest proceeding with him, and matters flow on in their usual course.

I would suppose a person of no greater note than an honest cobbler, who follows his calling, no matter where—in the meanest stall of a blind alley, it may be.

He is one whose religious habit it has been to make both ends meet in everything. At nightfall, he steps out to his earthly heaven, the *alehouse*, hard by, where he has kept his score for long years. With wonted confidence of being faithfully served, he calls for his accustomed tankard. Does the tapster refuse or hesitate, even for an instant, to hand the desired beverage to this artless mender of old shoes? It is impossible to conceive that he would. The good man, we see, gulps down his nectar, and on goes the score as formerly.

Behold, here is my man of wealth, confessing his thirst at the same fountain of comfort. He, too, has had *his* score, as well as the cobbler.

He demands his tankard, with an arrogant show of impatience. The tapster, namby nobody, as he is, does not refuse, it may be supposed, for so small a matter. as this. But if he knew the man, as

I will take leave to say he does, and, moreover, has *heard the news* of where the laws have gone to, will he not be apt to eye this customer in a style he never did before? Will his action, think you, be quite so *nimble* as formerly? The suspicions floating through his stupid brain, do you not see how much they impede his hand? Observe how grudgingly he moves in his service. The truth is, the creature has not the least *stomach* for what he is doing. After so long a time, we will say the liquor has passed from his hand, with a kind of stinted, mournful politeness.

The wise tapster has deeply ruminated, in this short period, the chance of loss, and has brought himself to incur the danger, for this one time, in no other way, than by the freest use of all his fortitude and courage.

Now, if one of famous wealth would be apt to run against such new born scrutiny as this, in a matter of such small, even insignificant, moment, it is easy to conceive what his fate would be in affairs of business, which had the least importance. It is certain he would dwindle into the smallest dimensions. In short, he would be nobody at all. He could not be regarded, even for a moment, with the slightest consideration. He would utterly be cut off from all intercourse of business of any kind whatever, that might require the smallest measure of confidence.

What, then, would be the condition of thousands, who might resemble him in character, but by no means in purse? Hitherto they have lived upon the devices of the law, and have forced a kind of credit, upon the assurance that force would supply the absence of willing honesty.

They are in the miserable plight of some penniless wretch, whose best friend and benefactor has just died, and who knows not now where to look for a mouthful of bread, but from the honest labor of his own hands. All their accustomed tricks, resources, and routine of knavery are utterly broke up, we see, and now they stand out exposed to the world, *naked, tradeless, defenceless* wretches, the scorn and pity of the balance of mankind.

Will a sense of mutual distress induce them to join and aid each other? Even this last consolation of the wretched cannot be theirs, so well does each one know his fellow an undeserving knave.

What next becomes of all a numerous class, who are something better off as to character, and yet nothing so well off as they might be—creatures who have gone along in society, without aiming to procure to themselves any sort of distinction for integrity, and who, having merely escaped the ills of infamy, are held of no *particular fame* at all?

They, too, must all expect their share of trouble and inconvenience; perhaps a measure of each, which would fully equal that which must befall the most renowned and famous knaves.

For nothing now but spotless reputation will fully serve the turn of any one, and enable him to hold his head high among men, and look for credit and confidence.

What now is the greatest want of the whole mass of knaves? Certainly an honest fame!! Even themselves could not fail to perceive the value of it now, insomuch that they would go all lengths to secure to themselves so capital a good. How bitterly does each one weep over the memory of his thousand tricks, over the pride of his soul, and renounce them now as the sole cause of his ruin and distress.

Now, for the *first time* in the world, is cunning plainly seen, by the most devoted lovers of it, to be downright stupidity, and knavery to be the most ruinous folly.

Were this a matter to grieve the philanthropist? What an almighty power is here plainly engendered to purify the principles of men, and *force up* a system of *universal good faith* among

them!—a power whose resistless strength cannot be doubted, unless, indeed, *the self love of man be but a dream.*

CHAP. III.

When men have reached the cloudless eminence of justice and good faith, how greatly do they extend their moral horizon! Risen from the abyss of conscious injustice to that heavenly height of sensation, they are as one relieved from a loathsome dungeon, and set upon some mountain peak, a free, unfettered man, to feast on all the beauties of surrounding nature, and bathe his spirit in the blue of heaven. From the eminence he now has gained, the *honest man* beholds the mighty circle of humanity—glows with the sweet conception of all the virtues—is, indeed, lost in a sort of sweet delirious ecstasy, as he feels them quickening into life, within his genial and exalted spirit. His rapt eye beholds, as they were, angels descending from the skies, the glowing forms of truth—charity—benevolence, from whose radiant looks, that speaks to him of heaven, he catches inspiration that fills him with the god.

What is this but nature?—Nature in man, carried to perfection.

And yet am I by no means so visionary as to expect anything like such excellence as this, in the great mass of mankind. The most, I think, that might be expected, would be the *partial amelioration* of them all, with some *thousand* instances, perhaps, in every age, of men who would be seen to reach our finest conceptions of the human character. This increase in the number of the *ornaments* of mankind, would be something, in itself, not a little to be rejoiced at. For, in time past, we know that even whole ages have rolled darkly away, without presenting even *one*; while the most fortunate eras of the world have not been able to boast scarce so many as even a *score*, of first rate contemporary models, out of all its swarming millions; these last being commonly animals of but little more worth and importance than so many nameless flies of the desert, that live their little moments out feasting upon all uncleanness, then dropping all of them away, into wide and undistinguished death!¹⁶

CONCLUSION.

Man will never be virtuous, until his interests instruct him to be so. So long as these shall even so much as seem opposed to his virtue, he will inevitably pursue the former and renounce the latter.

That which must be done, is to clear from his mind the horrible mists and fogs of prejudice—to bid him no longer worship the *cold prescriptions* of policy, for the *warm principles* of justice—to free his soul from the fetters of authority—to remit and exalt him to himself—to let him seek, by the light of his conscience alone, in the joyous, genial climate of his own free spirit, for all the rules of his conduct. Then, and not till then, will he be virtuous and happy.

¹⁶ The indisposition of the author makes it impossible for him to add in the present publication the remainder of the matter he had somewhat proposed for this essay.