

CIVIC ETHICS.

PASSING now from the social morals of the family to the general ethics of social duties, we meet the fact that the civil government is the appointed regulator and guardian of all these. Hence these duties take the form of civic morals, and our rights and duties as citizens meet us at the front. The discussion naturally begins with the question, What is the moral ground of my obligation to obey the magistrate, whom yesterday, before he was inducted into office, I would have scorned to recognize as my master, to whom to-day I must bow in obedience? Three opposing theories have been advanced in our day in answer to this question. The first answer is that I am bound to obey him solely because I have consented to do so. This is the theory which founds government in a "social contract," which, first stated by Thomas Hobbes, of Malmesbury, was made popular among English Liberals by John Locke, and, introduced to the French by Rousseau's famous book, *Le Contrat Social*, became the ruling philosophy of the French Jacobins. This apprehends men as at first insulated individuals, human integers, all naturally equal and absolutely free, having a natural liberty to indulge, each one, his whole practical will as a "lord of creation." But the experience of the inconveniences of the mutual violences of so many hostile wills, with the loss of so many advantages, led them, in time, to consent voluntarily to the surrender of a part of their wills, natural rights, and independence, to gain a more secure enjoyment of the remainder. To effect this they are supposed to have conferred, and to have entered into a compact with each other, covenanting to submit to certain restraints upon their natural liberty, and to submit to certain of their equals elected to rule, in order to get their remaining rights protected. Subsequent citizens entering the society by birth or immigration are supposed to have given their sovereign assent to this compact, expressly, as in having them-

selves naturalized, or else impliedly, by remaining in the land. The terms of compact form the organic law, or constitution of the commonwealth; and the reason why men are bound to obey their equal, or possible inferior, as magistrate, is simply that they have bargained, and are getting their *quid pro quo*.

Many writers, as Burlemarquí and Blackstone, are too intelligent to suppose or claim that any human persons ever rightfully existed, in fact, in the independent state described, or that any commonwealth actually originated in such an optional bargain; but they teach that such a non-existent compact must be assumed as implied, and as virtually accounting for the origin of civic obligation. Thus Blackstone, II. Intro., § 2, p. 47. But to us it appears that this species of legal fiction is a poor basis for a moral theory, and is no source of natural right and obligations.

The second theory may be called theistic, tracing civic obligation to the will and ordinance of God our Creator. It answers that we are bound to obey the civil magistrate, because God, who has the right as creator and sovereign, commands it. This command is read by all Christian citizens in sacred Scripture, which says, "The powers that be are ordained of God," and "Whosoever resisteth, resisteth the ordinance of God." It is read again in the light of natural facts and reason. These facts are mainly two, that God created man a social being, which is so true that without social relations man would utterly fail of reaching his designed development and happiness, and indeed would perish, and that man's personal appetencies ever tend to engross to himself the rights of others. Selfishness is ever inclining to infringe the boundaries of equity and philanthropy. Hence it is the ordinance of nature that man shall live in society; and that man in society must be restrained from injuring his fellows. And there are no other hands than human ones to wield this power of restraint. We are thus taught as clearly as by Scripture itself, that the Creator ordained civil government and wills all men to submit to it. The same argument may be placed in this light: Men are rational, moral, and responsible creatures. Righteousness is their proper law. But personal selfishness tends perpetually to transgress that law, hence arises the necessity of restraint. Thus, the only alternatives are, submission to civil government, which is such restraint, or an ulti-

mate prevalence of aggression, which would destroy the very ends of social existence. Witness the wretched and savage state of all human beings who are wholly without any form of government. Here we are met by a cavil which is expressed by some, and which has evidently embarrassed many other moral writers. This is, that God ought not to be introduced into this discussion, because God and his will are theological facts; but since this inquiry is concerning natural right and secular relations, it ought to be decided exclusively upon natural data, without importing into it other premises from the alien field of theology. To this I answer, that in reality there is no fact among the data of moral science so purely natural as God. As soon as the mind begins to reason on the phenomena of nature and experience, it is led in one direction to God, at least as immediately and necessarily as it is led in other directions to gravity, causation, conscience, free agency or any other natural fact. God is not only one proper factor, but the prior one, in the philosophy of our moral nature, seeing he created it, and his nature is the concrete standard of moral perfection; and his preceptive will, the expression of that nature, is the practical source and rule of all our obligations. He is, therefore, not only the first, but the essential and most natural of all the factors in every question of natural right. To attempt to discuss those questions, omitting him and his will, is just as unreasonable as it would have been in Newton to discuss planetary astronomy, and the orbital motion of the planets, leaving out all reference to the sun. And this is justified, last, by the remark, that in constructing our theory of civic obligations, we introduce God, not in his theologic relations as Redeemer, but in his natural relation as creator and moral ruler. I am happy to find my position thus sustained by the great German statesman and philosopher, Dr. Julius Stahl, (quoted by Dr. Chas. Hodge *Theol.* Vol. III. p. 260): "Every philosophical science must begin with the first principle of all things, that is, with the Absolute. It must, therefore, decide between Theism and Pantheism, between the doctrine that the first principle is the personal, extra mundane, self-revealing God, and the doctrine that the first principle is an impersonal power immanent in the world." It is the Christian doctrine of God and of his relation to the world that he makes the founda-

tion of legal and political science. He controverts the doctrine of Grotius that there would be a *jus naturale* if there were no God, which is really equivalent to saying that there would be an obligation to goodness if there were no such thing as goodness. Moral excellence is of the very essence of God. He is concrete goodness, infinite reason, excellence, knowledge, and power, in a personal form; so that there can be no obligation to virtue which does not involve obligation to God.

The theistic scheme, then, traces civil government and the civic obligation to the will and act of God, our sovereign, moral ruler and proprietor, in that he from the first made social principles a constitutive part of our souls, and placed us under social relations that are as original and natural as our own persons. These relations were: first of the family, then of the clan, and, as men multiplied, of the commonwealth. It follows thence that social government in some form is as natural as man. If asked, whence my obligation to obey my equal, or possible inferior, as civil magistrate? it answers, because God wills me to do it. He has an infinite right. The advantages and conveniences of such an arrangement may illustrate and even reinforce the obligation; they do not originate it. Civil government is an ordinance of the Maker; magistrates receive place and power under his providence. They are his ministers to man.

This theory, pushed to a most vicious extreme by the party known as Legitimists, is the third which has had some currency. These advocates of the divine right of royalty teach, that while government is the ordinance of God, its first form was the family, in which the father was the sovereign, and this is the type of all larger commonwealths. Every chief magistrate should therefore be a king, holding the same sovereign relation to their subjects which fathers hold to their children. As in the patriarchal clans of Scripture, the birth-right descended to the eldest son and carried with it the headship of the clan, so the right to reign is hereditary in the king's eldest son. To deprive him of it is to rob him of his rightful inheritance. Subjects, if discontented with their king, have no more right to replace him by another chief magistrate elected by themselves, than minor children have to vote in a new father. If the hereditary monarch becomes oppressive, the only remedy for the subject is humble petition and

passive obedience. There is no right of revolution. Oppressed subjects must wait for a release by divine providence. And in support of this slavish theory they quote the precepts of the apostles. (Rom. xiii. ; 1 Peter ii. 13-17.)

This servile theory I thus refute. Men in society do not bear to their rulers the proportion minor children bear to their parents, in weakness, inexperience, or folly, but are generally the natural equal of their rulers. Nor are the citizens the objects of an instinctive natural love in the breasts of kings, similar to that of parents for their children, powerfully prompting a disinterested and humane government of them. The pretended analogy is utterly false. Second, whereas divine authority is claimed for royalty, God did not give a regal government to his chosen people Israel; but his preference was to make them a federal republic of eleven cantons. When he granted a king at their request, it was not an hereditary one. The monarchy was elective. David was not the son of Saul, but was elected by the elders of Israel. It is true that the prestige of his heroism enabled him to nominate his immediate successor, Solomon, who yet was not his eldest son. After Solomon, the elders of Israel were willing to elect his son Rehoboam; but upon ascertaining his tyrannical purposes they elected Jeroboam. And the reader must note that they are nowhere in Scripture blamed for this election, nor for their secession; and Rehoboam, who had been elected by two tribes, when proposing coercion is strictly forbidden by God. So Jehu, elected by divine direction, was not a successor of the house of Ahab. Third, the New Testament does not command us especially to obey kings, but "the powers that be." Scripture thus makes the *de facto* government, whatever may be its character, the object of our allegiance within the limits of conscience. And it is fatal to these advocates of the divine right of royalty, that the actual government which St. Paul and St. Peter enjoined Christians to obey was neither regal nor hereditary. It was a recent usurpation in the bosom of a vast republican commonwealth still retaining the nominal forms of republicanism. Julius Cæsar and his nephew Octavius carefully rejected the title of king. The latter selected that of imperator, the constitutional title of the commander-in-chief of the active armies of the republic. He held his executive power by

annual, nominal reëlection of the offices of pontifex maximus and consul, both republican offices. He was, in a word, what the Greeks expressed by the name—*τυραννος*. Octavius Cæsar was not the son of Julius, Tiberius was not the son of Octavius, Caius Caligula was not the son of Tiberius, Nero was not the son of Caius. So that the fact is, that the very government to which the early Christians were commanded to submit was a revolutionary one, and not regal. So unfortunate have the Legitimists been in claiming the authority of Scripture against the right of revolution, and in favor of royalty. In a word, their theory has not a particle of support in reason or God's word. Yet the obtruding of it by so many divines as the theistic theory doubtless did much to prejudice the right view.

On the contrary, the power of magistrates as between them and the citizens is only a delegated power, and is from the commonwealth, which is the aggregate of citizens, to them. God has indeed, by the law of nature and revelation, imposed on all the citizens and on the magistrates the duty of obedience, and ordained that men shall live in regular civil society under laws. But he has not given to magistrates, as such, any inherent rights other than those belonging to other citizens. As persons, they are equal to the citizens and of them; as magistrates they exist for the people and not the people for them. "They are the ministers of God to thee for good." They personally have only the common and equal title which their fellow citizens have to good as being of one race, the common children of God, subject to the golden rule, the moral charter of republicanism.

Having refuted the theory of legitimacy, or divine right of kings, we now return to complete our evidence for the right theory, by refuting the claim of a social contract.

First, it is notoriously false to the facts. Civil government is a great fact. It must find its foundation in a fact, not in a legal fiction. And the fact is, men never existed rightfully for one moment in the independency this theory imagines. God, their maker and original ruler, never gave them such independence. Their civic responsibility, as ordained by him, is as native as they are. They do not elect between civic subordination and license any more than a child elects his father, but they are *born* under government. The simple practical proof is, that were any

man to claim that natural liberty, and the option of accepting or declining allegiance, every government on earth would claim the right to destroy him as an outlaw.

Second, the theory is atheistic and unchristian. Such were Hobbes and the Jacobins. It is true that Locke tried to hold it in a Christian sense, but it is none the less obstinately atheistic in that it wholly discards God, man's relation to him, his right to determine our condition of moral existence, and the great fact of moral philosophy, that God has formed and ordained us to live under civil government. So, in the insane pride of its perfectionism, it overlooks the fact that man's will is ever disordered and unrighteous, and so cannot be the just rule of his actions.

Third, it also virtually discards original moral distinctions. So did Hobbes, its author, teaching that the *enactments of government* make right and wrong. It infers this consistently, for if man's wish made his natural right, and he has only come under any constraint of civil law by his optional compact, of course whatever he wished was right by nature. Moreover, government being a restraint on natural right, is essentially of the nature of an evil, to which I only submit for expediency's sake to avoid a greater evil. Civil society is herself a grand robber of my natural rights, which I only tolerate to save myself from other more numerous robbers. How then can any of the rules of civil government be an expression of essential morality? And is this scheme likely to be very promotive of content and loyalty?

Fourth, the social contract lacks all basis of facts, and is therefore wholly illogical. It has no claim *in foro scientiæ* to be entertained even for discussion. For the science of natural rights should be inductive. But this theory has no basis of facts. Commonwealths have not historically begun in such an optional compact of lordly savages. Such absolute savages, could we find any considerable number of them, would not usually possess the good sense and the self-control which would be sufficient for any permanent good. The only real historical instances of such compacts have been the agreements of outlaws forming companies of banditti, or crews of pirate ships. These combinations realize precisely the ideals pictured by Hobbes, Locke, and Rousseau. Did ever one of them result in the creation of a permanent and well-ordered commonwealth? The

well-known answer to this question hopelessly refutes the scheme. Commonwealths have usually arisen, in fact, from the expansion of clans, which were at first but larger families. True historical research shows that the primitive government of these clans was usually presbyterial, a government by elders who had succeeded to the natural and inherent authority of the first parents.

Fifth, certain inconvenient and preposterous consequences must logically follow from the theory of the social contract. The righteous "swear to their own hurt, and change not." No matter, then, how the lapse of time may have rendered the old contract unsuitable or mischievous, no majority could righteously change it so long as any minority claimed their pledges. Again, unless the commonwealth has a formal constitution, who can decide what are the terms of the social contract? England has no written constitution. Again, if the ruler violated the essence of the contract in one act, this would release all the citizens from allegiance. The contract broken on one side is broken on both. But so sweeping a release of all the individual citizens of the commonwealth from their allegiance, whenever any essential article of the social contract had been violated, either by a ruler or a greedy majority, would lead to intolerable anarchy. There is a noted government which historically and actually originated in a social compact, that of the United States of America. It was a republic of republics, a government of special powers, created by a federal covenant between sovereign states, or little contiguous independent nations. The contracting integers were not citizens, but states. The logical result was that the infringement of any essential principle of the constitution, which was the compact, released each contracting party from the bond. This result inhered inevitably in the nature of the federal government, as was admitted by jurisconsults of all parties, by Josiah Quincy, President Fillmore, and Daniel Webster as fully as by Jefferson, Madison, and Calhoun. A government formed by a social compact is, *ipso facto*, dissolved by the breach of that compact into the integers which composed it. In the case of the United States those integers were sovereign commonwealths. Hence the exercise of their constitutional right of secession could not result in anarchy, for the

original commonwealths survived, exercising all the authority necessary to that civic order enjoined by natural obligation.

Last, law properly arms the magistrate with some powers which could not have been derived from a social contract of individuals, because the individuals never possessed those powers. Life, for instance, is God's. No man can bargain away what does not belong to him. Nor can they plead that the commonwealth's existence justifies her in assuming a power of life and death. But the commonwealth, on their view, has no existence to persons as yet until the social contract is completed. Again, how does the commonwealth get power to take the life or property of aliens who never contracted with it? The theory represents independent men as surrendering certain natural rights to society in order to secure the enjoyment of the rest. But I deny that any right can be mentioned, morally belonging to any man, of which he is stripped when entering a just government. The one most frequently named is the right of self-defence. But what is meant by it? The privilege of making one's self accuser, judge, jury and executioner, at once to avenge any supposed wrong in any manner suggested by one's own resentment? I deny that this was ever a right of any creature of God's in any state of existence. It is always a natural unrighteousness. It is the right of an innocent man, when the arm of the law is not present, to protect himself by his own personal force, even to the destruction of the assailant, if necessary. Then I deny that just government strips any citizen of this right. The law fully recognizes it.

This infidel theory sets out, like an atheist as it is, without reference to the fact that man's existence, nature and rights sprang out of the personal will of a creator. It sets out without reference to original moral distinctions, or original responsibilities to God, or to his moral essence. It quietly overlooks the fact that man's will, if he is the creature of a personal and moral creator, never could be in any circumstance his rule of action. It hides away the stubborn fact that the human will is depraved, and, for that second reason, cannot righteously be his rule. It falsely assumes a state of nature in which the individual's will is independent, and makes his right. Whereas, no being except the eternal and self-existent God has a right to that state for

one instant. But all these are facts of nature, involved in this case of civic obligation, and discoverable by reason and experience. All then must be included in our construction, if we would have a correct, or even a rational view. The state of facts is simply this: Man, being a creature, enters on existence the subject of God. This he does not only by force, but by moral right. Moral distinctions are essential and eternal, having been eternally impersonated in God's subjective moral principles, and authoritatively legislated for creatures in all the precepts, to utter which God is prompted by those immanent principles. Moral obligations on the creature are therefore as native as he is. They are binding, not by the assent of the creature's will, but by God's enactment; so that man enters existence under social obligations, as is indicated by his being, in so many constitutive traits, a social creature. Civil government is nothing more than the organization of one segment of those social rights and duties. Thus civil government is God's natural ordinance. Once more, the rule of action enforced by just governments is the moral rule. This is approximately true, even of the government which we deem relatively bad. So that a thoroughly just civil government, if such could be realized, would enjoin on each order of citizens only the acts which were morally right for them to do, and forbid only those which would be wrong.

What then would be a man's civil liberty? I reply, under a perfectly equitable government, could such be realized, the same as his natural liberty. No existing government is perfectly equitable, because executed by man's imperfect hands. None are wholly unrighteous. Some withhold more, some fewer of the citizen's moral (and natural) rights. Hence, under the most despotic government, some natural rights remain. Could a government be perfectly equitable, each citizen's civic liberty would be exactly equal to his natural.

Some few citizens may shrink from the theory of government in God's absolute authority over man, and denying to man any absolute natural independence, from the apprehension that it may lead to arbitrary civil government. To such, I reply: Is it not far more likely that tyrannical consequences will be drawn from the other theory which discards God, the eternal standard and pattern of pure equity and benevolence, which postulates

the sinful creature's licentious and unjust wishes, as the ultimate measure of his rights, which represents the natural rights of the ruler and the ruled as a very different quantity from his civic rights, and which discards the essential distinction between justice and injustice *a priori* to legislation? Is not this the freer and safer theory, which founds man's inalienable rights, as his duties, on eternal and holy moral distinctions, and holds rulers and ruled responsible to the judgment of an equitable heavenly Father with whom is "no respect of persons?"

"By their fruits ye shall know them." I require the student to look at Hobbes, deducing with his iron logic from this theory of the social contract his conclusion, that government must be leviathan, the irresistible giant among all the weaker animals. He proves that on his theory government ought to be absolute. For the theory recognizes neither responsibility nor allegiance to a common heavenly Father, perfectly impartial, equitable and benevolent, the ruler of rulers, the protector of all his children, who will call all their oppressors to a strict account. To the Jacobin, the commonwealth is the only God, beyond which there is no umpire, no judge, no avenger. Again, upon this theory, the supreme rule of commonwealths' action has no standard whatever of intrinsic righteousness, equitable and immutable, embodied first in the moral perfections of the heavenly Father, and then in the universal and indestructible judgment of the right human conscience; but the ultimate standard of right is the mere will of each greedy and unrighteous creature. For this system there is no morality to enforce duties or guarantee rights except the human laws; and these are merely the expression of the cravings of this aggregate of licentious, ruthless, selfish wills.

This reasoning of course makes the will of the majority supreme, and says *vox Populi, vox Dei*. But it must be remembered that this majority is only the accidental major mob, in which the wicked will of each citizen is the supreme law; so that the god of Jacobinism, whose voice receives this sovereign expression, may at any time reveal himself as a fiend instead of a benignant heavenly Father. The practical government which results from this theory is simple absolutism, differing from the personal despotism of a Sultan or a Czar only in this one partic-

ular, that its victims have that "many headed monster," the mob, for their master, always liable to be more remorseless and greedy in its oppressions than a single tyrant.

To this deduction history gives the fullest confirmation. The democracies infected by this theory have ever turned out the worst despotisms. Such was the government of the Jacobin party in France ninety years ago, expressly deduced from the social contract, and yet, a government guilty of more oppressions, stained with more political crimes and murders of the innocent, more destructive of public and private wealth than all the despotisms of Europe together, annihilating in one decade forty-eight billions of francs of the possessions of the French people, and drenching Europe in a universal, causeless war, and rendering itself so loathesome to the nation that it was glad to escape from it into the military despotism of Napoleon. The favorite motto of this democracy is, "*Liberté, égalité, fraternité*," of which the practical rendering by the actions of the Jacobins was this, "*Liberté*," license to trample on other people as they chose; "*Egalité*," similar license for the Outs when they could become the Ins; "*Fraternité*," all brother rogues. So all the worst oppressions and outrages experienced by the people of the United States have been inflicted by the same Jacobinism, masquerading in the garb of Republicanism.

The Declaration of Independence teaches as self-evident that "all men are by nature equal." The proposition is highly ambiguous. We need not be surprised to find the Jacobin party claiming it in their sense, that every sane human being has a moral right to a mechanical equality with every other in every specific privilege and franchise, except when deprived of them by conviction of crime under the laws; so that, if any one man or class in society is endowed with any power or franchise whatsoever that is not extended to every other person in the commonwealth, this is a violation of natural justice. This famous document is no part of the constitution or laws of the United States. With all its nervous pomp of diction and political philosophy, it involves not a few ambiguities and confusions, and the enlightened friends of freedom have no concern to assert its infallibility. But this often quoted statement bears another sense. There is a natural moral equality between all men, in

that all are generically men. All have a rational, responsible and immortal destiny, and are inalienably entitled to pursue it. All are morally related alike to God, the common Father; and all have equitable title to the protection of the laws under which divine providence places them. In this sense, as the British constitution declares, all men, peer and peasant, "are equal before the law." The particular franchises of Earl Derby differ much from those of the peasant: the lord sits in the upper house, as the peasant does not; inherits an entailed estate; and if indicted for felony, is tried by peers. But the same laws protect the persons and rights of both. Both, so far as human and as subjects of human society, have the same generic, moral right to be protected in their several (different) just franchises. Here are two meanings of the proposition, which are historically perfectly distinct. If there are those who profess to see no difference, it is because they are either inconsiderate and heedless, or uncandid. The difference was perfectly palpable to the English liberals who dethroned the first Charles Stuart; for that great Parliament on the one hand waged a civil war in the support of the moral equality of all Englishmen, and at the same time rejected with abhorrence the other, the Jacobin equality, when they condemned the leveller Lilburn, and caused his books, which contained precisely that doctrine, to be burned by the common hangman. I assert that it is incredible the American Congress of 1776 could have meant their proposition to be taken in the Jacobin sense; for they were British Whigs. Their perpetual claim was to the principles and franchises of the British Constitution, and no other. Their politics were formed by the teachings of John Hampden, Lord Fairfax, Algernon Sidney, Lord Somers, and the revolutionists of 1688. I should be loath to suppose those great men so stupid and ignorant of the history of their own country as not to understand the British rights, which they expressly say they are claiming. Second, their English common sense showed them that the statement is false. In the Jacobin sense men are not by nature equal. One half of them differ by nature from the other half, in the essential qualities of sex. There are countless natural differences of bodily organs, health, and stature, of natural faculties and moral dispositions. Naturally, no two men are equal in that sense.

Third, it is impossible the Congress could have intended that sense, seeing that every one of the thirteen states then legalized African slavery, and not a single one granted universal white suffrage even. No application was made by any of those states of this supposed Jacobin principle at that time to remove these inequalities of franchise. Were these men so nearly idiotic as to propound an assertion in which they were so glaringly refuted by their own actions at home ?

The extreme claim of equality is false and iniquitous. For out of the wide natural diversities of sex, of powers, and of character, must arise a wide difference of natural relations between individuals and the state. To attempt to bestow identical franchise upon all thus appears to be unjust, and indeed impossible. It is but a mockery to say that we have bestowed a given franchise upon a person whom nature has disqualified from using it. It is equally futile to boast that we lift all men to the same identical relations, when their natural differences have inexorably imposed on them other relations. Of what avail would it be to declare that all women have the same natural right with myself to wear a beard and to sing bass, when nature has decided that they shall not ? What is the use of legislating that all lazy fools shall acquire and preserve the same wealth with the diligent, wise men ? The law of the universe ordains that they shall not. I urge further, that the attempt to confer upon all the same franchises, to which the wise and virtuous are competent, upon the foolish and morally incompetent, is not only foolish and impossible, but is a positive and flagrant injustice to all the worthier citizens ; for when these unsuitable powers are abused by the unworthy all suffer together. The little children of my family have not an equal right with their parents to handle loaded revolvers and lucifer matches. If we were so foolish as to concede it, the sure result would be, that they would kill each other, and burn down the dwelling over their own and their parents' heads. So it is not equal justice to clothe the unfitted members of society with powers which they will be sure to misuse to the ruin of themselves and their better fellows under the pretense of equal rights. Such pretended equality is in fact the most outrageous.

I argue again, that the Jacobin doctrine leads by logical con-

sequence to female suffrage and "woman's rights." The woman is an adult, not disfranchised by conviction of crime. Then by what argument can these theorists deny to her the right of suffrage, or any other civic right enjoyed by males? By what argument can they require her to submit for life to the domestic authority of a male, her absolute equal, in order to enter marriage? Especially have American Jacobins armed this logic with resistless force against themselves by bestowing universal suffrage on negroes. By what plea can the right of suffrage be withheld from the millions of white American women, intelligent, educated, virtuous and patriotic, after it has been granted as an inalienable natural right to all these illiterate semi-savage aliens? In the point of this argument there lies a fiery heat which must sooner or later burn its way through all sophistries and plausibilities, unless the American people can be made to unlearn the fatal premise. But the concession of all equal rights to women means simply the destruction of the family, which is the cornerstone of the commonwealth and civilization. Will permanent marriage continue after it becomes always possible that every man's political "enemies may be those of his own household?" Further, the moral discipline of children becomes impossible when there are two equal heads claiming all the same prerogatives, unless those heads are morally perfect and infallible. What will be the character of those children reared under a government where, when a father says I shall punish, the mother has an equal right to say, you shall not? Once more, I have shown at a previous place, that if marriage is reduced to a secular co-partnership of equals, the principles of equity will compel this result, that it shall be terminable upon the plea of either party. This theory thus destroys the family and reduces the relations of the sexes to concubinage, when carried to its logical results. Facts confirm these reasonings. Such were its fruits in Jacobin France, and in those Swiss, Italian and German cities which adopted the revolutionary philosophy.

But among the inalienable natural rights of all are these: privilege to pursue and attain one's rational and equitable end, virtue, and that grade of well-being appropriate to the social position of each for time and eternity; and for adults, liberty of thought, inquiry and belief, so far as human compulsion goes.

The former is an inalienable right, because it attaches to the boon of existence, which is God's gift. Hence all restraints or institutions of civil society which causelessly prevent this are unrighteous. But even the title to existence must give place to the commonwealth's right of self-preservation; as when she calls upon even her innocent citizens to die in her defence from invasion; or when she restrains capital crimes by inflicting the death penalty. "The greater includes the less." Hence the same principle justifies the commonwealth in restricting the lesser rights when the safety of the whole requires it. The right of free thought is inalienable, because belief is the legitimate, and ought to be the unavoidable result of sufficient evidence; whence I infer that it cannot be obstructed by violence without traversing the rights of nature. Second, responsibility to God (as we shall prove in the proper place) is unavoidable, and cannot be evaded. Hence the iniquity of intruding another authority over thought between the individual and God, when the intruder is unable to take his penalty for wrong belief off his shoulders. Third, no human government, either in church or state, is infallible. Rome professes to meet this objection by claiming that she is infallible. She is consistent; more so than a persecuting Protestant. Hence the conclusion, that civil government has no right to interfere with thought, however erroneous, until it intrudes itself in acts violative of proper statutes. For instance, the state refrains from meddling with the Mormon's polygamous opinion, not because he has a right to such opinions; he commits an error and a sin in entertaining them; but this sin is against another jurisdiction than the state's, that of God. If he puts it into practice, he is righteously prosecuted for bigamy, a felony. But suppose the statute is immoral, requiring of the citizen an act or an omission properly sin? How shall a free conscience act? I answer, it asserts its higher law by refusing to be accessory to the sin. If the conscientious citizen holds a salaried office, one of whose functions is to assist in executing such sinful laws, he must resign his office and its emoluments. To retain its powers and emoluments while still refusing to perform its tasks on plea of conscience, is hypocrisy and dishonesty. Having thus resigned his executive office and its salary, the citizen is clear of the sin involved in the evil law;

except that he, like all other private citizens, has the right to argue and vote for its amendment. But if this sinful act is exacted by the state from its citizens, not as its executive officers but as its private subjects, he must refuse to obey, and then submit, without violent resistance, to whatever penalty the state inflicts for his disobedience, resorting only to moral remonstrance against it. The latter part of my precept may appear at first glance inconsistent with my doctrine of freedom of conscience. Ardent minds may exclaim, if it is righteous in us to refuse complicity in the acts which the state wickedly commands, then it is wicked in the state to punish us for that righteous refusal, whence we infer that the same sacred liberty which authorized us to refuse compliance should equally authorize us to resist the second wrong, the unjust penalty. I reply, that if civil government had no better basis than the pretended social contract, this heady argument would be perfectly good. It is equally obvious that it would lead directly to anarchy; for the right of resisting penalties which the private citizen judged iniquitous must, on these premises, rest exclusively upon his sovereign opinion. The state could not go behind the professed verdict of his conscience; for upon this theory the disobedient citizen's private judgment must be final, else his liberty of thought would be gone. But now, I remind these overweening reasoners that anarchy is more expressly forbidden to them by the will of God than unjust punishment of individuals is forbidden to magistrates; that anarchy is a far greater evil than the unjust punishment of individuals, because this universal disorder strips away all defence against similar unjust wrongs, both from themselves and their fellow-citizens. Or my argument may be put thus: My right to refuse obedience to a civil law only extends to the cases where compliance is positive sin *per se*. But my submission, for a conscientious reason, to a penalty which I judge undeserved, is not my sin *per se*: my sufferings under it are the sin of the erroneous rulers. Hence, while I must refuse to make myself an accomplice in a positive sin, I submit peaceably to the penalty attached to such refusal. Thus, when "the noble army of martyrs" were required by the pagan magistrates to worship idols, they utterly refused. The act was sin *per se*. But when they were required to lose goods, liberty or life, as the penalty

of their refusal, they submitted; because these losses, voluntarily incurred in a good cause, were not sin *per se* in them, however evil on the part of the exactors. Even Socrates, though a pagan, saw this argument so clearly that when means of escape to Maegara from an unjust death sentence were provided for him, he refused to avail himself of the escape, and remained to drink the hemlock. (*See Plato's Phædo*). Thus judged the holy apostles and the Christian martyrs of all ages.

It may be asked now, if the individual righteous citizen may not forcibly resist the injustice of the state, how can that aggregate of citizens, which is only made up of individuals, resist it? Does not this refute the right of revolution against even the most usurping and tyrannical government? That right is correctly argued against Legitimatists from these premises: First, that the will of God, as revealed by nature and Sacred Scripture, does not make a particular form of government obligatory, but some form; the rule for the individual being that the *de facto* government is authoritative, be it of one kind or another. Hence the sin of rebellion does not consist in changing the form, but in resisting the government as government. Second, that as between rulers and ruled, the power is delegated from the latter to the former. Rulers exist for the behoof of the ruled, not the reverse. Whence it follows that to make a crime of the ruled (the masters) changing their rulers involves the same absurdity as making the parent rebel against his own child. Third, that hence there must be in the ruled the right to revolutionize, if the government has become so perverted, on the whole, as to destroy the ends for which government is instituted. This right must exist in the ruled, if anywhere, because providence does not work relief without means, and the righteous means cannot be found in external force, according to the law of nations. The divine right of kings is no more sacred than that of constables.

But the difficulty recurs, if it is the duty of each individual citizen to submit to the government's wrongs on him, how can the injured body of citizens ever start the resistance without sin? Since the existing offices of the state are in the hands of the oppressors, of course the initial action of resistance must be private and unofficial. Even grant that when once a "commit-

tee of public safety" has been organized that may be fairly considered as clothed with delegated and official power, the getting it arranged must be unofficial, private action. All this is true, and it gives us the clue to find the dividing path between unwarrantable individual resistance and righteous revolution. If the outraged citizen is moved to resist merely by his own private wrong, he is sinful. If his resistance is disinterested, and the expression of the common breast outraged by general oppressions, it is patriotic and righteous. There is the dividing line. It is common to say with Paley, that, to justify forcible revolution, the evils the body of the citizens are suffering under the usurpations of the existing government must be manifestly greater, on the whole, than the evils which unavoidably accompany the revolution. This seems correct. And that there must be, second, a reasonably good and hopeful prospect of success. This I dissent from. Some of the most righteous and noble revolutions would never have begun on such a calculation of chance of success. They were rather the generous outburst of despair. Such was the resistance of the Maccabees against the Syrian domination. Such was the rising of the Swiss against the house of Hapsburg. But these were two of the most beneficial revolutions in history.

An all important corollary of the liberty of thought is, that neither church nor state has a right to persecute for opinion's sake. A part of the argument may be seen above. It may be supposed that this is too universally held to need any argument. I answer, it is held, but very much on unintelligent and sophistical grounds; so that its advocates, however confident and passionate, would be easily "dum-founded" by a perspicacious opponent. The history of human rights is, that their intelligent assertors usually learn the true grounds of them "in the furnace of affliction"; that the posterity who inherit these rights hold them for a while in pride and ignorant prescription; when the true logic of the rights has been forgotten, and when some plausible temptation presses so to do, the next generation discards the precious rights bodily and goes back to the practice of the old tyranny. Such has been the history, precisely, of confederated rights in the United States. The present popular theory of the United States' Constitution is exactly that theory of consolidated

imperialism which that constitution was created to oppose; and which our wise forefathers fought the Revolutionary War to throw off. You may deem it a strange prophecy, but I predict that the time will come in this once free America, when the battle for religious liberty will have to be fought over again, and will probably be lost, because the people are already ignorant of its true basis and condition. As to the latter, for instance, the whole drift of the legislation and judicial decisions touching the property of ecclesiastical corporations, is tending like a broad and mighty stream to that result which destroyed the spiritual liberty of Europe in the middle ages, and which "the men of 1776" knew perfectly well would prove destructive of it again. But the statesman who now should propose to stay this legislation would be overwhelmed by a howl from nearly all the Protestant Christians of America.

In arguing men's responsibility for their moral opinions, we saw and refuted the erroneous grounds on which many advocates of freedom claim it. I showed you that upon their ground our right of freedom was betrayed to the advocates of persecution. For these succeed in proving beyond reply that men are responsible for their beliefs, and then add the inference that, since erroneous beliefs are mischievous, the errorist should be responsible to the penalties of the civil magistrate. When we object by pointing to the horror of mediæval persecutions, they reply, that these admitted excesses no more disprove the right of magistrates to punish error wisely and moderately than the Draconian Code of Britain, which punished sheep-stealing with death, proves that theft should not be punished at all. The only way to refute these adroit statements is to resort to a truth which Radicals and Liberals are most prone to forget, that the state is not *τὸ πᾶν* of social organization, but is limited by God and nature to the regulation of one segment of social rights and duties; while the others are reserved to the family, the church and to God. It is well again to repeat, that while the citizen is responsible for erroneous beliefs, his penal responsibility therefor is to God alone. The wickedness of human intrusion here is further shown by the following considerations: No human organization can justly usurp the individual's responsibility to God, for his powers of thought and will, because

no human organization can substitute itself under the individual's guilt and penalty if he is made to think or feel criminally. Now, this is more especially true of the state than even of the organized church. Because the state in its nature is not even ecclesiastical, much less a spiritual institute; being ordained of nature simply to realize secular (yet moral) order. Orthodoxy or spirituality are not qualifications requisite for its magistrates, according to the law of nature, but only secular virtue and intelligence. Witness the fact, that the rule of Mohammedan magistrates is morally valid in Turkey, and of pagan in China. And the magistrates to whom Romans *xiii.* enjoined allegiance were pagan and anti-christian. Now, how absurd that I should be required to devolve my spiritual personal functions and responsibility on an institute utterly non-spiritual in its nature and functions, or even anti-spiritual! And how practically absurd, that institutes which are disagreeing (as to religion) and contrary to each other and the truth, throughout most of the world, should be selected as defenders of that truth which not one of them may hold.

Again, if the fallibility and incompetency of the state for this task be waived, persecution for misbelief, by either church or state, is wicked, because it is not only a means utterly irrelevant to produce the professed good in view, right belief, but has a violent and mischievous tendency to defeat it, and hence is criminally impolitic. Thus, first, a right belief must be spontaneous; force is a compulsory measure. It is as though one should whip a sad child to make him glad. His sadness may be sinful, but a punishment which he feels unjust will certainly not help matters. Second, it is so natural as to be unavoidable, that a creed must be more or less associated in men's minds with apprehension of its supporters. True, a cruel man may by chance be the professed advocate of a right creed. None the less do I associate creed and its advocate and infer that if the advocates are wicked, the creed is wicked. What, then, is the insanity of trying to make me love the creed from which I had dissented, by giving me most pungent motives to hate its advocates? So history teaches that persecution for mere opinion's sake, unless annihilating, as of the Lutherans in Spain, only makes the persecuting creed odious, and the persecuted one popular. Thus the perse-

cuting of the Scotch Covenanters by the prelatist made prelatry odious to the Scotch nations for two centuries. The brief persecution practiced against the Immersionists by the colonial government of Virginia, has made that creed popular ever since in the old counties of the state. Third, persecuting helps the error persecuted by arraying on its side the noblest sympathies of human nature, sympathy with weakness and suffering, and moral indignation at injustice. Fourth, persecution, if practiced at all extensively, is frightfully demoralizing; first, by confounding faults, which, if faults at all, are lesser ones, with the most enormous in the criminal code. A sincere mistake about a mysterious doctrine is punished more severely than rape and murder. Secondly, by always using and rewarding, as it must, the vilest and foulest of the community as its delators and tools, thus putting the rascality of the community in place of honor. It breeds hypocrisy wholesale; professing to punish a mistake in theologizing severely in the person, perhaps, of a very pure and benevolent woman or old man, while the current sins of cursing, drinking, lust and others, go rampant. Eras of persecution have always been eras of foul and flagrant moral laxity. Last, persecuting, if not annihilating, always inflames religious dissensions and multiplies sects. If annihilating, it produces, as in Italy, France, and Spain of the eighteenth century, a dead stagnation of infidelity under the mask of orthodox uniformity.

The American constitutions now all deny to the states the right to establish or endow any form of religion, true or false. That right, almost universally believed in out of America, until our generation, by all statesmen of all creeds, was argued from two different points of view. One, which I may call the high prelatry (as in Gladstone's *Church and State*), makes the state the $\tau\acute{o}\ \pi\acute{\alpha}\nu$ of human aggregation, charged with all associated functions whereby man is advantaged for time and eternity; teaches that this omnibus organ, state, is moral and spiritual; has a conscience; is, as an organism, responsible to God for propagating his true religion, as well as Christian morals, just as much as the two other institutes of God and nature, the family and the church. Hence it is obligatory that the state shall herself profess a religion, and that a true one, through her chief magistrates; shall apply a religious test-oath to all her officers, judges and legis-

lators; and shall actively support and propagate the true religion through the ministry, through the orthodox church. This extreme theory is refuted thus: If it is to do all this, why not persecute also? Let the student consider the question. The state is not by its nature either a spiritual or ecclesiastical institution, but a secular one. The same argument would prove that every gas company or telephone company was bound to profess a company religion, have a test-oath, evangelize its employees and patrons. The second, more modern, theory, advocated by Bishop Warburton, Dr. Chalmers, Macaulay, Patrick Henry and such men, argues thus: They repudiate the (absurd) prelatial theory of the state, and hold that it is only a secular organization, appointed by God and nature to realize secular order. 1. But, by the reason that it is entitled to exist, it is entitled to use all means essential to its existence and fulfilment of its natural ends. This is granted. 2. They proceed to say that popular morality is essential to its existence and fulfilment of its natural ends. 3. There is no adequate basis for popular morality, except the prevalence of some form or forms of reasonably orthodox, evangelical Christianity. 4. But experience shows that no voluntary denomination of Christians can succeed in sufficiently evangelizing the masses without state aid. Hence the conclusion that it is the state's right and duty to select some one or more denominations of Christians reasonably orthodox, evangelical, and pure, and endow and aid them to evangelize every district and the whole population.

This theory is much more plausible and decent. No experienced man contests either of the first three propositions. We contest the fourth, and also argue crushing difficulties in the way of the state's reaching the desired end in the way of church establishment. Experience shows that free and voluntary effort of the denominations, all wisely and equitably protected by the government, but left independent, will come nearer evangelizing the whole society than any other plan. The United States is the best example. For when we consider the rapid growth of its population, we see that the voluntary efforts of the denominations have done relatively more than any churches enjoying state aid in other lands.

The following arguments are to be added against the more

moderate theory we are discussing; they apply *a fortiori* against the higher prelatie theory. That the state's patronage will be benumbing. For, since the state is and must be a secular institute, its individual magistrates are likely to be anti-evangelical. "The natural man receiveth not the things of God, for they are spiritually discerned." "The carnal mind is enmity against God." These earthly rulers must therefore be expected to patronize the least evangelical ministers and denominations; and the office-seeking temper will debauch the ministry, just as it does the other office-seekers. Again, since the state pays the salaries of the preachers, the duty to the tax-payers will not only justify, but demand its supervision of the functions paid for, either by claiming the appointing power over pastors, or in some other appropriate way that shall be efficient. Then how shall the endowed church maintain its spiritual independence or its allegiance to King Christ? This was strikingly illustrated in Scotland in the collisions of the Free Church with the government in 1843. The British government claimed for secular patrons the "right of advowson," (or right to nominate a minister to a parish). Dr. Chalmers claimed that the ordination, installation, and discipline of ministers were spiritual functions of the church, over which she could recognize no control whatever except that of her divine Head. But the government rejoined that this secular control over the religious teachers was the just corollary from the support which the secular government furnished to them. Dr. Chalmers' party attempted to evade this argument by a distinction. They admitted that secular aid must justify a certain secular control over religious functionaries, *quoad temporalia*, but not *quoad sacra*; as to these the authority of the church under Christ must be exclusive and supreme. The government replied in substance that the distinction was impracticable; when the *temporale*, for instance, was a manse, endowment or a monied salary furnished by the commonwealth as her compensation for a certain religious teaching, it was impossible for her to exercise the control over her money, without also exercising a virtual control over the function for which the money was paid. Dr. Chalmers' distinction appeared as vain as though a plaintiff in a civil court, who had sold a horse, the health of which he warranted, and who was now sued for the

purchase-money, should raise this plea: that while he admitted the jurisdiction of the court over the money, he should deny its competency to decide upon the health of the horse, on the ground that it was a court of law, and not a veterinary surgeon. The court would answer that its jurisdiction over the purchase-money must inevitably involve its right to judge the horse's health; jurisdiction over the *quid* must carry jurisdiction over the *pro quo*. I conceive that, against Dr. Chalmers, who still asserted the duty of the state to endow the church, this reply was conclusive. The wildest form of state establishment must logically result in some partition between the state and church of that spiritual government which Dr. Chalmers rightly taught belongs exclusively to the church under the laws of the Lord Jesus Christ. And this suggests, finally, that any state establishment of religion must tend to evolve Erastian influences as to church discipline of private members also; see this powerfully confirmed by the difficulties of Calvin in Geneva. For, will not the unchristian citizen say that this pastor is a public servant? How, then, can he convict his own master for acts not prohibited by the state, his employer? The consequence is logical, that since the religious functionaries are but a part of the state's administration, magistrates alone should have the censorship of manners and morals, unless they are to surrender that whole function to the clergy. But the latter would be absurd and impossible. If the magistrates are not entitled to correct the crimes and misdemeanors of the people, there is nothing to which they are reasonably entitled. If, now, another censorship of manners and morals is allowed the clergy, the citizens are subjected to an *imperium in imperio*, to double and competing authorities. Where, then, will be their rights or liberty?

The Protestant Reformers did not at first evolve the doctrine of religious liberty or separation of church and state. The former was taught by Milton and John Owen, and the latter by Jefferson and Madison. Virginia was the first commonwealth in the world which, having sovereign power to do otherwise, established full religious liberty instead of toleration, with independence of church and state, and which placed the stamp of crime upon the African slave trade. The latter law she enacted

in October, 1778, in the midst of the throes of a defensive war, thirty years before it was done by the Government of the United States, and forty years before the overpraised and tardy action of Great Britain.

From the view we have given of the basis of the commonwealth and of rights under it, it is obvious, that the right of suffrage and eligibility to office is not an inalienable natural franchise, but a function of responsibility entrusted to suitable classes of citizens as a trust. The opposite theory, which claims suffrage as an inalienable right, is inconsistent, in that it does not extend the claim to women, and either extend it to aliens also, or else refrain from all jurisdiction over them and their property. That claim is founded on the social contract theory, by implication, and so falls when it is refuted. That theory represents man as absolutely free from all obligation to government, save as he comes under it by his optional assent to the social contract. It is supposed that this assent is only given by suffrage. Hence, it is argued, no man owes any allegiance except he be clothed with the right of suffrage. But we have seen that God and nature bring men under the moral obligation of allegiance, and not their own optional assent. Hence the duty of allegiance does not imply the right of suffrage. The extremest Jacobins do not deem it right to extend suffrage to minors. Why not? The answer must be, because they lack the knowledge and experience to exercise it safely. They are human beings; it would be absurd to disfranchise them merely because they are of a certain age. The argument must be, that this immature age is the sign of their disqualification for the function. Now, if a class of persons, over twenty-one years of age, are marked by a similar incompetency, why should not the same exclusion be applied to them? To give the incompetent a power which they will abuse to their own injury, and the injury of their fellow-citizens, is not an act of right, but of injustice. That claim leads to unreasonable and self-destructive results; for should it be that a class of citizens in the commonwealth are of such a low grade of intelligence and virtue (yet not in the class of condemned felons) as to use their suffrage to destroy their fellow-citizens' right and their own, reason, says the commonwealth, is entitled to self-preservation by disfran-

chising them of that power. One of the maxims of the Whigs of 1776 was: "That all just taxation should be accompanied with representation." They meant that a commonwealth or *populus* must be somehow fairly represented in the parliament which taxes them, or else there is injustice. Modern democracy claims that it is true of individuals. Certainly those great men did not mean it thus. The historical proofs are, that in that sense the maxim is preposterous. For, first, then no females, however rich, could pay a cent of taxes unless they voted; nor wealthy minors; nor, second, aliens holding much property protected by the commonwealth. And, last, since even Jacobinism does not propose to have babies, idiots and lunatics vote, all their property must remain untaxed. As the moral duty of allegiance does not spring out of the individual consent, but is original and natural, so the duty of paying taxes, which is one branch of allegiance, does not arise thence. This, of course, does not imply that a government has a moral right to tax an unprotected class of citizens unequitably. And for equitable protection of the taxed against their own rulers clothed with the taxing power, it is enough that the taxed be represented in the law-making department by enough of the classes who pay taxes, to make their just will potentially heard. And experience proves that to clothe all, including those who have no property, with suffrage, leaves property practically unprotected.