

PART THIRD.

THE CHIEF RELATIONS OF MANKIND TO ONE ANOTHER, AND THE DUTIES THENCE ARISING, — THAT IS, THE DUTIES WHICH MEN RECIPROCALLY OWE TO EACH OTHER.

OUR relation to God and our country, and the duties thence arising, have been as fully considered as consists with my design. But we sustain other relations, of various kinds, and of various degrees of intimacy, the effect of all of which is, to charge us with peculiar duties and impose on us peculiar responsibilities. These are the relations of husband and wife, of parents and children, of brothers and sisters, of master and servant, of principal and agent, with their corresponding duties and rights. The relations of guardian and ward, and of instructor and pupil, are branches of, or rather substitutes for, the parental relation. The obligation of truth between man and man, and of the observance of promises, springs directly from the relation in which men stand to each other as moral and responsible beings. Contracts of various kinds include a very large part of the business transactions of mankind, and the relation of the contracting parties in forming and executing such contracts is another source of moral duties. Our social rank and relative standing in society place us in the relation of superiors, equals, or inferiors. If we are blessed with wealth and consequent leisure, we are thereby brought into new relations towards those who have been less favored than ourselves with the bounties of Providence ;— we owe them our personal services in their behalf, and pecuniary relief, when they are destitute of the comforts and especially the necessities of life. The duties of friendship and hospitality, and the mutual duties of benefactor and beneficiary, also claim a portion of our consideration and regard. The relation of good

neighbourhood, moreover, is one on which much of our peace and happiness depends.

This enumeration of the relations in which men stand to each other is not complete, nor is designed to be complete ; but it comprises all those which are usually made the subjects of inquiry in elementary treatises of moral philosophy. Some of them are natural, others voluntary, others both natural and voluntary. Some are permanent and sanctioned by law, others are transient and incidental. One (marriage) is sanctioned by the united power of personal choice, law, and religion. Our relative duties are chiefly performed in private, and are withdrawn from the gaze of the world ; but they are extremely important, by reason of their number, the constancy of their recurrence, and the endless variety of their ramifications ; by which they pervade human society in all its ranks, modifications, and degrees of improvement. The happiness of mankind, therefore, is deeply concerned in these relations being well understood, and the duties which flow from them being suitably performed. Some attention must have been given them in every stage of society. Their importance is of the first order ; and, in every civilized country, they have been made the subject of anxious and careful consideration and inquiry. They are made the subject of three of the ten commandments, and the Hebrew Scriptures abound with precepts and examples, illustrating their nature, and enforcing their fulfilment. Christianity has recognised, strengthened, and refined these relations, and has prescribed and enforced the duties of many of them by new, positive, and more definite instructions. To collect these instructions, to arrange, amplify, limit, and apply them to the relations of life, giving their authority the first rank, and accompanying them with argument and elucidations drawn from reason, experience, authors ancient and modern, and every other accessible source, will swell this branch of my treatise much beyond the size of the other parts into which it is divided.

The key to the morals of this important branch of the subject, is given us by our Saviour in this saying, " All things whatsoever ye would that men should do to you, do ye even so to them, for " (it is added to give preëminence to the precept) " this is

the law and the prophets."* This is the grand rule, by which we must in all cases regulate our conduct towards others; and it is a rule, plain, simple, concise, intelligible, comprehensive, and every way worthy of its Divine Author. Whenever we are deliberating how we ought to act towards another person in any particular instance, we must, in imagination, change situations with him, — we must place him in our circumstances, and ourselves in his, and then impartially inquire, how we might *reasonably* expect him to behave towards us, if our respective situations were exchanged. Every man, at first sight, must perceive, that this would lead to universal justice, truth, goodness, gentleness, compassion, beneficence, forgiveness, candor, and charity, and exclude every thing of an opposite nature. If we honestly proceeded in this way, we should seldom need a casuist, to teach us how we ought to act towards other men, in any possible situation or circumstances.

CHAPTER I.

THE DOMESTIC RELATIONS AND THE DUTIES SPRINGING FROM THEM.

THE domestic relations and their appropriate duties, being first in the order of importance, deservedly claim the first rank. The family is the original of all societies, and contains the foundation and primitive elements of all other institutions. The family was instituted by God himself,† and with this institution, he crowned the fair creation which he had made in six days and pronounced very good. As it was the first of all human associations, so it is the most natural, the most permanent, and the most effective of good.

We are accustomed to unite ourselves into artificial associations, useful and valuable for the ends which they have in view; but they are the work of men's hands, they partake of the frailty

* Matt. vii. 12.

† See Genesis i. 26–28; ii. 18–24.

of man, their author, and are not to be compared with the original domestic societies into which we are united by the ordinance of God himself. In the smallest and most familiar things, the thoughts of the Almighty are above our thoughts and his ways above our ways.* We have asylums in which many children are fed, clothed, and instructed; hospitals in which many sick, friendless, and destitute persons are received and cared for, and associations whose object is, to spread the knowledge and blessings of Christianity. All these institutions are useful and valuable, and do distinguished honor to the age and country in which we live. But how many children are fed, clothed, and instructed in all our asylums, compared with the multitudes who are thus much more effectually cared for in all the *families* which fill the land? How many sick, friendless, and destitute persons are relieved in all our hospitals, compared with the number among us, who, at their own houses are watched over by the nursing care of mothers and sisters, and surrounded and soothed by the tenderness which grows up only in the family circle? To how many do our religious associations impart the knowledge and blessings of Christianity, compared with the numbers to whom domestic instruction and example impart their first pious impressions, and their earliest and most effectual religious training?

These comparisons are not made in order to depreciate our asylums, hospitals, and missionary associations, — far, very far from it; but that our attention may be distinctly drawn, at the outset, to the importance of our *domestic* relations and the duties which originate in them, and because we are always in danger of disregarding and neglecting whatever is familiar and of daily recurrence. That simple and unostentatious society which God has instituted, a *family*, — that refuge from the storms of life, our home, raised and consecrated by the holiest instinct of our nature, is an establishment worth infinitely more than all the institutions great and small, which *man* has ever devised. In truth, just as far as this is improved, as its duties are suitably performed, and its blessings prized, all artificial institutions are superseded. Here, then, is the appropriate sphere for the agency of the wise

* Isaiah lv. 8, 9.

and good. Improve the family, strengthen the relations of domestic life, and more is done for the happiness and progress of mankind, than by the most splendid charities.

Moreover, whatever there is of dignity, interest or importance in government, education, and religion, is all combined in the family, when well regulated. It includes the maintenance of a just and rightful authority, and the wise administration of discipline. The earliest and most lasting impressions are made at the domestic fireside; the manners are formed there, good or evil principles are imbibed there; the temper and affections are cultivated and regulated there; the habits and sentiments, which in a great measure govern future life, are contracted there;—the family, then, is a more extensive and effectual place of education than the school, the college, or the university. There, too, the infant is first taught to lisp its brief, unaffected prayer; there, day by day, the Scriptures are searched; and there, morning and evening, the inmates prostrate themselves, in united prayer to the Father of light, at the domestic altar;—the pious family, then, is a church of the most High God.*

Consulting convenience and perspicuity of arrangement, it will be useful to subdivide this chapter, by reason of its unusual length, and the variety of subjects which it embraces, into several sections. I. The relation of husband and wife, and their reciprocal duties. II. Of parents and children. III. Of brothers, sisters, and more remote relatives. IV. Of master and servant.

SECTION I.

The relation of husband and wife is the first of the domestic relations, and the foundation of all the rest. In all countries raised above barbarism, this relation has been considered peculiarly sacred, and involving duties of the most solemn and responsible kind. Almost universally, a religious sanction has been believed to pertain to this relation; and the narrative of the creation of man, and of the institution of marriage in the persons

* Colossians iv. 15; Philemon ii.; Dr. Channing on Associations, in "The Christian Examiner," of September 1829, pp. 116, 117.

of Adam and Eve, accompanied by the strong declaration of our Saviour, "What God hath joined, let not man put asunder," * seems fully to warrant this belief.

Accordingly, in Christian countries, it has, with almost universal consent and approbation, been solemnized by the ministers of religion, and before the altar; and, in the largest branch of the Christian church, the dignity of a sacrament has been conferred on it, and the consent of the parties is ratified by the solemnities of a sacramental service. In this country, the municipal law regards marriage as a civil contract between the parties, and permits its celebration by a civil magistrate; but public opinion, stronger and more authoritative than law, has made this provision nothing worth, and the marriages are extremely few, which are not celebrated by clergymen. The municipal law, moreover, although it does not acknowledge the religious character of this contract, still treats it as it treats no other contract. In no Christian country, can it be dissolved by the mere consent of both parties, or even of all the persons interested in its continuance; and, in England and every one of the United States, its dissolution can be accomplished only after much delay and expense, and for reasons of the most peculiar and pressing kind. In this State (S. Carolina), there has been no instance, since the revolution, of a divorce of any kind, either by the sentence of a court of justice, or by act of the legislature. †

Nor are the importance of the marriage union, and the objects of its institution, unworthy of its divine origin, and of the numerous and special guards which the law has thrown around it for its protection and perpetuation. The number and solemn nature of the duties springing from the relation, fully correspond to the importance and sacredness which belong to the relation itself. But how shall these duties be enumerated? how described and set forth with adequate fulness and variety of illustration? They occur every day, and almost every hour of every day. They are not confined to the external conduct, nor to the expressions of the tongue; they reach the thoughts and intents of the heart. ‡

Besides being numerous and various, these duties are of every

* Matt. xix. 6.

† Kent's Commentaries on American Law, Vol. II. p. 88.

‡ Matt. v. 28.

degree of magnitude. Some of them are great duties, — so great, indeed, that the comfort, the happiness, nay, the salvation of the parties, may depend on their being suitably performed. Some of them are so delicate as to require the best-disciplined temper and passions, the most just taste, the most mature judgment, and the most cultivated understanding, for their suitable appreciation and performance. Many of them are too minute and evanescent to be reached by any description short of inspiration itself. And accordingly it is in the Scriptures, that we find this relation and its duties described with a fulness, pertinency, and strength of illustration, which we attempt in vain to find elsewhere. Every image and every expression by which intimacy, delicacy, and tenderness can be conveyed, is exhausted by the sacred writers. The state itself is commended by St. Paul to be honorable in all men.* Christianity recalled marriage to the original standard appointed by the Creator, the union of one man with one woman.† This union cannot rightfully be dissolved, but from a single cause.‡

The equality in number, too, of men and women born in all ages and countries, proves polygamy to be as inconsistent with the law of nature as it is with the ordinance of God. This argument is used by the prophet Malachi, who well says, if it had been the intention of the Almighty to permit a man to have more than one wife, he would have created a greater number of women than of men.§ Thus, as St. Paul says, every man is to have his own wife, and every woman her own husband.|| The husband is to render unto the wife due benevolence, and likewise, also, the wife unto the husband.¶ Husbands are to dwell with their wives according to knowledge, giving honor unto the wife, as unto the weaker vessel, and as being heirs together of the grace of life, that their prayers be not hindered.** The husband is declared to be the head of the wife, even as Christ is the head of the church. Husbands are to love their wives, even as Christ also loved the church and gave himself for it.†† He that loveth his wife loveth himself; and it is declared to be as inconsistent for

* Hebrews xiii. 4.

† Gen. ii. 22-24; Matt. xix. 3-8.

‡ Matt. xix. 9.

§ Malachi ii. 14-16.

|| 1 Cor. vii. 2.

¶ 1 Cor. vii. 3.

** 1 Peter iii. 7.

†† Eph. v. 23, 25.

a husband to hate his own flesh, which he is accustomed to nourish and cherish, as to hate his wife.* A man leaving his father and mother, and being joined to his wife, is called a great mystery.† On the other hand, the virtuous wife is called a crown to her husband; ‡ the heart of her husband is said safely to trust in her; — through her influence, her husband is known in the gates, when he sitteth among the elders of the land. Her children arise up and call her blessed, her husband also, and he praiseth her.§ Wives are to submit themselves to their own husbands, as unto the Lord. As the church is subject unto Christ, so are wives to be to their own husbands in every thing. The wife is to see, that she reverence her husband.||

Again, the adorning of women, is not to be the outward adorning of plaiting the hair, and of wearing of gold, and of putting on of apparel; but it is to be the hidden man of the heart, in that which is not corruptible, even the ornament of a meek and quiet spirit, which is, in the sight of God, of great price. Sarah, who obeyed Abraham, calling him lord, and other holy women of ancient times, are made examples of suitable behaviour, who trusted in God, and adorned themselves, being in subjection to their own husbands.¶ St. Paul declares it to be fit in the Lord, that wives submit themselves to their own husbands; and he exhorts them to love their husbands, to love their children, to be discreet, chaste, keepers at home, good, obedient to their own husbands, that the word of God be not blasphemed.**

The preceding passages, numerous as they are, are only a small part of what the Scriptures contain, pertaining to this most important of the domestic relations. They are full, distinct, authoritative, — and there is no mistaking their import. Still it may be useful specially to illustrate and dwell upon two particulars.

1. The union of feeling and sentiment, so much insisted on between the parties to the marriage relation, in the New Testament, must not rest in theory alone, — it is designed to answer the most important practical purposes. Without a good degree

* Eph. v. 28, 29.

† Eph. v. 31, 32.

‡ Prov. xii. 4.

§ Prov. xxxi. 11, 23, 28.

|| Eph. v. 22, 24, 33.

¶ 1 Peter iii. 1-6.

** Col. iii. 18; Titus ii. 4, 5.

of unity of feeling, design, and action, every thing in a family must inevitably go wrong ; and coldness and gloom, if not distrust and discord, will be guests, where quiet, peace, tranquillity, mutual regard and confidence ought to reign with unbroken sway. Quietness under our own roof, and quiet in our own consciences, are blessings of unknown value, for the want of which nothing can atone. " Abroad," says an admirable writer, " we must more or less find tribulation ; yet, as long as our home is a secure and peaceful retreat from all the disappointments and cares which we meet with in that great scene of vexation, the world, we may still be tolerably happy. But, if that which should be our main sanctuary from uneasiness becomes our principal disquietude, how great must our uneasiness be. There cannot be a greater curse, than to have those of one's own household one's greatest foes ; when we neither can live happily with them, nor must think of living apart from them." Again, " To see a well-regulated family, acting as if they were one body informed by one soul, where, if one member suffers, all the members suffer with it ; to see those who are embarked together in one bottom, whose interests are inseparably united, and therefore whose hearts ought to be so too, acting in concert, adopting each other's cares and making them their own, uniting their friendly beams, and jointly promoting the common happiness, is a beautiful scene, and amiable even in the sight of that Being, who maketh men to be of one mind in a house. How joyful a thing it is for brethren to dwell together in unity." *

How just a picture does our Saviour draw, when he says, " Every kingdom divided against itself is brought to desolation ; and every city or *house* divided against itself shall not stand." † Party distraction, conflicting interests and passions, abuse and violence, strife and bitterness, are sometimes sufficiently afflictive in kingdoms, commonwealths, and cities ; but in families, when once they break forth, they rage with ten-fold virulence and mischief. " When peace and tranquillity are banished from all places else on the earth, the condition of life still remains tolerable, while harmony presides around the domestic altar." ‡

* Jeremiah Seed's Sermons, Vol. I. pp. 39, 44.

† Matt. xii. 25.

‡ See Bishop Jeremy Taylor's Sermons, Vol. I. p. 323.

2. The other particular deemed worthy of special illustration, respects the precedence assigned in the Scriptures to the husband, and the corresponding obedience which the wife is enjoined to render to his wishes and commands. This particular is intimately connected with the preceding, inasmuch as differences of opinion and inclination must sometimes inevitably exist between persons in married life ; and it ought to be settled and understood beforehand, which party shall, in the last resort, give way. On this particular, St. Chrysostom says, "Equality breeds contention, and one of the two must be superior, or else both would strive perpetually for the dominion. Wherefore," continues he, "*the laws of God and the wisdom of all nations have given the superiority to the husband.*" *

Reason and Scripture then concur in claiming precedence for the husband in this respect ; and, moreover, this claim rests on the substantial grounds of greater experience and knowledge of the world, a superior education in most instances, and much greater responsibility in providing for the wants and meeting the expectations of a family. But, in using this precedence with which the husband is invested, let him remember, as Bp. Jeremy Taylor well says, that "A husband's power over his wife is paternal and friendly, not magisterial and despotic. The wife is under perpetual guardianship (*in perpetuâ tutelâ*), under conduct and counsel ; for the power a man hath is founded in the understanding, not in the will or force ; it is not a power of coercion, but a power of advice, and that government that wise men have over those who are fit to be conducted by them." Again he says, "The husband and wife in the family are as the sun and moon in the firmament of heaven ; he rules by day, and she by night, that is, in the lesser and more proper circles of her affairs, in the conduct of domestic provisions and necessary offices, and shines only by his light and rules by his authority ; and as the moon in opposition to the sun shines brightest, that is, then when she is in her own circles and separate regions, so is the authority of the wife then most conspicuous, when she is separate and *in her proper sphere.*"

* Quoted in Bishop Brownell's Commentary on the Book of Common Prayer, p. 379.

And further, "Concerning the woman's duty, it consists in doing whatsoever her husband commands, and so receives measures from the rules of his government. Her first duty is obedience, which, because it is nowhere enjoined that the man should exact of her, but often commanded to her to pay, gives demonstration that it is a voluntary cession that is required; such a cession, as must be without coercion and violence on his part, but on fair inducements and reasonableness in the thing, and out of love and honor on her part." Again he says, quaintly enough, as elsewhere, "It is modesty to advance and highly to honor them who have honored us (women) by making us to be the companions of their dearest excellences; for the woman, that went before the man in the way of death, is commanded to follow him in the way of love; and that makes the society to be perfect, and the union profitable, and the harmony complete." Moreover he says, "A wife never can become *equal but by obeying*; but so her power, while it is in minority, makes up the authority of the man integral, and becomes one government, as themselves are one man." "She that hath a wise husband, must entice him to an eternal dearness by the veil of modesty and the grave robes of chastity, the ornament of meekness, and the jewels of faith and charity; she must have no coloring but blushings, her brightness must be purity, and she must shine round about with sweetnesses and friendship, and she shall be pleasant while she lives, and desired (lamented) when she dies."* It would have been wrong, not to have availed myself of the authority of this celebrated divine, whose sentiments are as excellent as his style is copious and happy.†

SECTION II.

The relation of parents and children is the next of the domestic relations in intimacy, and the mutual duties growing out of it are of the utmost importance. Children are universally felt to be the first hope and highest interest of their parents. They bear their names, reflect their qualities, and are destined to inherit

* Sermons on the Wedding Ring.

† See Brown's Philosophy of the Human Mind, Vol. III. pp. 377-383.

their estates, when they shall be called away from the stage of life. In the order of nature, too, parents are to be laid in their final resting-place by the hands of their children, and the keeping of the reputation they have left behind them, is to be committed to their guardianship. Parents look to their children for very much of their happiness in life, and as the chief source of their comfort in declining years. Moreover, children are the hope of the commonwealth, which looks to them for its future citizens; and they are equally the hope of the church, which sees in them its future defenders, pillars, and ornaments. On the other hand, children are indebted to their parents for their existence, for nurturing and cherishing their infancy, and where parental duties have been suitably performed, for their education, for giving them a right direction and settlement in life, and for bringing them forward advantageously on the stage of human affairs.

1. The chief duties of parents to their children which it is necessary for me to notice are, then, education, in the most extensive sense of that term, and including parental advice, — some aid in the settlement of them for life, — and the rightful and judicious distribution by parents of their estates among their children at their death.

Education embraces many objects besides the mere knowledge of books, however necessary and valuable this knowledge may be. Milton says, "I call a complete and generous education, that which fits a man to perform justly, skilfully, and magnanimously, all the offices, both private and public, of peace and war."* Dr. Watts understands the suitable education of children to consist in "the instruction of them in those things, which are necessary and useful for them in their rank and station, and that with regard to this world and the world to come."† But it may be well to be more particular.

Every man, whatever walk of life he may pursue, requires a good constitution of body; and very much of the attention of parents must be given, during a considerable number of the

* Letter to Master Samuel Hartlib on Education.

† Improvement of the Mind, p. 306.

earliest years of their children, to their physical education, — to the unfolding, strengthening, and maturing of their physical powers, by suitable diet, air, and exercise. The usefulness and happiness of many a man has been destroyed, or greatly impaired, by a feeble constitution of body entailed upon him by the neglect of his physical education. “Better is the poor,” says the Son of Sirach, “being sound and strong of constitution, than a rich man that is afflicted in his body. Health and good estate of body are above all gold, and a strong body above infinite wealth. There is no riches above a sound body, and no joy above the joy of the heart. Death is better than a bitter life, or continual sickness.”* A constitution, firm and vigorous to withstand exposure, and proof against the ordinary inlets of disease, is, in truth, *of itself a fortune*, and can only be obtained by inuring the body to the severe training of exercise, labor, and fatigue, in early youth.

The formation of the manners, too, on which usefulness and happiness in life so much depend, is a part of what parents owe their children in the way of education. An early familiarity with the forms of social intercourse, an address uniting dignity with ease, confidence without arrogance, simplicity and naturalness without rudeness, and refined cultivation without affectation, are of immense advantage in the intercourse with the world which every one must continually hold. A well-disciplined temper, and complete subjection of the appetites, passions, and affections to reason and conscience, are essential to personal comfort, to usefulness and to ordinary respectability, and should be the object of early parental solicitude and watchful care. Moral and religious impressions, or their opposite, are very early made on the minds of children, and the seeds of moral habits are very early sown, which grow up and bear fruit of a good or evil kind, in the joyful or disastrous increase of a hundred fold. An important part, too, of the moral education of children is, to guard them against injurious prejudices, antipathies, and prepossessions, and to enlist their affections and sympathies on the side of truth and duty. But a man’s principles are *the basis of his character*, —

* Ecclesiasticus xxx. 14 – 17.

moral habits, without the sustaining and controlling aid and support of principles are insecure, and, therefore, the habits of children and youth should early be confirmed by imbuing them with sound moral and religious principles.

Moreover, in an uncultivated state of society, almost every thing esteemed desirable is obtained by physical strength ; while, in enlightened times, and among cultivated nations, almost every thing valuable is the fruit of knowledge. Hence, at the present day, even in the humblest walks of life, considerable literary education is indispensable to success. Indeed, the term education, when used without qualification, is understood to mean (*par excellence*) literary education. On the importance attached to education in this most usual sense of the term, it would be entirely superfluous to enlarge. Its value is universally acknowledged ; there is no subject on which coincidence among men is more perfect and complete. Our schools, academies, colleges, and universities ; our libraries, public and private, are the best proof of this universal conviction. Every degree of education is valuable, and it is not necessary to say, that no child can be too well educated. Still, from the necessity of the case, the education of most children must be comparatively limited. And to aid parents in deciding what branches of knowledge shall be taught their children, it may be well to quote the saying of a distinguished ancient, who being asked what he had directed his children to be taught, replied, " Those things of which they will have need when they become men ;" * a text, containing much within a small compass, and on which a fruitful commentary might be written.

Estimated by this standard, parents, even in the humblest spheres of life, ought not to be satisfied with themselves, without having their children taught the reading, writing, and grammar of their native language, arithmetic, some knowledge of the earth on which, and of the heavens beneath which they live, the elements of history in general, and of their own country in particular, the fundamental truths of Christian doctrine and morals, and the political constitution of their country. Boys

* Plutarch, Apoth. Lacon. — quoted in Taylor's Civil Law, Preface, p. iii.

destined for any of the trades, should be taught, besides the branches just mentioned, the elements of mechanics, natural philosophy, and chemistry. Girls are to be taught the useful branches, and ornamental accomplishments, which befit their sex, circumstances, and expectations in life. Mathematics and the classical languages must be the pillars of the education of youths designed for the three great learned professions; and those who make general literature and the sciences their profession, must swell their treasures with the contributions of every age, country, and nation.

The parents' duty of teaching their children, is usually delegated to private or public professional instructors, under the general superintendence of the parents themselves. When invested with this responsible trust, instructors are *in loco parentis* (in the place of the parent) so far as the special object of the trust is concerned; the parental duty becomes the just measure of their duty, and they ought to assume as much of the parental feeling and interest as possible. The standard of good conduct in a teacher, is the same by which a good, wise, and judicious parent is guided in the management and instruction of his children. With this duty, too, the rights of the parents over their children, so far as is necessary to the discharge of the duty, are transferred to the instructor. The relation of guardian and ward is another substitute for the parental relation, instituted to supply its place, however imperfectly, in case of the death, insanity, or other disability of one or both parents. In assuming the relation, the guardian undertakes to perform the parental duties, and becomes invested with the rights of the parents.

It is equally the right and the duty of parents, during the earlier years of their children, to control them, and to subject them to discipline within the bounds of a reasonable discretion. The sacred writers consider government among the most indispensable duties of parents, and more than one of them has noticed the want of it as among the most common causes of the ruin of children and the overthrow of families.* The wisest of men says, "He that spareth his rod hateth his son; but he that

* 1 Samuel iii. 13; Proverbs xix. 18; xxix. 15.

loveth him chasteneth him betimes." * Again, "Correct thy son, and he shall give thee rest; yea, he shall give delight unto thy soul." † See especially Hebrews, xii. 6-11, where St. Paul concludes thus, "No chastening for the present seemeth to be joyous, but grievous; nevertheless afterward it yieldeth the peaceable fruit of righteousness unto them which are exercised thereby." ‡

In the present relaxed state of domestic discipline, I can only cite these precepts on the ground of their *being divinely sanctioned*. They must wear an air of strictness and severity, to which, in these days, we are not accustomed. As a writer on morals, however, I have no choice. My duty is, *to make truth the burthen of my instructions*; — these precepts are not *mine*, they are a part of the oracles of divine truth. § Even the precept,

* Prov. xiii. 24.

† Prov. xxix. 17.

‡ See also Rev. iii. 19.

§ The following extract from a very valuable work, with which the author was not until lately acquainted, contains sentiments so well calculated, in his judgment, to be useful at *the present time*, that he has determined to subjoin it.

"That good sense," says the writer, "which forms the sole basis of a system of education composed for the age of Locke," (he had been speaking of Locke's writings on education,) "is a material of too common and too coarse a nature for the fabric of those refined and subtle theories, which are fitted to engage the attention of an age, where the new, the striking, and the brilliant are alone admired and sought after. Rousseau, in an evil hour, vented his paradoxes on education; — the man who sent his own children to the foundling hospital, and who failed, as he owns himself, in the only trial he made to educate the child of another. But he knew that a singularity of opinion was the sure road to distinction as an author; and he determined to frame a theory, which should in every thing be opposite to the common notions of mankind. His organs, as he tells us, were so formed, and his mind so constituted, as to render him incapable of thinking and judging like other people: 'Je ne vois point comme les autres hommes; il y a long temps qu'on me l'a reproché; mais depend-il de moi de me donner d'autres yeux, et de m'affecter d'autres idées?' (Préface d'Emile.) And feeling and reasoning, as he acknowledges, like no other man, he has the modesty to presume, that he alone is right, and all the rest of the world in an error. The ordinary methods of education (according to him) are all completely wrong; the very opposite course to the common is almost always the right one. 'Prenez le contrepied de l'usage, et vous ferez presque toujours bien.' (Emile, Tom. I. p. 130.) Thus, because the influence of habit, one of the most powerful principles of our nature, is universally resorted to in the ordinary systems of education, this is sufficient reason with Rousseau for utterly exploding its application; 'Habits,' says he, 'ought not to be impressed on children; for they restrain the natural freedom of the mind; — La seule habitude qu'on doit laisser prendre à l'enfant, est de n'en contracter aucune.'

“Train up a child in the way he should go, and when he is old he will not depart from it,”* implies both *the right and the duty* of parents to train him up in the right way. In truth, the father of a family is made responsible for all the sin, which it is in his power to prevent, within his domestic circle. Abraham is commended for “commanding his children and his household after him to keep the way of the Lord, to do justice and judgment.”† Joshua resolved, both for himself and his *house*, to serve the Lord;‡ and the house of Eli was destroyed with an overwhelming destruction, “for the iniquity which he *knew*,” says the sacred historian, “because his sons made themselves vile, and

(Idem, Tom. I. p. 62.) The enforcement of the parent's or the tutor's authority, and the obedience of the child, is generally supposed the most essential and primary step to be gained. ‘No,’ says Rousseau; ‘authority and obedience are servile principles, fitted only to make slaves and tyrants. Never cross your pupil in any thing, and then you will be sure to see him such as he is; when you suffer children to act as they please, their own mistakes will sufficiently correct them; — Sans lui defendre de mal faire, n'offrez jamais à ses volontés indiscrettes que des obstacles physiques, ou des punitions qui naissent des actions mêmes, et qu'il se rapelle dans l'occasion.’ (Idem, Tom. I. p. 110.) It has been generally supposed, that the surest hold of the mind of a child is gained, by persuading him, that your precepts are reasonable. ‘Never reason at all with a child,’ says Rousseau; ‘he cannot understand you; if he were capable of reasoning, he would have no need of education; by using argument, you only teach him to be satisfied with words instead of ideas, and make him disputatious and self-sufficient; — C'est commencer par la fin. Si les enfans entendoient raison, ils n'auroient pas besoin d'être élevés. C'est les accoutumer à se payer de mots, à contrôler tout ce qu'on leur dit, à se croire aussi sages que leurs maîtres.’ (Idem, Tom. I. p. 120.) As our early impressions are the most lasting, it has been usually thought of consequence to instil into the infant mind the first great principles of religion; — ‘What,’ says Rousseau, ‘would you make your son the creature of prejudice? Leave his mind to its own operations; and, when he is capable of distinguishing between truth and error, he will choose a religion for himself. At fifteen, my pupil does not know that he has a soul; and perhaps it is early enough, if he gains that piece of knowledge at eighteen.’ (Idem, Tom. II. p. 215.) It might naturally be supposed, that the bare statement of such paradoxes were sufficient to expose their absurdity; if experience did not prove, that there is no doctrine too wild and extravagant for the caprices of the human intellect; and the opinions of Rousseau, defended with the most ingenious sophistry, and varnished with the most fascinating eloquence, have had an extensive and pernicious influence on vain and superficial minds.

“But to the public in general, Rousseau had shown, that the subject of edu-

* Prov. xxii. 6.

† Genesis xviii. 19.

‡ Joshua xxiv. 15.

he restrained them not." * St. Paul says, moreover, that "a bishop must be one that ruleth well his own house, having his children in subjection with all gravity ; for," he subjoins, "if a man know not how to rule his own house, how shall he take care of the church of God." † At the same time, parents are to govern their children equitably, wisely, kindly, and affectionately. "Fathers provoke not your children to wrath, but bring them up in the nurture and admonition of the Lord." ‡

As children approach the age of discretion, this parental right of control and discipline is softened down into a right of advising and counselling them. The wisest of men held this right of parental counsel and advice in the highest estimation, as is manifest from the frequency with which he adverts to it. § Indeed, no small part of the Proverbs of Solomon is in the form of parental advice and counsel, given to the young on the chief dangers, which beset their way, and against which they need to be guarded, by reason of the strength of their passions and their want of experience. The author is not satisfied with commending wisdom in the abstract to the young, in the most persuasive and moving terms, — he does much more ; the blandishments of "the strange

cation admitted of much variety of sentiment ; that it was a rich field for novelty and ingenuity of thought ; and that, with these recommendations, the importance of the object would insure attention to whatever was plausibly and ingeniously written in that department. New systems of education, controversial treatises in support and refutation of these systems, and books for the instruction of children, framed on all their opposite principles, now issued from the press in endless succession. The infant man seemed to be regarded as a subject of perpetual experiment, on which every daring empiric was at liberty to try the effect of his alterative processes, his stimulant or his sedative medicines, as his fancy prompted. In some of these systems, the primary engine with the parent or preceptor is deceit. A child is to be cheated into every thing ; he is to be wheedled into learning under the mask of play ; into obedience, under the appearance of following his own inclination ; and, by a variety of artful contrivances and well-laid plots, he is to be slyly trepanned into virtue and good morals. According to an opposite theory, nature is to be the sole guide, and the province of the parent or tutor is, not to give impressions, but to guard against them," &c. (Memoirs of the Life and Writings of Lord Kames, by Alexander Fraser Tytler (Lord Woodhouselee), Vol. II. pp. 286–292.) I might quote several pages more from this writer, equally interesting, if my limits permitted.

* 1 Samuel iii. 13. † 1 Timothy iii. 4, 5. ‡ Eph. vi. 4 ; Col. iii. 21.

§ See Proverbs, *passim*.

woman, subtle of heart, whose house is the way to hell, going down to the chambers of death ;” * the importunities and craft of the wicked of every kind, the enticements of wine and strong drink, the seductions of sloth, the value of industry and integrity, the opposite ways and end of the righteous and of the wicked, the use and abuse of the tongue, the sins of pride, avarice, fraud, and oppression, are all spread out as on a map before the young, by this author ; — so that, to use his own illustration, if, amid such advice and counsel, the young man is still so much without discretion as to be *caught*, he is as simple as the bird caught in the snare which itself has seen spread before its own eyes.†

The right of parental advice is especially important in regard to two particulars on which the welfare and happiness of children very much depend ; to wit, the choice of the employment they are to pursue in life, — and the connexions in marriage which they are disposed to form. In both these particulars, parental advice, timely and judiciously given, may be of the greatest benefit.

Where there is nothing to prevent, reasons of convenience will lead the sons to pursue the employment, which their father has pursued before them. This is the natural course and tendency of things, and it is probable that nine sons in ten engage in the employment of their father. But sometimes this is inconvenient, unsuitable, and otherwise undesirable. In giving advice, the physical endowments of the son, his natural genius and temper, his education, the circumstances of the times, the natural tendencies and probable effects of the employment or profession, and, most of all, *his own inclination*, should be consulted and kept fully in view. Children seldom do well in an employment into which they have been forced or over-persuaded. If their partialities are gratified in this most important of all their interests, the choice of their profession, they feel themselves to be thrown upon their own responsibility, and to be committed, in honor to their parents, to justify the choice they have made by their good conduct and success. It is all-important, that they should feel the full force of this personal responsibility ; it is the

* Prov. vii. 5, 10, 27.

† Prov. i. 17.

chief encouragement and spring of the excellence at which every youth ought to aim. Without this self-responsible feeling, this self-reliance, this main spring of the character, as it may be called, a high standard of excellence will not often be attained. Any interference on the part of parents beyond mere suggestions, advice given in a spirit of moderation and candor, and information which, by reason of their youth and inexperience, they cannot have had the means of obtaining for themselves, impairs, if it does not destroy, this self-reliance and self-responsibility ; and indifference to the attainment of excellence, discouragement, broken hopes, and ultimate failure are the too common consequences. The more delicately and judiciously, and in general the more indirectly, this right of advice is used, in influencing a son's choice of his profession, the more beneficial will be its effect. Much more, too, depends on the manner in which the advice is given, than on the advice itself.

The same observations, in substance, apply to the other particular, on which the advice and counsel of parents is usually supposed to be most valuable, — the marriage connexions which their children may be inclined to form. There should be the same delicacy of interference, and the same caution not to impair the self-reliance and personal responsibility, on which I have before enlarged. And it must not be forgotten, that, in this most intimate of all human relations, so much of the happiness of the parties depends on their personal preference of one another, that any but the most delicate and cautious interference must be attended with the utmost hazard of great and enduring evil. Still there may be cases, both in the choice of a profession and in the forming of marriage connexions, in which the direct and decisive interference of parents is justifiable, and may be useful. Such are extreme cases ; no minuteness of remark or description can reach them, and they must be acted on according to the best judgment of the parents under the peculiar circumstances.

But the duty of parents towards their children is not finished, when they have given them maintenance, education, advice in the choice of a profession, and aid in qualifying themselves for the pursuit of it. Without some outfit with which to begin, a young man will find it extremely difficult to make his way in the

world. The competition of other persons just entering the same branch of business with himself, and, still more, of those well established in it, must be met ; experience must be acquired, and the confidence of the public, always slowly and reluctantly given, must be secured. These remarks apply particularly to the case of sons ; but I believe it may be said with great truth, that even a daughter acquires additional dignity and respect in the eyes of her husband, if she brings something to the common stock with which they are to begin the world.

In discharging this duty of aiding their children, the ability of parents must be consulted, and of course, the duty itself, as in all other cases, must be limited by the ability to discharge it. When the ability is not wanting, the aim of the parents should be, to give aid enough to *encourage*, without *relaxing*, the personal exertions, or impairing the self-reliance, of their children. A strong conviction of the necessity of self-reliance and personal endeavours, combined with sufficient parental aid to stimulate and encourage, is the most desirable and promising outfit in life.

It is sometimes alleged, that parental aid in the outset of life is of no advantage ; and, to sustain this opinion, those instances are cited in which young men, who began life with a large outfit, have been overtaken and outstripped in their career of usefulness, honor, and success, by those who began life with no other aid than a parental blessing, a good conscience, hope in Heaven, and free opportunity on earth. Without delaying to discuss this question, it may be observed, that both these classes of persons attract our special attention. In the latter we admire the ardor, firmness, and perseverance, which have carried them through so many discouragements ; but, in our admiration, we forget how many young men of the best promise, sink under the difficulties which beset their way, and, for the want of a little encouragement, come to a premature death, and bury their blasted hopes and expectations in the same grave with themselves. If some fail by setting out in life with *too much aid*, it is probable that a manifold greater number are ruined for *want* of some timely aid.*

* See 2 Corinthians xii. 14.

It is the duty of parents, in making arrangements for the distribution of their estates, at their death, to have special regard to the exigencies of their children's situation. If a child has been successful in business, and has amply provided for himself, or is otherwise well provided for, there is no reason why further provision should be made for him. But success does not always attend on merit; and the less successful members of a family are they, who, provided they are deserving, are fairly entitled to be provided for in the will of the parents. The claims of married daughters, in this respect, are to be placed on the same footing with those of sons; but the case of single daughters is *peculiar*, and deserves more than a passing notice. Especially, a daughter who is single, and who from age, personal defects, or other circumstances, may be expected to remain so, may justly claim a more than ordinary share of the anxiety and solicitude of parents. There are almost no lucrative employments in which ladies can honorably engage, and for these they may be unqualified; it must, therefore, be one of the first wishes of a good parent's heart to secure to a single daughter a comfortable and honorable independence. There may be children in a family afflicted with idiocy or alienation of mind. Of course, these must take precedence of all the other children in their claim upon the parental estate. A parent may rightfully disinherit a child in extreme cases;—but for these no definite rule can be prescribed.*

2. The duty of children to honor their parents is made the subject of the fifth commandment; and from its being thus ranked with the duty of worshipping one God and him only, and with the obligation to respect the life, chastity, and property of our neighbours, we may well infer its importance. "Honor thy father and thy mother," says St. Paul, "which is the first commandment with promise."† The promise, when amplified by St. Paul, is, "that it may be well with thee, and that thou mayest live long on the earth."‡ The term "honor," is admirably chosen, comprising, as it does, affection, respect, obedience, and

* See Brown's *Philosophy of the Human Mind*, Vol. III. p. 366, 367.

† Ephesians vi. 2.

‡ Idem vi. 3.

whatever else can contribute to the comfort and gratification of parents. A long and prosperous life is promised to children who render this honor to their parents, a reward more earnestly and universally coveted by mankind, than riches, beauty, glory, or any other object which they are accustomed to desire. And that God, in his providence, is accustomed to fulfil this promise in its *literal import*, has been believed by many persons who have had enlarged experience and extensive opportunities of observing human affairs.* Dr. Dwight says, "No small measure of prosperity seems ordinarily *interwoven* with a course of filial piety. The comfort which it insures to parents, the harmony which it produces in the family, the peace which it yields to the conscience, are all essential ingredients of happiness. To these," continues he, "it adds the approbation of every beholder, the possession of a fair and lasting reputation; the confidence and good-will of every worthy man; and of consequence, an opportunity of easily gaining those useful employments which worthy men have to give. Beyond this, it naturally associates with itself that temperance, moderation, and sobriety, which furnish a solid foundation for health and long life. On the tide of Providence, multiplied blessings are borne into its possession, at seasons when they are unexpected, in ways unforeseen, and by means unprovided by its own forecast, which are often of high importance; which altogether constitute a rich proportion of prosperity, and which usually are not found by persons of a contrary character."† I may add, that the practice of the moral virtues, to which the honoring of parents naturally leads the way, contributes to health and length of life, at least as much as air, climate, local situation, and other physical circumstances on which we more habitually rely.

Again, St. Paul says, "Children, obey your parents in the Lord, for this is right. Obey your parents in all things, for this is well pleasing unto the Lord."‡ It may be well to expand the apostolic injunctions into two or three particulars.

Children are required to regard their parents with special

* See Dwight's Theology, Vol. IV. p. 98.

† Ibidem.

‡ Ephesians vi. 1; Colossians iii. 20.

affection, respect, and reverence. They are to remember and regard their parents as standing in the most venerable, and the most endearing of all earthly relations to them; as those to whom, under God, they owe every thing they are, and every thing they hope to be. They are to regard them as the persons to whose kindness, care, and government, they have been committed by God himself. They are to consider them as the most affectionate, the most faithful, the most confidential, the most persevering, the most watchful, and the most disinterested of friends.*

Again, children, during their early years, are to render their parents a prompt and cheerful obedience; and, when they come to years of discretion, and indeed, at every period of life, to manifest a marked respect for their persons, regard for their advice, and deference to their wishes. Disobedience to parents is ranked by St. Paul with envy, malignity, deceit, and even with murder and destitution of natural affection.† It is in the order of nature for parents to command, and for children to obey. No conduct, perhaps, is more severely denounced in Scripture, than disobedience and disrespect to parents.‡

Moreover, children are to give their parents the solace and comfort of their conversation and company, when, in the order of nature, they are visited with the decay and manifold infirmities of declining years. Parents have watched over the helplessness, and borne with the infirmities of their children, when in their infancy; and it is but the reciprocal duty of their children, to watch over the decline, and sustain the sinking spirits of their parents, when, as the wisest of men says, "the evil days come, and the years draw nigh in which they can have no pleasure in them."§

Furthermore, children are sacredly bound in conscience to meet, as far as possible, the expectations formed of them by their parents, in after life; by which alone they can make a full return for the care, the expense, and the anxieties which their nurture has cost their parents. Writers of all ages, and of all countries, have taught us, with a united voice, that, in the eye of all man-

* Dwight's Theology, Vol. IV. p. 87.

† Romans i. 29-31.

‡ Deuteronomy xxi. 18-21; Proverbs xxx. 17.

§ Ecclesiastes xii. 1.

kind, no objects can be more amiable or more delightful than dutiful and virtuous children, who, in after life, fulfil the promise of their early years. This, and this alone, is honoring their parents in *the full meaning of that term*, — and this alone is rendering to parents the true "*pretia nascendi*" of the classical writers. "He who," says Dr. Brown, "in the fulfilment of every filial duty, has obeyed as a son should obey, and loved as a son should love, may not, indeed, with all his obedience and affection, have been able to return an amount of benefit equal to that which he has received; but, in being thus virtuous, he has at least made the return that is most grateful to a virtuous parent's heart. He has not been unsuccessful in that contest of mutual love, in which, as Seneca truly says, "it is happy to conquer, and happy to be overcome."*

SECTION III.

OF BROTHERS, SISTERS, AND MORE REMOTE RELATIONS.

The more remote domestic relations, whether of consanguinity, (*blood*,) or affinity, (*marriage*,) are also worthy of being respected and carefully cherished. In regard to the brothers and sisters of the same household especially, two particulars ought to attract and receive notice and illustration.

1. This relation furnishes the natural occasions of permanent friendships and intimacies, which, in after life, soften the cares, relieve the anxieties, enlarge the sphere of enjoyment, and often contribute to the success and usefulness of life itself. The recollections of the brothers and sisters of the same family, if the circumstances of their birth and nurture have been but ordinarily favorable, must be a bond, in all after life, of the strongest mutual sympathy, interest, and attachment. Their remembrances of one another go back even to the caresses and endearments of the nursery, in which their infant pains, vexations, and peevishness were soothed by the same gentle voice of maternal tenderness and love, — in which they were taught to lisp their earliest

* Philosophy of the Human Mind, Vol. III. pp. 372, 373.

prayers,—in which their first discontents and murmurings were hushed,—and in which their childish pastimes were, in common, shared and enjoyed. Again, the rude sports, frolics, and adventures of the neighbouring school, in which they have mingled with the keenest zest, with its early trials, competitions, mortifications, and successes, must ever be subjects of the most vivid mutual reminiscences and sympathies. They have had, too, a common interest in every event which has befallen them, and in every person who has excited either their regard or aversion ;—they have honored with a common honor those to whom, by the commandment, filial honor was due ; and, perhaps, have mourned with a common grief over the remains of one or both of those, whose death has been to them the most poignant and lasting of all their sorrows. When one member of the common household has suffered, all the other members have suffered with him. Their paths, moreover, however different in after life, were once the same. Each can witness to what each learned from a father's anxious counsels, and each can respond to the other's remembrance of the ever-varying, never-ceasing expressions of maternal kindness. Each can speak of the other's early associates ; each can recall to the memory of the others, whatever, in the fresh spring season of life, made the parental home joyous or sorrowful ; the farewell and the return ; the plans for the departing, and the intelligence from the distant ; the success and congratulation, the disappointment and sympathy ; the honored guest, and the habitual inmate ; the health and the sickness ; the bereavement and the blessing ; the festive entertainment, and the funeral mourning. These common pains, joys, sorrows, endearments, and sympathies of the early years of children of the same family, are, I may well repeat, the natural occasions of intimate and permanent friendships in all after life.*

2. The relation of brothers and sisters of the same family, furnishes much more than the natural *occasions*,—it furnishes the natural *foundation*, of permanent intimacies and friendships. They sustain a common relation to common parents, to whom each renders one of the most acceptable of all services, by ex-

* See Dr. Palfrey's Sermons, p. 327.

tending his affection to those with whom he is united by the ties of so intimate a relationship. In reviewing the circumstances which tend to strengthen this tie, Cicero adverts even to the common sepulchre, that is at last to enclose the bodies of the members of the same family.* It is a touching reflection, that the bonds of affection and concord among members of the same family, should derive strength from the common receptacle which is destined at last to contain their mortal remains. It is an affecting image and symbol, by which domestic unanimity and harmony are powerfully taught. Every dissension of man with man excites in us a feeling of painful incongruity. But we feel that there is a peculiar incongruity in the discord of those whose interests are indissolubly the same, whom one roof has protected during life, and whose dust is at length to be mingled in a common tomb.†

The duties of brotherhood and sisterhood, then, are the duties of a cordial intimacy and friendship, rendered more sacred by their common relationship to the parents from whom they have sprung, and to whom they owe common duties, as they have been the objects of common hopes, cares, labors, and anxieties. A brother has large resources in a brother's attachment; a sister in a sister's. The mutual relation they bear, and the fact, that, the prosperity of the household being a common cause, the honor or shame, the success or failure, of any member of it concerns the rest, — authorize each to interest himself with the other by advice and remonstrance, or for him by interference with yet other persons. Moreover, each knows the other's character and history, his advantages and encouragements, deficiencies and dangers. A brother, therefore, can enter fully into a brother's feelings, — a sister into a sister's; and thus their mutual kindness may usually be better directed, more seasonable, and in various ways more acceptable, and their sympathy, advice, or aid more profitable, than that of other friends.

A difference, in certain respects, has been remarked between the affection of a brother and sister for one another, and that which subsists between a brother for a brother, and a sister for a

* De Officiis, Lib. I. c. 17. † Brown's Philosophy, Vol. III. pp. 374, 375.

sister. In truth "the relation of brother and sister to one another, is one of the most beautiful which Providence has instituted ; forbidding, from the different pursuits of the two sexes, any thing of that rivalry and interference, which is so often the bane of friendship among other equals, and without the possibility of the sentiment being tainted with any alloy of passion ; finding scope for that peculiar tenderness, strength, and trustingness of attachment, which belong to the relation of delicacy, dependence, and retirement on the one part, to energy, self-reliance, and enterprise on the other. Nothing is more delightful than to witness this relation sustained, as God, when he arranged it, designed that it should be. A mutual confidence and esteem, and sense of privilege in each other's regard, evinced and renewed in every daily communication ; the sister watching the brother's growing virtues and consequence with a modest pride, while she checks his adventurousness with her well-timed scruples, and finds for him a way to look more cheerfully on his defects, — the brother, looking on the sister's graces with a fondness that would be like a parent's, only that it is gayer, more confident, and more given to expression, and studying with ambitious assiduity to requite the gentle guidance to which his impetuous spirit delights to yield itself ; the one zealous and constant in all acceptable kindnesses, in her secluded sphere, which God has given her an intuitive sagacity to invent ; the other delighting to communicate all means of improvement, which his different opportunities of education have prepared him to offer ; the one gratefully conscious of a protection as watchful as it will be prompt and firm ; the other of an interested love, which, whether in silence or in words, can speak his praises the most movingly, where he may most desire to have them spoken. Is any thing in the relations appointed by Him, who for wise and kind ends 'hath set the solitary in families,' more delightful to witness, than such a brotherly and sisterly devotion ? If there be, it is what remains to be added to the picture. It is seen, when they who are thus united make the younger members of their band a common care, and turn back to offer the gentle and encouraging hand of a love more discreet than that of mere equals, and more familiar than the parental, to lead their childish,

unpractised steps along that path of filial piety, of fraternal union and religious wisdom, which themselves, walking together in it, have found throughout a way of such pleasantness and peace." *

The general duty of cherishing the more remote domestic relations which we sustain, has been before adverted to, and nothing seems to call for any considerable enlargement on this part of the subject. Without any specific causes of alienation, it is inevitable, in the natural course of events, that families, as they branch off from the parent stock, should be gradually more and more withdrawn from the society, influence, neighbourhood, and consequently sympathy of each other, led by interest, ambition, the love of change, and other inducements. This breaking up of the ties of kindred, however, and scattering of kindred families, will always depend very much on the condition of society, and on the importance of mutual aid.

In a state of society in which the protection of law is feeble, and it is necessary, in consequence, for many to unite in the common defence, the families that spring from the same original continue to cling to each other for aid, almost as if they lived under the same roof. It is, in fact, one wide-spread family, rather than a number of families; the history of the clan, in its most remote years of warfare and victory, is the history of each individual of the clan; and the mere remembrance of the exploits of those who fought with one common object, around their common representative and ancestor, is like the feeling of the paternal or filial relation itself, prolonged from age to age; while the affection thus flowing from the remembrance of other years is continually strengthened by a sense of the important services, which each individual is still able to render to the whole on occasions of similar peril.

In other circumstances of society, the necessity of this mutual aid is obviated by the happier protection of equal law; and, objects of new ambition separating the little community into families, that have their own peculiar interests, with little if any necessity for reciprocal assistance, the duty of giving such assist-

* I am indebted for this beautiful paragraph to "Sermons on the Conditions and Relations of Private Life," by Dr. Palfrey, Professor of Biblical Literature in Harvard University; p. 333.

ance is at once less important, and no longer receives any aid from the powerful circumstances of association, which in a different state of manners, rendered the most distant relative an object of almost sacred regard.*

"It is not many years ago," says Dr. Adam Smith, "that, in the Highlands of Scotland, the chieftain used to consider the poorest man of his clan as his cousin and relation. The same extensive regard to kindred is said to take place among the Tartars, the Arabs, the Turkomans, and I believe among all other nations who are nearly in the same state of society in which the Scots Highlanders were about the beginning of the present (eighteenth) century. In commercial countries," continues he, "where the authority of law is always perfectly sufficient to protect the meanest man in the State, the descendants of the same family, having no such motive for keeping together, naturally separate and disperse, as interest or inclination may direct. They soon cease to be of importance to one another; and, in a few generations, not only lose all care about one another, but all remembrance of their common origin, and of the connexion which took place among their ancestors. Regard for remote relations becomes, in every country, less and less according as this state of civilization has been longer and more completely established. It has been longer and more completely established in England than in Scotland; and remote relations are, accordingly, more considered in the latter country than in the former, though, in this respect, the difference between the two countries is growing less and less every day.

"Great lords, indeed, are, in every country, proud of remembering and acknowledging their connexion with one another, however remote. The remembrance of such illustrious relations flatters not a little the family pride of them all; and it is neither from affection, nor from any thing which resembles affection, but from the most frivolous and childish of all vanities, that this remembrance is so carefully kept up. Should some *more humble*, though perhaps nearer kinsman, presume to put such great men in mind of his relation to their family, they seldom fail to tell

* Brown's Philosophy, Vol. III. p. 375.

him, that they are bad genealogists, and miserably ill-informed concerning their own family history. It is not in that order, I am afraid," concludes this beautiful writer, "that we are to expect any extraordinary extension of what is called natural affection."*

SECTION IV.

RELATION OF MASTER AND SERVANT.

The last of the domestic relations, the moral duties of which I am to explain and illustrate, is that of master and servant. Servants have been reckoned a part of the families of their masters from the earliest times,† and the relation has been familiar in every country. Servants have always comprehended no small portion of the entire human race;—their very number, therefore, among other circumstances, gives them a strong claim to the notice of the moral philosopher. And it may be remarked, that there is scarcely any one of the relations of life, the duties of which between the respective parties, are more clearly defined, or more fully insisted on, by the sacred writers, than in the case of master and servant.

"Servants, obey in all things your masters according to the flesh; not with eye-service, as men-pleasers; but in singleness of heart, fearing God. And whatsoever ye do, do it heartily, as to the Lord and not unto men; knowing, that of the Lord ye shall receive the reward of the inheritance; for ye serve the Lord Christ. But he that doeth wrong shall receive for the wrong which he hath done; and there is no respect of persons."‡ Again, St. Paul says, "Exhort servants to be obedient unto their own masters, and to please them well in all things; not answering again; not purloining, but showing all good fidelity; that they may adorn the doctrine of God our Saviour in all things."§ And again, "Let as many servants as are under the yoke, count their own masters worthy of all honor, that the name of God and his doctrine be not blasphemed. And they that

* Theory of Moral Sentiments, Vol. II. pp. 25–29.

† Gen. xxiv. 2, 5, 27, 34, &c. ‡ Col. iii. 22–25. § Titus ii. 9, 10.

have believing masters, let them not despise them, because they are brethren; but rather do them service, because they are faithful and beloved, partakers of the benefit. These things teach and exhort." * "Servants, be subject to your masters with all fear; not only to the good and gentle, but also to the froward; † for this is thankworthy, if a man for conscience toward God endure grief, suffering wrongfully. Let every man abide in the same calling wherein he was called. Art thou called, being a servant? Care not for it, but if thou mayest be made free, use it rather. For he that is called in the Lord, being a servant, is the Lord's freeman." ‡ Still again St. Paul says, "Servants, be obedient to them that are your masters according to the flesh, with fear and trembling, in singleness of your heart, as unto Christ; not with eye-service, as men-pleasers; but as the servants of Christ, doing the will of God from the heart; with good-will doing service, as to the Lord and not to man. Knowing that whatsoever good thing any man doeth, the same shall he receive of the Lord, whether he be bond or free." §

"And ye masters, do the same things unto them," continues St. Paul, "forbearing threatening; knowing that *your master* also is in heaven; neither is there respect of persons with him." || Again St. Paul says, "Masters, give unto your servants that which is just and equal, ¶ knowing that ye also have a *master in heaven*." **

Servants are of several kinds, distinguished by their employments, or by other circumstances in their condition. Mr. Reeve enumerates "five kinds." †† But into however many classes they may be divided, the apostolic instructions are alike applicable to them all. They are to obey their masters in singleness of heart, and to please them, not rendering them eye-service, doing their business heartily, without purloining or answering again, being faithful to their masters, and counting them worthy of all honor, contented with their calling, — that they may adorn the doctrine of God our Saviour in all things. And masters are

* 1 Tim. vi. 1, 2.

† 1 Peter ii. 18, 19.

‡ 1 Cor. vii. 20–22.

§ Eph. vi. 5–8.

|| Eph. vi. 9.

¶ "Servis justa præbenda," says Cicero, *De Officiis*, Lib. I. c. 13.

** Col. iv. 1.

†† Domestic Relations, p. 239.

to do their corresponding duties, remembering that there is no respect of persons with God. They are not only to forbear threatening, but to give their servants a just and equitable share of the conveniences and comforts of life, according to the proceeds of their labor, always keeping in mind, that they also have a Master in heaven, to whom they are responsible for their behaviour in this relation, which is so liable to be abused, and the duties of which are so liable to be neglected.

A division of servants into three, instead of five classes, is sufficiently accurate for my present purpose. 1. Apprentices. 2. Servants who become such by their own contract. 3. "Servants born in the house, or bought with the money," of their master.*

1. Apprentices are persons bound to a master, to learn some art or trade. They may be bound to learn the trade of husbandry as well as any other. Apprentices are usually bound to their masters by their parents or guardians; and they are bound, that the apprentice perform that which they contract he shall do. Whatever wages an apprentice earns, belong to the master; and, if an apprentice should leave his master, and earn wages and receive them, and purchase any thing with them, it would belong to the master. The right, which the master acquires to the service of his apprentice, cannot be rightfully assigned to another person. It is incompatible with the nature of the contract, which implies special confidence reposed in the master. The master is one in whom the parent of the apprentice has such confidence, as induces him to place his child under his care. It is a *personal trust*, which cannot in any case be assigned to another. And as it is a personal trust, if the master dies, the executor cannot retain the apprentice. The trust dies with the master, for there is no probability that the executor will be able to instruct the apprentice in his trade.† Apprentices, too, are to be employed entirely in the profession or trade which it is intended they shall learn. Instruction is their wages; and to deprive them of the opportunities of instruction, by taking up their time with occu-

* Genesis xiv. 14; xvii. 12.

† Reeve's Domestic Relations, pp. 341-345.

pations foreign to their business, is to defraud them of their wages.*

2. Servants by their own contract. The master's authority over this class of servants extends no further than the terms, or equitable construction, of the contract will justify. Their treatment, as to diet, discipline, and accommodation, the kind and quantity of work to be required of them, the intermission, liberty, and indulgence to be allowed them, must be determined, in a great measure, by custom; for, where the contract involves so many particulars, the contracting parties perhaps express a few of the principal, and, by mutual understanding, refer the rest to the known custom of the country in like cases.†

A master may command his servant to do whatever he may rightfully do himself; but a servant is not bound to obey the unlawful commands of his master, nor is the master's command any legal justification of the servant in doing wrong. In a moral point of view, however, it is a palliation of the wrong, inasmuch as the master may be presumed to be as much superior to the servant in education and influence, as he is in his station. The master is bound by the act of his servant, either in respect to contracts or injuries, when the act is done by authority of the master. If the servant does an injury fraudulently, while in the immediate employment of his master, the master as well as the servant is liable in damages; and he is also liable, if the injury proceeds from negligence, or want of skill, in the servant; for it is the duty of the master to employ servants who are honest, skilful, and careful.

But the master is only answerable for the fraud of his servant, while he is acting in his business, and not for fraudulent or injurious acts or misconduct in those things, which do not concern his duty to his master, and which, when he commits, he steps out of the course of his service. When the servant quits sight of the object for which he is employed, and, without having in view his master's orders, pursues the object which his own malice suggests, he no longer acts in pursuance of the authority given him, and such an act is deemed, both in law and morals, to be so

* See Paley's Moral and Political Philosophy, p. 97.

† Idem, p. 96.

far a wilful abandonment of his master's business. If a servant employs another servant to do his business, and in doing it the servant so employed is guilty of an injury, the master is still liable. But this principle is applicable to those cases only, in which the nature of the business is such as to *require the aid of subordinate persons*, and then there is an implied authority to employ such persons.*

The moral and legal responsibility of the master depends, too, in some degree, on the nature of the service. Inn-keepers and common carriers, for instance, are more extensively liable for the misconduct of their servants, than other masters. If the servants of an inn-keeper should purloin the goods of his guest, the master is liable; and the case is the same, if the servants of the common carrier embezzle the goods that are intrusted to their master. This is a doctrine founded in the best policy; for, in these cases, guests, and those who employ common carriers, are under the necessity of trusting them with their property, without reposing any special confidence in them; for they are generally strangers to them; and the nature of the business of inn-keepers and common carriers is such, as gives them great opportunity for collusion with their servants in robbing their employers. To prevent this mischief, they are both legally and morally made liable for the fault of their servants; and, in such cases, when the master of other servants would not be liable.†

The relation of master and servant is a single instance of the far more general relation of superior and inferior; and the superior party, being always under the very strong temptations of interest, and of that *love of ruling*, which is one of the universal infirmities of human nature,‡ is in special danger of abusing the station which the Providence of God has assigned him, and ought, therefore, to be peculiarly on his guard. One of the ways, in which masters sometimes abuse their station, consists in de-

* Kent's Commentaries on American Law, Vol. II. pp. 209, 210.

† Reeve's Domestic Relations, p. 364. The author, in the three preceding paragraphs, has drawn aid from the law of master and servant, because, on this part of the subject, law, good morals, and sound policy, seem to him to coincide. He proposes to do the same when examining the relation of principal and agent in the next chapter.

‡ "Qui nolunt occidere quemquam, posse volunt," says Juvenal, Sat. X. 96.

frauding their servants of their wages ; and, when this is not done, the smaller abuse is too frequently committed, of delaying the payment of them, much to their inconvenience, annoyance, and injury. The allotment of servants of every description is sufficiently humiliating in itself ; and the wages, which their contract entitles them to expect, is that "hope of reward which sweetens their labor." This small reward ought to be promptly and cheerfully paid. The Hebrew law enjoined immediate payment of servants' wages. It says, "The wages of him that is hired shall not abide with thee all night until the morning."* Few sins are noticed by the sacred writers in more severe terms, than the defrauding servants of their wages.†

Bishop Jeremy Taylor, has, among the numerous subjects of his writings, treated of the duty of masters of families in respect to their servants, and I should do wrong, not to avail myself of his valuable directions. The quaintness of his style seems to give point to his sentiments. "The same care," says he, "is to extend to all of our family, in their proportions, as to our children ; for as, by St. Paul's economy, the heir differs nothing from a servant while he is in minority, so a servant should differ nothing from a child in the substantial part of the case ; and the difference is only in the degrees. Servants and masters are of the same kindred, of the same nature, and heirs of the same promises ; and therefore, (1.) Must be provided of necessaries for their support and maintenance. (2.) They must be used with mercy. (3.) Their work must be tolerable and merciful. (4.) Their restraints must be reasonable. (5.) Their recreations fitting and healthful. (6.) Their religion and the interest of their souls taken care of. (7.) Masters must correct their servants with gentleness, prudence, and mercy ; not for every slight fault, not always, not with upbraiding and disgraceful language, but with such only as may express and reprove the fault, and amend the person. But, in all these things," continues he, "measures are to be taken by the contract made, by the laws and customs of the place, by the sentence of prudent and merciful men, and by the cautions and remembrances given

* Leviticus xix. 13. † Genesis xxxi. 7. 41 ; Jeremiah xxii. 13 ; Malachi iii. 5.

us by God ; such as that written by St. Paul, ‘ as knowing that we also have a Master in heaven.’ The master must not be a lion in his house, lest his power be obeyed and his person hated ; his eye be waited on, and his business he neglected in secret. No servant will do his duty, unless he make a conscience, or love his master ; if he does it not for God’s sake, or his master’s, he will not always need to do it for his own.” *

3. “ Servants born in the house, or bought with the money,” of their master. The greatest part of the servants mentioned in the Scriptures were of this third class.† And the rule prescribed by the enlightened and equitable understanding of Cicero, nearly two thousand years ago, for the treatment of servants of this description, continues to be applicable to their condition at this day ; “ *uti ut mercenariis, opera exigenda, justa præbenda ;*” ‡ that is, their masters are to treat them as they treat *their hired servants*, a suitable portion of labor is to be required of them, and just allowances of the necessities and comforts of life are to be furnished them. Hence, on the ground of this ancient, just, and equitable rule of the great Roman moralist, the directions given by Bishop Taylor to masters, in the case of hired servants, become applicable to the class of servants whose case we are now considering. The duty of the master is to give them healthful and comfortable diet, clothing, and housing ; medical attendance and nursing when requisite, and moral and religious instruction ; since servants are co-heirs with their masters, of the hopes, the promises, the consolations, and the ordinances of the Gospel.§

In return for these, the servant is to give his labor, in singleness of heart, not with eye-service, counting his master worthy of all honor, that the name of God and his doctrine be not blasphemed. || The interest, too, as well as the duty of the master, will lead him to give *suitable protection* to his servants. It is, moreover, both his right and his duty to maintain suitable discipline over them. But he is to do this, remembering, that as he is a master over others on earth, so he has himself a Master in heaven, to whom he is responsible for the discharge of his

* Holy Living, p. 183.

† Michaelis’ Commentaries on the Laws of Moses, Dr. Smith’s translation, Vol. II. p. 155 – 191 ; Horne’s Introduction, Vol. III. 419 – 425.

‡ De Officiis, I. 13. § 1 Tim. vi. 1, 2 ; 1 Cor. vii. 20 – 22. || 1 Tim. vi. 1.

duties to his servants, and with whom there is no respect of persons. The relation of servants of this class to their masters, subsists for life ;— and they may well be regarded as travelling the journey of life in company, equal, in the sight of God, when they begin it, and again to become equal at the end of it, whatever may be the distinctions authorized by law, custom, or reason between them on the way.

Moreover, it is well for masters constantly to keep in mind, how responsible their situation is, in respect to their servants, how much they are intrusted to their judgment, discretion, and good feeling, — and under what strong temptations of passion, prejudice, and mistaken interest they are, to neglect or abuse the extensive discretionary power with which the laws of their country and the providence of God have invested them.*

* In this State (South Carolina), the Common Law of England and of the United States pertaining to the responsibility of a master for the acts done by his *hired* servant, is applicable without much if any qualification to the class of servants whose case is now under consideration. The court said, in 1832, after the most mature consideration of the subject, (see *Moore v. Drayton*, and *Austin, Pacher, & Co. v. Gordon*, Manuscript Records of the Court of Appeals, pp. 137–139,) “ A slave is an agent wholly irresponsible (except for crime) to any one but his master. Where a master employs slaves in any public employment, or trust, such as tradesmen, ferrymen, wagoners, patroons of boats, or masters of vessels in the coasting or river navigation, he undertakes, not only for their skill and faithfulness to all those who may employ them, but also for their general skill and faithfulness to the whole community. He constitutes them his agents for all those purposes, and the maxim, *Qui facit per alium, facit per se*, applies in full force to every act which they do in the course of his employment. If he would himself be liable for negligence or unskillfulness in the discharge of these vocations, it follows, that the act done by his agent, being his own act in point of law, must make him liable for all consequences which result from it. Unless this was the rule, the situation of the people of this State would be unfortunate indeed. They and their property might be injured and destroyed by the negligence or unskillfulness of a slave employed by his owner in some public capacity, and they could have neither remedy for the injury, nor could they compel the master even to punish his agent. There is no hardship in holding the master to be responsible ; for, when he selects a slave for any public employment, he ought to have every possible inducement held out to him to compel him to make a worthy selection. A slave who is permitted to pursue a public employment out of the immediate and personal control of his master, ought to be so worthy of his master's confidence, that he would be willing to guaranty his prudence and skill to every one. This is the guaranty which is implied in every public employment committed to a slave.

“ The rule,” continues the court, “ is well settled in England, in the case of hired servants, and there can be no reason why it should not apply in the case

CHAPTER II.

THE RELATION OF PRINCIPAL AND AGENT.

THE kinds of agents most worthy of the notice of a moral philosopher are attorneys, brokers, factors, and other mercantile, manufacturing, and agricultural agents. I proceed to explain the nature of their duties.

of slaves. Indeed, reasons exist why it should be here extended to acts done wilfully in the course of a public employment, and to which the master's assent, from its nature, may be fairly implied."

In this decision, sound policy, law, reason, and morals, as they always ought, fully coincide. In truth these terms in their best sense, always mean the same thing. Besides this, we have two earlier decisions in this State, on the same subject, which may be seen in 2 Bay, p. 345, and 3 McCord, p. 400.

By our laws, too, the lives and limbs of servants (slaves) are protected against their masters and all others;—their masters are required by law to furnish them with sufficient food and clothing;—excessive and cruel chastisement is also punishable by law. The reason for enacting these provisions is declared by our legislature, to be, because "cruelty is not only highly unbecoming those who profess themselves Christians, but is odious in the eyes of all men who have any sense of virtue and humanity." Servants are further declared "to be under the *protection* of the masters and managers of plantations, as well as under their government;" and, to prevent the provisions of the act from being evaded in their "true intent and meaning," it is enacted, that, under circumstances calculated to favor evasion, "the master shall be adjudged guilty of the offence, unless he can make the contrary appear by *good and sufficient evidence*, or shall, by his own oath, clear and exculpate himself." (2 Brevard, pp. 240—242.) Moreover, any person who shall wilfully murder any servant (slave), must, by the laws of this State, answer for such servant's life by forfeiting his own. (Acts of 1821, p. 12.) I do not find any law, which requires the master to give his servants moral and religious instruction; but the Act of 7th June, 1712, secures baptism to all servants who may wish to receive that sacrament, and also the profession of the Christian faith; and the practice is nearly universal for masters, not only to permit, but to encourage their servants to attend divine worship on Sunday. Provision is made, too, for their accommodation, in almost, if not quite, all our churches. The Spanish laws, on this subject, may well be commended, which require masters to have their servants prepared for baptism by suitable instruction, and to pay a priest to explain to them the Christian doctrine, and to administer to them the holy sacraments of the Church. (See Royal Spanish Order, contained in Report of 11th of August, 1832, made to the House of Commons on the Extinction of Slavery throughout the British Dominions, folio, p. 241.)

Whoever undertakes another man's business, thereby makes it his own ; for he knows that the business was committed to him with that expectation. If, therefore, he has used such a degree of activity, and practised such caution, as the importance of the business, in his judgment, deserved ; that is, as much as he would have used, if the same interest of his own had been at stake, he has discharged the full measure of his duty, although it should afterwards be found, that, by greater activity, diligence, and perseverance, he might have transacted the business with greater advantage.* This is the general principle of the morals of principal and agent ; — but still some expansion and application of the principle cannot fail to be useful. This is the more manifest, because the relation of principal and agent is but one branch of the more comprehensive relation of employer and the person employed ; and, as all persons are either employers of others, or are employed by them, and often both, the rights and duties growing out of this relation belong, in substance, to all the modifications of the more comprehensive one, and ought, therefore, to be accurately as well as universally understood.

The authority of the agent may be created by writing, or verbally without writing ; and, for the ordinary purposes of business, the latter is sufficient. Or the agency may be inferred from the relation of the parties and the nature of the employment, without proof of any express appointment. It is sufficient, that there be satisfactory evidence of the fact, that the principal employed the agent, and that the agent undertook the trust. And the extent of the authority of an agent will sometimes be extended or varied on the ground of implied authority, according to the pressure of circumstances connected with the business with which he is intrusted. Even an acquiescence in the *assumed* agency of another, when the acts of the agent are brought to the knowledge of the principal, is equivalent to an express authority. By permitting another to hold himself out to the world as his agent, the principal adopts his acts, and will be held bound to the person who gives credit thereafter to the other in the capacity of his agent.

* Paley's Moral and Political Philosophy, p. 99.

There is a very important distinction, on the subject of the powers of an agent, between a general agent and one appointed for a specific purpose. An agent, *who is intrusted with general powers*, must exercise a sound discretion. If his powers are *special and limited*, he must strictly follow them. The acts of a general agent will bind his principal so long as he keeps within the general scope of his authority, even though he may act contrary to his private instructions; and this rule is necessary to prevent fraud, and encourage confidence in dealing. It is, in fact, indispensable to safety in dealing. A general agency is always in a considerable degree *confidential*. A general agent must exercise a sound discretion in the business of his principal, and, even if he has his instructions, he may depart from them, when, from some change in the circumstances, he is fully convinced, that his principal, if he were present, would change his intention. This rule is designed to guide, under a change of circumstances, the judgment and consciences of those whose agencies are confidential. But an agent constituted for a *particular purpose*, and under a limited power, cannot bind his principal, if he exceeds his power. The special authority must be strictly pursued; and whoever deals with an agent, constituted for a special purpose, deals at his peril, when the agent passes the precise limits of his power.*

It is scarcely necessary to say, that an agent, in all his intercourse and in all his transactions with his principal, is bound in conscience to act up to the confidence which is reposed in him. In the case of a general agency, the relation between the parties is highly confidential, and imports the most perfect good faith between them. Even the law of the land, whose general standard of conduct in respect to morals is imperfect,† speaks on this subject in a tone well fitted to command attention, respect, and deference. "The law, acting in aid of general morals, will not suffer one party, standing in a situation of which he can avail himself against the other, to derive advantage from that circumstance; for it is founded in a breach of confidence." Again; the general principle of law, which governs in this

* Kent's Commentaries on American Law, Vol. II. pp. 477-492.

† See above, pp. 31, 32.

case, and in many other analogous relations which subsist among men, such as lawyer and client, guardian and ward, trustee and beneficiary, (that is, the person beneficially interested,) is "that, wherever confidence is reposed, and one party has it in his power, in a secret manner, for his own advantage, to sacrifice those interests which he is bound to protect, he shall not be permitted to hold any such advantage." * Further, the law interposes, upon "a motive of general public policy, and in a certain degree gives protection to the parties against the effects of overweening confidence, and self-delusion, and the infirmities of hasty and precipitate judgment." And, although courts of justice "do not sit, or affect to sit, in judgment upon cases, as *custodes morum*, enforcing the strict rules of morality," yet they maintain, that, "if confidence is reposed, it must be faithfully acted upon, and preserved from any mixture of imposition; if influence is acquired, it must be kept free from the taint of selfish interests, and cunning and overreaching bargains; if the means of personal control are given, they must be always restrained to purposes of good faith and personal good." †

"In all cases," says Mr. Justice Story, "the principal contracts for the aid and benefit of the skill and judgment of the agent; and the habitual confidence reposed in the latter makes all his acts and statements possess a commanding influence over the former. Indeed, in such cases, the agent too often so entirely misleads the judgment of his principal, that, while he is seeking his own peculiar advantage, he seems too often but consulting the advantage and interest of his principal; placing himself in the odious predicament, so strongly stigmatized by Cicero; *Totius autem injustitiæ nulla capitalior est, quam eorum, qui, cum maxime fallunt, id agunt, ut viri boni esse videantur.*‡ It is, therefore, for the common security of all mankind," continues he, "that gifts procured by agents, and purchases made by them

* See Story on "Constructive Fraud," in his Commentaries on Equity Jurisprudence, Vol. I. pp. 305, 319, 320.

† Idem.

‡ De Officiis, Lib I. c. 13. Translated thus; "No class of men are guilty of more flagrant injustice than those, who, in the midst of their wrong conduct, so disguise it, as, at the same time, to wear the garb and put on the appearance of upright men."

from their principals, should be scrutinized with a close and vigilant suspicion. And, indeed, considering the abuses which may attend any dealings of this sort between principals and agents, a doubt has been expressed, whether it would not have been wiser for the law in all cases to have prohibited them; since there must almost always be a conflict between duty and interest on such occasions."*

A special agency is chiefly *ministerial*, and is constituted for the purpose of having some particular act performed, of effecting some particular purpose, or of accomplishing some special service. Thus, when an attorney is employed to treat for an estate, which is a case of confidential agency, if he finds a defect in the title, he very properly desists, until he can confer with his principal. But if the commander-in-chief of an army detaches a subordinate officer upon a particular service, which service is found more hazardous, or otherwise more difficult, than was supposed; so much so, that the officer is convinced, that his superior, if he were acquainted with the true state of affairs, would recall or modify his orders; still this officer must, if he cannot wait for fresh instructions without prejudice to the service upon which he is detached, pursue at all hazards, those which he brought with him.† This, it must be admitted, is an extreme case, — and it is always proper, that even a ministerial (special) agent, should keep in view the nature of the service he is to render, and of the business he is to transact, and that he should in some degree make this his guide. In every great change, especially every sudden change of circumstances, which could not have been anticipated, it is his duty, if possible, to wait for further instructions from his principal.

When an agent is made responsible for the issue of any business or enterprise intrusted to him, he ought to be permitted to appoint his assistants and, to choose his own means by which to accomplish the object; and, whenever an agent is not allowed to appoint his assistants and to choose his own means, he cannot equitably be made responsible for the result.

In one class of instances which come within this relation, the

* Commentaries on Equity Jurisprudence, Vol. I. pp. 310, 311.

† Paley's Moral and Political Philosophy, p. 100.

person employed advises and directs his employer, — of which, the lawyer and his client, the physician and his patient, the clergyman and his congregation, are the chief and most familiar cases. This, too, is the nature of the relation subsisting between the Faculties of our universities, colleges, &c., and the Boards of Trustees which employ them, so far as the *literary and professional department* of those institutions is concerned. These cases, in which the advice of the person employed governs the conduct of the employer, are of all, the most honorable kind of agencies. In them, moreover, a special responsibility always rests on the person employed. In all these cases, the employer calls into requisition and pays for, the peculiar skill and knowledge, and not merely or chiefly the manual labor, of the person employed. And the employments of life rise in rank, in proportion as they require more skill, knowledge, and integrity, for their successful exercise.

CHAPTER III.

THE OBSERVANCE OF TRUTH.

THIS general form of expression is used to designate this part of my subject, because there are many violations of truth, besides direct falsehood. An adherence to truth is deservedly esteemed the chief of the personal virtues, and a disregard of it is universally numbered among the most flagrant offences against manners, morals, and religion. A single deliberate falsehood is a stain on the character which cannot easily be wiped away.

“Ye shall not steal,” says Moses to the Hebrews, “neither deal falsely, neither lie one to another.”* David makes it a characteristic of the wicked, that “they go astray speaking lies as soon as they are born, that they love evil more than good, and lying rather than to speak righteousness.”† Again, “Lying lips are an abomination to the Lord, but they that deal truly are his

* Leviticus xix. 11.

† Psalms lviii. 3; lii. 3.

delight." * "Lie not one to another," says St. Paul, "seeing that ye have put off the old man with his deeds, and have put on the new man, which is renewed in knowledge after the image of him that created him." † Again, St. Paul says, "The law is not made for a righteous man, but for the lawless, for the ungodly, and for sinners, for the unholy and profane, for murderers of fathers and murderers of mothers, for manslayers, for whoremongers, for liars, for perjured persons, and if there be any other thing that is contrary to sound doctrine." ‡ St. John says, "All liars shall have their part in the lake which burns with fire and brimstone." § Again, "There shall in no wise enter into it (the holy Jerusalem) any thing that defileth, neither whatsoever worketh abomination, or maketh a lie." And again, "Without are dogs, (*all persons not good men, all defiled by sin,*) and sorcerers, and whoremongers, and murderers, and idolaters, and whosoever loveth and maketh a lie." ||

In these passages, falsehood is ranked with perjury, murder, sorcery, idolatry, parricide, and whatsoever worketh abomination. We may not perhaps be warranted in concluding, that all these sins are of an equally dark dye; but assuredly we may conclude, that falsehood is any thing but a light sin, when it is ranked, on Divine authority, with the abominations of perjury and parricide, without any mark of discrimination between them.

And, when we advert to the *consequences* of general and indiscriminate falsehood, we must be convinced, that right reason coincides with and sustains Divine revelation in its estimate of the importance of truth, and of the abomination of falsehood; and that mankind are not in the wrong in estimating a regard for truth as the first of the personal virtues. The seal of universal reprobation is rightfully fixed on wilful and deliberate lying. Mutual confidence is the main spring of all that renders life valuable; and a regard for truth is the corner-stone, nay, it is the entire foundation, of all the confidence which exists, whether in the social intercourse, or in the business transactions, of mankind. So accustomed are we to receive and reciprocate confidence, that we cannot, without some reflection, be sensible of its abso-

* Prov. xii. 22.

† Col. iii. 9, 10.

‡ 1 Tim. i. 9, 10.

§ Rev. xxi. 8.

|| Rev. xxi. 27; xxii. 15.

lute necessity to the welfare of mankind. Occasions for reposing it occur every hour, at home and by the wayside, by day and by night, in solitude and in company.

Let us suppose, for a moment, the great moral obligation of a mutual regard for truth to be dissolved, — no man reposing confidence in another, or entitled to it himself; — who does not see, that universal suspicion and distrust, insecurity, anxiety, and alarm, must be the consequence? Direct and deliberate falsehood, therefore, is so personally disgraceful, so pointedly condemned by Scripture, and tends in its consequences to such overwhelming, such universal ruin of every thing valuable and estimable in life, that it is condemned universally, — no voice is ever raised in its justification. But, as has been said before, truth is accustomed to be violated in many ways, besides direct falsehood. It is violated whenever there is an intention or a willingness to deceive. Without attempting a complete enumeration of these ways, I shall touch, as I may, upon those which are most worthy of the notice of an elementary writer on morals.

1. Truth is violated when facts, reasonings, circumstances, or any thing else, by whatever name called, are suppressed or omitted, with the knowledge or belief, that any person will be led into error or mistake by such suppression or omission. I do not say, that the omission or suppression of facts, circumstances, or whatever else is seen to be necessary to lead the reader or hearer into the truth, is equally criminal with the direct assertion of what is known to be false; — it may not be so, there are degrees in all offences, — but it is unquestionable, that the one as well as the other is a great violation of truth. And the comparative frequency with which truth is violated in this way, makes it a matter of importance, that this part of the subject should be well understood. Various sources of illustration might be used to set this point in a clear light.

Truth is violated by the historian, when he omits facts and circumstances, the absence of which prevents his narrative from making such an impression of events, characters, and transactions, as would be communicated by stating the truth in the full measure of its integrity, and without disguise. The truth of history requires, that nothing be suppressed or omitted, which can mate-

rially affect the general impression made by the narrative.* History is the greatest of earthly tribunals; but all its dignity and glory vanish, when truth no longer sits supreme on the seat of justice. Again, truth is violated by the biographer, when he suppresses or omits incidents and traits of character, which are necessary to the full understanding and estimate of the person whose character he has undertaken to portray.

Does not the lawyer, also, violate truth in the same way, when he suppresses or omits facts, authorities, and circumstances, knowingly, and for the purpose of leading the court and jury astray? I will permit the late Sir James Mackintosh to answer. "He who is influenced by the spirit of integrity," says he, "will never himself misrepresent, or be knowingly the cause of others misrepresenting the truth in a court of justice; no prospect of advantage to himself or his client will tempt him to the commission of so gross an error. I will mention two modes (by way of caution) in which it may be committed; 1. by giving a false color to facts, in his own statement of them to the jury; 2. by turning the answers of witnesses to purposes eccentric from their original design. Both these are very bold attacks upon the understanding and common sense of men. Integrity is averse from a conduct like this; it teaches its pupil to consider, that in a court of justice the grand aim is *truth*; and that a subversion of truth cannot be achieved, but at the expense of honor; an expense which no man of a right mind will willingly incur."†

2. Truth is violated, by speaking or writing with a view to produce a particular effect, but without much regard to the truth of what is spoken or written, provided it is calculated to accomplish the desired end. Controversial writers of every description are frequently guilty of violating truth in this way. Stimulated by the anticipated shouts of victory, or mortification of defeat, truth, in too many cases, soon ceases to be their main object, if it was so at first; moral and equitable restraints are gradually cast aside; and at length, blinded by prejudice, and heated by passion, nothing serves their purpose which does not

* Cicero, De Oratore, Lib. II. c. 15.

† Study and Practice of the Law, pp. 245, 246.

seem to sustain and strengthen their own side, or militate against the side taken by their adversaries. Hence arise misstatements of the subject under discussion, mutual misrepresentation of the motives, opinions, designs, feelings, and arguments of the respective adversaries, misquotations and mistranslations of authorities ; partisan and sometimes personal attacks, and offensive personal imputations, made by one party in order to fix public prejudice and odium on the opposite party and his cause ;—these, all these practices and many more, must be familiar to all who are accustomed to peruse controversies.

This spirit and these practices, in some degree, infect the controversies which spring up in literature, in science, in morals, and even in religion ; but it is in *political party warfare*, that the spirit of perversion and misrepresentation of the truth rages with tenfold virulence and bitterness. I must be sustained by the convictions of every candid and experienced politician, when I assert, that the *effect*, much more than the *truth*, of what is written, is regarded by the great body of our political partisan writers. Nay, must I not be sustained in further asserting, that the practice of sacrificing *truth* to *effect* has gradually found its way, from the partisan newspapers and journals, to the speeches of our legislators, and even into those still more grave and important productions, the reports of our legislative committees, and the messages of our chief executive magistrates ? Is it too much to say, that in the sacrifice of *truth* to *effect*, our gravest political documents are sometimes stained with assertions and statements, which must be known by the authors to be perversions and misrepresentations of the truth ? I am unwilling to refer to particular instances of such statements made in our gravest official documents ; and, fortunately for me, such particular reference is not necessary, — instances enough to justify me, cannot fail to occur to the memory of every one who is familiar with our recent political documents and history. This is violating historical truth in its ultimate sources, and it is worthy of the most mature and candid consideration of every patriot and statesman, nay, of every good citizen, whether this practice does not threaten, if it cannot be arrested, to render the future political history of this

country, in a great measure, uncertain, confused, and problematical.

3. Again, truth is violated by the practice of repeating stories, narratives, and statements improbable in themselves, without much or any inquiry into their credibility, and without much regarding whether they are true or false. To originate such narratives and statements, without any ground on which to rest them, is, except that the intention of deceiving may be wanting, absolute and unqualified falsehood. And no man, who attaches much value or importance to truth, will be willing to assert any thing without knowing it to be true, or without a belief and assurance of its truth, resting on grounds reasonably entitled to confidence. Actual knowledge, then, or reasonable grounds of assurance, can alone justify us in asserting any thing for truth. And he does not show much respect for truth, who positively asserts any thing, of which he is not assured, and of which he might be assured by inquiry.

Nor will a man, scrupulously regardful of truth, indulge himself in the habit of amplifying, exaggerating, and supplying circumstances, with a view to embellish the narrations or anecdotes which he may have occasion to relate, and thus to season his conversation, render it more attractive, and spice it to the taste of a circle of gay companions. Such a habit is dangerous; it may gradually undermine and impair, or perhaps, even destroy, a man's regard for truth, before he is sensible of the effect. Truth is too sacred a subject to be trifled with; and such a habit, if it is not positively and unequivocally criminal, is assuredly overstepping the line of safety. Our safety, in such a case, consists in avoiding even too near an approach to the division line between right and wrong. Habits grow insensibly upon the individuals who practise them, until their remote results are widely different from any thing, which, in the outset, could have been anticipated.

There are some instances on record, equally fitted to surprise and to instruct us in regard to the importance of an habitually strict observance of truth. The habit of amplifying on every occasion, of exaggerating and supplying circumstances whenever there is a temptation to do so, and, still more, of making positive affirmations upon inadequate grounds of assurance, has sometimes

led men eventually to mistake the suggestions of their passions and the promptings of their imaginations for truth, and to impose them on themselves and on others as such.* By a confirmed habit of disregarding truth, men have come at length *firmly to believe their own falsehoods*. It can scarcely be necessary to observe, that any thing said under this division, does not apply to tales, parables, or other fictitious writings, designed for amusement or instruction.

4. Certain forms of expression, usual in polite circles of society, seem to be inconsistent with the sincerity of character in which much of truth consists, and with that simplicity and directness of intercourse recommended by our Saviour, when he says, "Let your communication be, Yea, yea; Nay, nay; for whatsoever is more than these cometh of evil."†

When a stranger enters the house of a Spanish gentleman, properly introduced, he never fails to assure him, that both it and himself are perfectly and always at his disposal. He says to his guest, "Sir, here you have a house, this house is yours; if I can serve you in any way, command me, — I am always at your disposal."‡ And Miss Edgeworth must be good authority for saying, that, in England, a general invitation to visit, means nothing but "Good morning to you."§ Any one, in the slightest degree acquainted with the modes of intercourse which prevail in fashionable life, cannot fail to know, that similar usual, but insincere forms of expression, are very common elsewhere than in Spain and England. Every person with whom we are accustomed to hold intercourse, is entitled to a polite, decorous, and respectful style of address. A just indulgence, too, may be allowed in favor of hyperbolical, ironical, and other playful forms of expression, by which cheerfulness, good humor, and good feeling may be very much promoted. But, as on other subjects, just limits are to be observed, to transgress which is an offence against good taste, propriety, and decorum, if not against good morals.

It is sometimes said, that it is well to give good words to

* See Report to the U. S. House of Representatives, of April 30th, 1832, on the Bank of the United States, written by John Quincy Adams, p. 389.

† Matt. v. 37. ‡ Wines' Two Years and a Half in the Navy, Vol. I. p. 171.

§ Helen, Vol. I. p. 12.

persons, when it is in your power to give them nothing else. This is very true, but a kind and polite address, and terms perfectly courteous, are always consistent with the strictest observance of truth ; as, also, bluntness of address and rudeness of language are quite consistent with an habitual disregard of truth. In fact, these observations pertain to good manners quite as much as to good morals ; or rather, in this instance, these two departments meet and mingle with each other. Whatever is inconsistent with truth, reason, propriety, decorum, a just taste, self-respect, and mutual respect, is equally at variance with both.

Dr. Paley, among several instances of falsehoods which he says are not criminal, includes the case of a servant denying his master ; that is, saying to visitors that his master is not at home, when he knows him to be in the house, probably in the next room. As this is one of the most exceptionable of the usages of fashionable society to which I have referred, and as it has been frequently justified by persons whose general tone of moral feeling and conduct is sound and healthy, (and Dr. Paley is one of these,) I may be excused for giving it a moment's consideration.

The ground taken by those who justify the practice, is, that it is a polite and inoffensive way of refusing to see a visitor, whom the person visited does not wish to see ; that it is conventional and well understood by those who use it. This is the best ground on which to rest it ; and, if the visitor and the person visited were the only parties concerned, it might be too much the part of a precisian to make objection against it. But a man's language and actions seldom terminate with himself, — the message to the visitor at the door is heard by the children of the family, — they cannot understand how it is consistent with truth, — and, assuredly, their respect for the claims of truth is impaired. But this is not all. The message is carried by a servant ; he does not understand its consistency with truth, he has not much education, and is unaccustomed to refined distinctions ; the example of his master is apt to be, in all respects, a standard high enough for him ; his regard for truth is diminished, and his opinion of its obligation is unsettled. Now children and servants comprise a very large part of mankind, and those who are now children will

be the men and women of the next generation. Query. Does a gentleman when he has directed his servant to "deny him" to a visiter, feel, during the next hour, quite as much respect for himself as he did during the hour previous? Is he perfectly satisfied, that he has set up a standard of truth safe for his children and servants?

CHAPTER IV.

OATHS.

THE observance of truth is the highest of the personal virtues, — its violation is always a gross personal degradation, — not only so, falsehood is a heinous offence against manners, morals, and religion. Its tendency too, as seen in its effects, is always injurious; or, if its effects are *not always actually so*, still the liar is entitled to no credit by reason of this, — his conduct is not palliated, much less justified, by this circumstance. Its tendency may be counteracted, but this does not change its nature. This is undeniably and unchangeably evil.

This is true of the affairs of ordinary life; but in certain special cases, the chief of which are trials in our courts of justice, the general and frequent violation of truth would be attended with universal and overwhelming calamities, inasmuch as the life, character, and estate of every man would be no longer secure. There are, moreover, certain situations, and especially public offices, usually called, by reason of their excellence, "*offices of honor, trust, and profit*," which require, for the performance of their duties, special uprightness and integrity of character, inasmuch as their suitable discharge presupposes all the moral qualities which constitute trust-worthiness; and the persons invested with these offices must, from the nature of the case, be in a great measure the judges of their own duties. The virtue of the best of men is imperfect, — hence, for the security of the public, all possible means have been devised for attaining truth in our tribunals of justice, and for strengthening and con-

firming the integrity of those who are invested with situations and offices of trust.

One of the chief means, which have been relied on to secure the observance of truth in witnesses, and integrity in those who hold situations of public trust, is, the administration of oaths, by which, earthly virtue, imperfect as it is, may be confirmed by the great ultimate sanction of morals, — the consideration of a future state of rewards and punishments. Men continue, as in the days of St. Paul, to “swear by the greater, and an oath for confirmation is” still “to them an end of all strife.”* I shall consider oaths under the several divisions, — 1. Of their lawfulness. 2. Their forms. 3. Their signification. 4. Their efficacy as securities for truth and integrity. 5. Their abuse. 6. In what cases they are not binding.

1. The use of oaths on solemn occasions, especially to give the highest binding force to solemn and important transactions, is coeval with the first dawn of history. The distinction between judicial and profane swearing seems to be recognised in the ten commandments (compare the third and ninth); and an examination and comparison of the passages in the New Testament, which pertain to oaths, † has had the effect of convincing all Christians, except the Quakers and Moravians, of their lawfulness in a moral point of view. The distinction, indeed, between judicial and profane oaths is a very plain one; and, while the former are clearly sanctioned by the sacred writers, the latter are condemned and forbidden by them. From respect to the plea of a tender conscience, urged by the Quakers and Moravians, the forms inserted in our political constitutions, and used in our courts of justice and wherever else judicial oaths are accustomed to be administered, generally, if not always, admit of an *affirmation* instead of an oath. In the view of every good man, however, this is a difference in form rather than in substance. ‡

2. The forms of oaths and the ceremonies accompanying their

* Heb. vi. 16.

† Matt. v. 33–6; xxvi. 63; Rom. i. 9; 2 Cor. i. 23; Heb. vi. 16; James v. 12.

‡ The lawfulness of oaths is well vindicated by Dr. Paley, in his *Moral and Political Philosophy*, pp. 112–114, — and strenuously opposed by Dymond, *Essays on Morality*, pp. 147–152.

administration, have been very various in different ages and countries. The ancient ceremonies, with which oaths were administered, were of a most imposing kind; and we may remark as a fact of some interest, in descending the chain of history from ancient to modern times, a gradual simplification of oaths and the accompanying ceremonies, as knowledge, intercourse, and good faith have become more common.

A very ancient form of the oath consisted in slaying an animal, cutting it into halves, placing the halves opposite to each other, sometimes upon opposite altars, between which the party or parties to be sworn, passed. This form appears to have been used, when covenants and treaties were made, and upon other occasions of unusual importance. Jeremiah says, "I will give to punishment the men who have not performed the words of the covenant which they had made before me, *when they cut the calf in twain, and passed between the parts thereof.*" * This ceremony was highly significant, importing that the person sworn consented to be cut to pieces in like manner with the animal slain before him, if he failed to observe the oath. Sometimes the victim was struck down with an axe, in the presence of the jurors, without being cut into pieces; the striking being preceded by an imprecation. † Hence the Latin phrase *ferire fœdus* or *pactum*, from whence the English phrase *to strike a bargain* seems to be derived. This ceremony had the same import with the preceding. ‡

In the middle ages, when violence and bad faith were equally the chief characteristics of the times, the parties were sworn, on occasion of important transactions, at the altar of the church, before the consecrated host, or, which was esteemed still more binding, upon the relics of the Saints. The form of doing homage used by vassals to their liege lords, which consisted in the vassal's putting his hands between the knees and within the hands of the liege, at the same time kneeling before him, and which is in some countries continued to this day, may very

* Jer. xxxiv. 18; Gen. xv. 9, 10, 17. Homer's *Iliad*, II. 124; III. 105.

† Livy, Lib. I. c. 24.

‡ See Calmet's *Collections*, under the terms "Oath" and "Covenant," and in *Fragments*, Nos. 63, 129, 131, 277.

probably have been derived from the form of the oath seen in Genesis xxiv. 2, 3, as the variation is not very considerable.*

In Scotland, and in some of the United States, the juror, when sworn, holds up his right hand. Dr. Paley thinks this ceremony was derived from the Jews, and that it explains Psalm cxliv. 8, which says, "whose mouth speaketh vanity, and their right hand is a right hand of falsehood."† This, however, more probably refers to the pledge accustomed to be entered into by the parties to an engagement, and evidenced by the joining of their hands. In England, and in several, probably in most of the United States, the juror, while repeating, or more generally listening to the oath, takes a copy of the Bible, or of the Four Gospels, in his right hand, or lays the same hand upon either of them, and the ceremony concludes with his kissing the sacred volume. In England, too, an oath administered to a Jew upon the Old Testament or upon the Pentateuch, to a Mahometan upon the Koran, and to a Gentoo according to the form prescribed by his religion, has been recognised as valid.‡ The reasonable principle, and the one intended, I presume, to be established, is, that every man, when admitted to an oath, shall be bound by the highest sanctions of his own religion. This principle has been expressly sanctioned in the Revised Statutes (ch. 94, sec. 11.) of Massachusetts, and I doubt not, either has been, or would be, if occasion should arise, admitted and acted upon by every court of justice in the United States.

3. The signification of oaths. An oath may well be called a religious act,§ since by it the existence of God is acknowledged, and an appeal is made to his omniscience, his omnipresence, and his retributive justice. The ancient forms and imposing ceremonies were addressed to the senses and the imagination, and were well suited, we may presume, to the state of the times in which they were devised and used, when, amidst general vio-

* See Hawkins' Picture of Quebec, p. 130.

† Moral and Political Philosophy, p. 110.

‡ 1 Atkyns, 21; Phillips' Law of Evidence, 19.

§ This view of an oath is as ancient as the time of Cicero, who says, "Jurandum affirmatio religiosa est." De Officiis, Lib. III. 29.

lence, bad faith, and ignorance, it was indispensable to call in the aid of the senses and the imagination, to make a suitable impression on the understanding and conscience. The advance of knowledge, of morals, of religion, and of general cultivation, have rendered the simple forms and ceremonies of modern times adequate to the attainment of the end designed. The substance of the meaning of every oath must be, an appeal to Almighty God, in which the juror invokes his vengeance or renounces his favor, if he knowingly declares what is false, willingly fails to perform his promise or contract, or otherwise violates the terms of the oath in their known signification.

In taking the "oath in evidence," the witness swears "to speak the truth, the whole truth, and nothing but the truth," touching the subject of inquiry. This form is brief, appropriate, and easy to be understood. The designed concealment of any truth, which relates to the matter in question, is as much a violation of the oath, as to testify to a positive falsehood; and this too, even if the witness is not questioned as to that particular point. The oath requires of the witness, that he give a *complete and unreserved* account of what he knows of the subject of the trial, whether or not the questions proposed to him reach the extent of his knowledge. So that if it be inquired of a witness after the trial, why he did not inform the court on any particular point, the reply that he was not questioned on that point, is not a satisfactory answer.

There is one exception to this rule, and only one, to wit; when a full disclosure of the truth tends to convict the witness himself of some *legal* crime. Our law constrains no man to become his own accuser, and consequently must impose the oath in evidence with this tacit reservation. But the exception must be confined to *legal* crimes. A point of honor, of reputation, or of delicacy, may make a witness disinclined to disclose some circumstance with which he is acquainted; but a concealment of the truth, for either of these reasons, is in nowise justifiable. When, however, an accomplice is admitted to give evidence against his associates in crime, he may, and must, testify against himself, as there is a compact to this effect, between himself and the State. In criminal prosecutions, tenderness to the

prisoner, though a specious apology for concealment, is no just excuse; for, if it were so, it would take the administration of penal justice out of the hands of judges and juries, and make it depend upon the temper of prosecutors and witnesses.

Questions may be asked, which are irrelative to the cause, which affect the witness himself, or some third person; in which, and in all cases where the witness doubts concerning the pertinency and propriety of the question, he ought to refer his doubts to the court. The answer of the court in explanation, or even in relaxation, of the oath, is authority enough to the witness; for the law which imposes the oath may remit what it will of the obligation, and it belongs to the court to declare what the mind of the law is. Moreover, as oaths are designed for the security of the imposer, (the rule is, *Jurare in animum imponentis*,) it is manifest that they must be understood in the sense in which *the imposer intends them*; otherwise they afford no security to him.*

4. The efficacy of oaths, as securities for truth and integrity. Every one who has in mind the observations of Cicero on the oath of Regulus,† by which he bound himself to return to the Carthaginians, unless he should effect an exchange of prisoners, must be satisfied, that oaths were highly efficacious among the Romans during the best days of their commonwealth. And Cicero says, that the conduct of Regulus, in adhering to his oath, which must ever call forth the highest admiration, did not so much spring from *his individual virtue*, as from *the virtue of the times* in which he lived.‡ The spirit of those times would not have permitted him to do otherwise than observe his oath, cruel as was the punishment which awaited him on his return. If, then, oaths were thus efficacious under a system of false religion, ought a Christian to doubt their efficacy as securities for truth and integrity, when administered under the sanctions of the true religion?

The administration of an oath will make even a good man more circumspect in giving his testimony; and the number of men must be very small, who are hardened enough to stand up

* Paley's Moral and Political Philosophy, pp. 115-117.

† De Officiis, Lib. III. c. 26-32.

‡ Idem, c. 31.

in a court of justice, and utter deliberate falsehood, under the sanctions and solemnities of an oath. We may well believe, that many a man may be frequently guilty of lying, who will shrink from committing perjury.

We may be further satisfied of the security of oaths, by adverting to the difference between perjury and ordinary lying. Perjury is a sin of greater deliberation than lying. The thought of God and of the sanctions of religion is brought home to the understanding and conscience of the juror at the time, by the administration of the oath. If he offends, therefore, it is with a high hand, — his offence is a more daring defiance of the sanctions of religion, and a more daring contempt of the knowledge, power, and justice of God, than ordinary lying, in which there may be nothing to lead the mind to any special reflection upon the Deity.

Again, perjury violates confidence more flagrantly than lying. Mankind must trust to one another; and if they cannot trust to an oath, they have nothing to which they can trust. Hence, legal adjudications, which govern and affect every right and interest on this side of the grave, of necessity proceed and depend upon oaths. Perjury, therefore, in its general consequences, strikes at the security of reputation, property, and even of life itself. The same credit is not given to statements made in the ordinary way; and, therefore, lying cannot do the same mischief with perjury.

Moreover, God directed the Hebrews to swear by his name; * and was pleased, “in order to show the immutability of his own counsel,” † to confirm his covenant with that people by an oath; neither of which things, it is probable, he would have done, had he not intended to represent oaths as having some meaning and effect beyond the obligation of a mere promise; which effect must be owing to the more severe punishment with which he will vindicate the violation of oaths. ‡ Finally, the declarations of judges, lawyers, and other official persons, are nearly if not quite uniform in favor of oaths, as securities for the attainment of truth in

* Deut. vi. 13; x. 20.

† Heb. vi. 17.

‡ Paley's Moral and Political Philosophy, pp. 114, 115.

the administration of justice. History, argument, and experience, therefore, combine to satisfy us of the efficacy of oaths, as securities for truth and integrity.

5. The abuse of oaths. During many years past, complaints in regard to the administration of oaths, have been frequent and general in England and in the United States. It has been complained, that oaths have been unnecessarily multiplied; that they are required on trifling occasions; in cases in which the juror does not and cannot know the truth of the matter on which he is sworn; that it is degrading for men of dignity and elevation of character to confirm their assertion by an oath; and that the prevalence of oaths has produced upon the community a very material and very general effect, in reducing their estimate of the obligation of plain truth, in its natural and simple forms.

All this has been said, and much more. Dr. Paley says, "It merits public consideration, whether the requiring of oaths on so many frivolous occasions, especially in the customs and in the qualification for petty offices, has any other effect than to make them cheap in the minds of the people. A pound of tea," he continues, "cannot travel regularly from the ship to the consumer without costing half a dozen oaths at the least; and the same security for the due discharge of their office, namely, that of an oath, is required from a church-warden and an archbishop, from a petty constable and the chief justice of England."* And Mr. Dymond says, "Oaths, at least the system of oaths which obtains in this country (England), tend powerfully to deprave the moral character. We have seen," continues he, "that they are continually violated,—that men are continually referring to the most tremendous sanctions of religion, with the habitual belief that these sanctions impose no practical obligation. Can this," he asks, "have any other tendency than to diminish the influence of religious sanctions upon other things? If a man sets light by the divine vengeance in the jury-box to-day, is he likely to give full weight to that vengeance before a magistrate to-morrow? We cannot prevent the effects of habit. Such things will infallibly deteriorate the moral character, because they

* Moral and Political Philosophy, pp. 111, 112.

infallibly diminish the power of those principles upon which the moral character is founded.” *

We may well believe, that the quotation from the last author partakes very much of overstatement, and that many of the complaints respecting oaths are made without good reason. Still the conviction, that oaths are very greatly abused, is so strong and general, as not to permit us to conclude, that all or the greater part of these complaints are without just foundation. In many things where *form is concerned*, quite as much depends on the manner in which the form is administered as on the matter which the form contains. And in no case, perhaps, does this remark more forcibly apply, than to an oath. If all oaths were administered under suitable circumstances of solemnity, with distinctness of utterance and a gravity of tone and manner befitting the occasion, it is probable, that objections against them would be very much diminished. Very just objections however, in truth, seem to me to lie against our system of oaths, for *their number and their use on trifling occasions*; but a still stronger objection lies against *the levity of manner and almost total want of reverence* with which they are too often administered.

The subject of voluntary and extra-judicial oaths has been much discussed in some parts of this country within a few years; and, in some of the States, Masonic oaths have been prohibited, on the ground, that they have sometimes interfered, and may again interfere with the duty of the citizen to his country.

My sentiments on this subject may be summed up and classified thus; (1.) Oaths ought not to be used, where other means exist of attaining the end for which they have been accustomed to be administered. The case of the election laws in this State (South Carolina) may be used to illustrate this, where, instead of putting the elector to his oath, amidst the haste, agitation, and sometimes turmoil of the polls, — “that he has the qualifications required by law, and that he has not voted elsewhere,” the qualifications of all the electors, within particular districts, might be previously ascertained, and their names entered in registers kept for the purpose, and used at the time of the election, by which

* Essays on Morality, p. 157.

to admit the citizens of each particular district to the exercise of the elective franchise. (2.) Oaths, legal affirmations, which do not differ essentially from oaths,* and affidavits, ought to be abolished in all cases where a *declaration* can be safely substituted. There is room for difference of opinion, how far declarations may take the place of our system of oaths in the present state of public sentiment, knowledge, and morals ; but, in my judgment, the time has come, when they might be safely and beneficially substituted in all cases except the administration of civil and penal justice. (3.) Oaths fail of making their due impression, unless they are administered under circumstances of suitable solemnity, and in a manner becoming their sacred nature.

The remark has before been made, that the form, substance, and accompanying ceremonies of oaths have necessarily been suited to the character of the times in which they were devised and used ; and that, looking at them by the light of history, they have been simplified as knowledge, good faith, and general enlightenment have advanced. The present is an age of knowledge and of enlarged intercourse ; and it may be said, with great confidence, that at no previous period has good faith been so much respected, or the public mind so much enlightened, both in England and in the United States. Who can doubt that a further simplification of the system has become safe, and would be beneficial ? A conviction to this effect has become as general, as can ever be expected in favor of any considerable change to be made under any circumstances.

Acting upon this general conviction and upon this state of public sentiment, the British Parliament has passed a new act (9th September, 1835), very important in regard to the changes and general provisions which it introduces, and in preparing which the entire subject of administering oaths seems to have been most carefully reviewed and considered. The act took effect on the 1st of October, 1835, and provides for the *general* substitution of declarations, instead of the former system of oaths, solemn affirmations, and affidavits, — in the collection of the revenue, and in all the offices and departments of business under

* Paley's Moral and Political Philosophy, p. 115, note.

the superintendence of the Lords of the Treasury, — in the universities of Oxford and Cambridge, and all other bodies corporate and politic, — in the cases of church-wardens, persons acting under various trusts, persons obtaining patents for new inventions, and the transfer of the stock of the Bank of England, &c. &c. The declarations must be to the same effect with the oaths, &c. for which they are substituted, and must be subscribed by the party making them. The wilfully making a false declaration, in any material particular, is made punishable as a misdemeanor.

The oath of allegiance is still to be required as heretofore ; and no changes are made in the administration of oaths in any court of justice, or in any proceeding before any justice of the peace ; but neither justices of the peace nor any other persons, are to administer or to receive oaths and affidavits touching any matters of which they have no jurisdiction by statute. Voluntary and extra-judicial oaths and affidavits are entirely suppressed ; but voluntary declarations, by which written instruments, &c. may be confirmed, may be received by justices of the peace and other magistrates. It may be hoped, that this act of the British Parliament, dictated by an enlightened judgment and patriotism, may soon be imitated in the United States.

6. In what cases oaths are not binding. When oaths are administered in affirmance of a promise, they are not binding when the promise itself is not binding ; and when to secure the performance of a contract, they do not bind when the contract is unlawful, or is for any other cause not binding. Having before adverted to Masonic oaths, which have lately caused much controversy in this country, and been the occasion of considerable violence, I will subjoin, that if any of the Masonic or other extra-judicial oaths shall, in any event, interfere with the duty of the citizen to his country, they are superseded by the higher duty which he owes his country, — they are not binding. Still I may say, in regard to extra-judicial oaths in general, that, when they have been voluntarily taken, and the obligation which they impose is not in itself morally wrong, — that is, does not interfere with any personal, moral, or political duty, — it does not seem right to set them aside, and renounce their obligation, from slight reasons. Especially, when this renunciation is a betrayal of

confidence specially reposed, and tends to produce jealousies, animosities, and every kind of ill-feeling, and even threatens to disturb the public tranquillity, a good man will hesitate long, and reflect carefully, before he does an act, by which his prudence and consistency, if not the still higher qualities of his moral character must stand committed, and by which the feelings of others must be violated, and their confidence betrayed.

CHAPTER V.

OBSERVANCE OF PROMISES.

THE indispensable necessity of observing good faith in the transactions and intercourse of mankind, and the dangerous nature and ruinous consequences of bad faith, have before been sufficiently illustrated and insisted on. Good faith is the great moral bond which keeps men united in society; the prosperity and happiness of individuals and communities depend upon its observance; nothing can supply its place, or atone for the want of it. Universal bad faith would introduce universal suspicion and distrust, and these again would bring universal unhappiness and ruin in their train. The highest breach of good faith is falsehood, in its various kinds, degrees, and modifications; and as this breach is particularly dangerous and criminal, men have guarded against it with corresponding solicitude; on various important occasions, in order more effectually to secure truth, drawing motives for its observance from the solemnities of the unseen world, by the use of an oath.

The next most dangerous infraction of good faith, is, the non-observance of promises and contracts, which last are mutual promises. In a due regard to these, consists no small part of practical good faith. I shall treat of promises under two divisions; I. In what sense they are to be interpreted. II. In what cases they are not binding.

I. A promise differs from a mere declaration of our intentions, though there is much resemblance between them. When

we simply declare what our present intentions are, nothing more is required to justify our declarations of this kind, than that we were, at the time, sincere in making them. Still, since, in declaring our intentions, we may very probably raise certain expectations in others, and since we are bound to satisfy, as far as we can, the expectations which we knowingly raise, such a declaration lays a man under an obligation, which, though an imperfect one, a wise and good man will not neglect or lightly esteem. A wise man will not willingly lay himself open to the charge of trifling, or of forming his designs without deliberation, and changing them without reason. And, unless the motives which engage him to change his designs are reasonable and weighty, he cannot easily escape this charge, if he does not make good his declarations by his conduct.

For instance, a man may declare his intention to leave a part of his estate to his friend at his death. In consequence of such declaration, his friend will very naturally raise his style of living, and otherwise conform himself to the expectations of enlarged fortune which he has been led to entertain. A disappointment, therefore, does not leave him in the same condition in which he would have been, if no such expectations had been raised; — the entire course of his life and pursuits may, very possibly, have been changed in consequence of them. A wise man, therefore, for his own sake, or from regard to his own character, and a good man, for the sake of others and from regard to their welfare, will keep his intentions to himself, and make no declaration of them, until he has well considered the matter, and is well satisfied, that nothing will probably intervene, which may cause him to fail in making them good. If he has once declared his intentions, he will be careful to abide by them, and, without carrying them into effect, will not feel satisfied with himself, unless he can find full justification in hindrances and circumstances which could not have been foreseen.

According to Dr. Rutherford, a man may go one step further without coming to a *promise*; — “he may not only declare what his present intentions are, but he may add, that these are his settled intentions, that he is not only in earnest now, but will continue in the same mind when the time comes for putting these

intentions in practice. This additional declaration," says he, "does not confer any *perfect* right upon the person in whose favor it is made, nor give him any *strict* demand upon him who made it. But it strengthens vastly his obligation to make his designs good; both because it would be an instance of greater levity to change what seems to have been thus firmly and unalterably resolved upon; and because a disappointment, to those who are made to expect his favors, will be so much more hurtful, in proportion as their expectations were raised higher." Again, continues he, "when a man not merely declares his present intentions to another, in reference to some future gift or service, with satisfactory indications of his being in earnest, and of his being resolved with himself to continue in the same mind; but, further, makes known his design to give him a *right to demand such gift or service hereafter*,—it is a promise."* Here, however, as sometimes elsewhere, this valuable writer draws a line of distinction where there is not much difference.

When the terms of a promise admit of more senses than one, the promise is to be performed in that sense in which the promiser apprehended at the time that the promisee received it. It is very certain, that the rightful interpretation of a promise is not always the same in which the promiser intended to perform it, when making it. An equivocal promise may be made the means of the most cruel deception. For instance, Mahomet, Emperor of the Turks, at the taking of Negropont, having promised a man to spare his head, caused him to be cut in two, through the middle of the body. Tamerlane, after having engaged the city of Sebasta to capitulate, under the promise of causing no blood to be spilt, caused all the soldiers of the garrison to be buried alive.† These barbarian conquerors fulfilled their promises in one sense, and in the sense too, in which they intended at the time of making them; but not in the sense in which the promisees actually received them, nor in the sense in which they themselves knew that the promisees received them; which last sense, according to the rule I am illustrating, was the sense in which they were in conscience bound to perform them.

* Institutes of Natural Law, Chap. XII. 1, 2.

† Quoted by Vattel, Law of Nations, p. 313.

Still less is a promise always to be interpreted in the sense in which the promisee actually understood it ; for, according to such a rule, a man might be drawn into engagements which he never designed to undertake. It must, therefore, be the sense (for there is no other remaining) in which the promiser believed that the promisee accepted his promise. This will not differ from the actual intention of the promiser, where the promise is given with sincerity, and without collusion or reserve ; but it is best to put the rule in the above form, to prevent evasion, in cases in which the popular meaning of a phrase, and the strict grammatical signification of terms, differ ; or, in general, to prevent evasion, wherever the promiser might attempt to make his escape, through some ambiguity in the expressions which he used.*

Promises are sometimes made upon certain conditions ; and those conditions may be either expressed, or tacit and implied. When the condition is expressed, it thereby becomes a part of the promise itself ; and, whenever a promise pertains to any thing important, the condition, if there is one, ought always to be distinctly declared. This prevents disappointments and misunderstandings, and all the evil consequences which are accustomed to grow out of them. The surest way of making a promise absolute in all other respects, is, to annex one or more express conditions to it. When one condition is expressed, the natural presumption is, that no other is implied or understood ; because, if there had been any other in the mind of the promiser, the occasion of mentioning the one condition would naturally have led him to mention the other, — when he designed to make conditions, and was employed in making them, he mentioned only one, — we have, therefore, good reason to believe, that he thought of and intended no more. Still, it cannot be said, universally, that a promise is subject to no tacit conditions, because none are expressed.

It has sometimes been affirmed, that all promises are to be understood to contain a tacit condition, that the promiser continues in the same situation as when he promised ; insomuch so, that he is not bound by his promise, when the time of perform-

* Paley's Moral and Political Philosophy, p. 73.

ance comes, unless it shall be as convenient to him to make it good as it was at the time of promising. But such a tacit condition as this, if the promiser is allowed to explain it, will put it in his power either to be bound or not bound by his promise, according to his own good pleasure. For it is next to impossible, that the circumstances of any man should continue so exactly the same, as not to furnish him, on this ground, with a pretext to evade his promise, between the time of promising and the time of performance. Besides, it would be absurd to suppose a condition to be tacitly annexed to any obligation, which is of such a kind as to leave the obligation to the discretion of the party obliged. *

But promises are made every day and almost every hour;—all the minutiae of time, place, and circumstance cannot always be distinctly expressed, and, where nothing of much importance is depending on them, implied conditions may well be admitted. How many promises are made every day in the unqualified form, which, however, it is well understood, will be performed or neglected, according as our health at the time may permit or prevent, or according as the weather and other circumstances over which we have no control, may be favorable or unfavorable. Moreover, the cases in which promises are not binding, which are to be reviewed and illustrated under the next division, must be understood as implied conditions of every promise.

The general and governing principle applicable not only to promises, but also to a mere declaration of intention, when such a declaration affects another person, is, that our obligation is measured by the expectations which we knowingly and voluntarily excite. The same principle is also applicable to our conduct. Any action or conduct of ours towards another, by which we are sensible his expectations are excited, creates an obligation on our part, which we are morally bound to satisfy and fulfil. Taking, for instance, a kinsman's child, and educating him for a liberal profession, or in a manner suitable only for the heir of a large fortune, puts a man under the same moral obligation to place him in such a profession, or to leave him such a fortune, as if he had

* Rutherford's Institutes of Natural Law, p. 92.

given him the most unequivocal promise. Men are frequently as much injured and disappointed, and on as just grounds too, when the expectations, raised by another's conduct or declared intentions, are not fulfilled, as they would have been by his failure to make good the most positive assurances which he could have given. There is, therefore, not much difference of moral obligation between a particular course of conduct, declaration of intention, and a promise, so far as the actor, the declarer, and the promiser are concerned.

There is in some men an infirmity with regard to promises, which often brings them into great embarrassment, and subjects others to severe disappointment. From the confusion, hesitation, or obscurity with which they express themselves, especially whenever harassed or taken by surprise, they sometimes encourage expectations, and bring upon themselves demands, which probably never entered their imagination. This is not so much a want of integrity as of presence of mind.*

II. In what cases promises are not binding.

1. Promises are not binding, when the promiser is released by the promisee. This is too manifest to require illustration.

2. Promises of infants, and of persons under alienation of mind, are not binding. Dr. Rutherford's illustration of this is worth quoting. "No promise is binding," says he, "unless the person who made it, has liberty to choose for himself, and understanding to direct him in his choice. Without these faculties of liberty and understanding, he is no moral agent, or is not capable of doing an act so as to produce any moral effect by it. Upon this account, the promises of infants, idiots, and madmen are not binding; they are not moral agents, and are, therefore, unable to do any valid act."†

3. Promises are not binding before acceptance, — that is, before notice given to the promisee. But, where the promise is beneficial, if notice be given, acceptance may be presumed. Until the promise is communicated to the promisee, it is no more than a resolution in the mind of the promiser, which may be changed at pleasure. For no expectation has been excited,

* Paley's Moral and Political Philosophy, p. 75.

† Institutes of Natural Law, p. 95.

therefore none can be disappointed. But, in case I declare my intention to a third person, who, without any authority from me, conveys my declaration to the promisee, — is that such a notice as will be binding on me? Assuredly it is not; for I have not done that which constitutes the essence of a promise. I have not *voluntarily* excited expectation.*

4. A promise is not binding, where it is inconsistent with a previous promise. Dr. Rutherford illustrates this position thus; “When we have once alienated a part of our liberty,” says he, “it is not our own to dispose of again; when we have given one man a demand upon us to act in a particular manner, we have parted with our liberty in this respect, and cannot give another man a demand upon us to act in a contrary manner. What is here said of promises, is equally true of all other sorts of voluntary obligations. Any former obligation takes away the liberty of the person who is engaged in it; and, where he has no liberty, he can do no act which will be valid, and consequently none which can be binding upon him. Indeed, upon any other supposition, there would be no such thing as any possibility of a man’s being obliged at all by his own act; which in morality is deemed an absurdity. For, if a second obligation could make void the first, then a third might make void the second, and a fourth might make void the third, and so on without end.”† If this illustration is rather technical, still it is perfectly sound, and is valuable for its extensive application.

5. Erroneous promises are not binding in certain cases.

(1.) Where the error proceeds from the mistake or misrepresentation of the promisee. The reason of this is, that a promise evidently supposes the truth of the statement, which the promisee makes, in order to obtain it. A beggar solicits your alms by a story of the most pitiable distress; you promise to relieve him if he will call again; but in the interval you discover his story to be false; this discovery, no doubt, releases you from your promise. Again, one who wants your services, describes the office or business for which he wishes to engage you, and you promise to undertake it; when, however, you come to enter

* Paley’s Moral and Political Philosophy, p. 79.

† Institutes of Natural Law, p. 91.

upon it, you find the profits less, the labor more, or some material circumstance different from the representation which he gave you. Under such circumstances, you are not bound by your promise.

(2.) When the promise is understood by the promisee to be based upon a certain state of facts, or when the promiser apprehended it to be so understood, and this state of the facts turns out to be false, — the promise is not binding. An example will set this rule in a more clear light. A father receives an account from abroad, of the death of his only son, soon after which he promises his fortune to his nephew. The account turns out to be false. By this rule, the father is released from his promise; not merely because he never would have made it, had he known the true state of the facts, but because the nephew also himself understood the promise to proceed upon the supposition of his cousin's death; or at least his uncle thought he so understood it, and could not think otherwise. The promise proceeded upon this supposition in the promiser's own apprehension, and, as he believed, in the apprehension of both parties; and this belief on his part is the precise circumstance which sets him free. The foundation of the rule is manifestly this; — a man is bound, as has been said before, to satisfy only the expectation which he intended to excite; any condition, therefore, to which he intended to subject, or by which he intended to limit, that expectation, becomes, when known to the promisee, an essential condition of the promise.

Errors which do not come within these two rules, do not annul the obligation of a promise. I promise a candidate my vote; presently another candidate appears, for whom I certainly would have reserved it, had I been acquainted with his design. Here, therefore, as before, my promise proceeded from misapprehension; and I should never have given such a promise, had I been aware of all the circumstances of the case. But the promisee did not know this, nor did he receive the promise subject to the condition of the other candidate not appearing, or as proceeding from any such supposition; nor did I at the time imagine, that he so received it. This error, therefore, of mine must fall on myself, and the promise be observed notwithstanding. In this

case, however, it is assumed, that the qualifications of the candidates are equal ; otherwise the elector (such is the nature of the elective franchise) must break through his promise, and prefer him who is best qualified. Again, a father promises a certain fortune with his daughter, supposing his estate to amount to a certain sum ; but upon examination, his affairs are in a worse condition than he was aware of. Here, also, the promise was erroneous ; but, for the reason assigned in the last case, will still be binding.

The case of erroneous promises is attended with some difficulty ; — on the one hand, to allow every mistake or change of circumstances to dissolve the obligation of a promise, would be to admit a latitude which might set aside the force of almost all promises ; and, on the other hand, to gird the obligation so tight as to make no allowances for manifest and fundamental errors, would, in many instances, be productive of great hardship and even absurdity.*

6. A promise is not binding when the performance is impossible. As plain as this may seem at first sight, still it admits of some illustration. The promiser is guilty of fraud, if he is secretly aware of the impossibility, at the time of making the promise ; because, when any one promises any thing, his promise implies, that he is convinced of the possibility of performing it, and no one can accept or understand a promise under any other supposition. With a knowledge of the impossibility of performance, the promiser is justly chargeable with a flagrant breach of good faith. If the promiser *himself occasions the impossibility of performance*, it is a still more flagrant breach of good faith ; as when a soldier or servant maims or otherwise disables himself, that he may avoid performing his engagements.†

Again, it generally depends upon the promiser himself, whether *it shall be possible* for him to perform his promises ; some act or some endeavours of his may be necessary to put him in such a situation as will make the performance possible. A promise, in this case, binds him to the doing of those acts, or to the using of those endeavours, though such acts and such endeavours are not mentioned in it ; since he who has obliged himself to the end,

* See Paley's Moral and Political Philosophy, pp. 80 – 82.

† Idem, p. 75.

cannot but be understood to have obliged himself to use the necessary means of attaining the end. It cannot be said to be impossible for a man to do any thing, which can be accomplished by his own acts or endeavours. A promise, therefore, of this sort is binding from the beginning ; and, though the promiser has not, in express terms, bound himself to do these acts or to use these endeavours, yet, if the possibility of performing what he has promised depends upon them, he is obliged to do them by virtue of his promise.

7. A promise is not binding when the performance is immoral.* Sometimes the performance of the promise is known to the parties to be immoral at the time when the promise was made, as where an assassin promises his employer to despatch his rival or his enemy, or a servant promises to betray his master. These promises and the like of them are not binding, because their performance is criminal ; their guilt, therefore, lies in the making, not in the breaking of them ; and if, in the interval between the promise and the performance, conscience awakens and regains its rightful supremacy, the promiser will repent of his engagements, and will assuredly break through them. In these cases, the object of the promise is immoral, in the highest sense too ; and this makes the performance immoral, and therefore not binding.

Again, sometimes the immorality of the performance did not

* Rutherford, and after him Dr. Paley, have used the term *unlawful*, where I have used *immoral*. The term *unlawful* does not seem to me to be either sufficiently definite or comprehensive. Dr. Rutherford, indeed, appears to have been sensible of its want of comprehensiveness ; for he says, "When I speak of unlawful promises, I do not mean those only by which we engage to give or do what the law of nature forbids to be given or to be done by us ; where the matter of a promise is forbidden by any other law, by the positive law of God, for instance, or by the law of the land, or by the commands of our lawful superiors, as far as they have a right to command us, such a promise is void ; we have done nothing by making it ; and consequently have not obliged ourselves to the performance of it." (Institutes of Natural Law, p. 90.) The term *immoral* is here used with reference to the standard of morals established and illustrated in my Preliminary Principles and Discussions, pp. 29-60 ; to wit, the dictates of conscience, when not disturbed by passion or blinded by prejudice, and when enlightened and guided by the law of the land, the law of consequences (as it may well be called), and the divine law as contained in the Scriptures of the Old and New Testament.

exist, or was not known, at the time of making the promise ; as where a woman gives a promise of marriage, but, before the celebration of the marriage, she discovers that her intended husband is too nearly related to her, or that he has a wife yet living. In this class of cases, where the contrary does not appear, it must be presumed, that the parties supposed what was promised to be consistent with good morals, and that the promise proceeded entirely upon this supposition. The morality of the performance, therefore, becomes a condition of the promise, which condition failing, the promise is not binding.

Further, the tendency, motives, and subject-matter are elements entering too intimately into the nature of a promise to be entirely neglected. Whenever the tendency of the promise is prejudicial to good morals, as seen in the consequences, or made manifest by argument, the promise is not binding ; for the evil tendency and effects impart their own character equally to the promise and the performance. The motives and intentions, too, of the promiser and promisee, or of either of them, and the subject-matter, may be so unmixedly evil, as to contaminate a promise, and render it void. Therefore, a promise to pay a bribe, or to reward the commission of a crime, after the service is rendered, is not binding. So in another case, on which, as well as on these, there has been a difference of opinion. A certain person, in the lifetime of his wife, who was then ill, paid his addresses to another woman, and promised her marriage, in the event of his wife's death. The wife died, and the woman demanded performance of the promise. The man, who, it seems, had changed his mind, either felt or pretended doubts concerning the obligation of a promise made under such circumstances, and referred his case for solution to Bishop Sanderson, who was, at that time, very distinguished for the kind of knowledge required for the solution. Bishop Sanderson, after writing a dissertation upon the question, adjudged the promise to be void. And well he might. For such conduct tends to destroy the sanctity of private life, is inconsistent with the marriage contract, and against religion and good morals. To consider such a promise binding is giving encouragement to wrong. Dr. Paley

decides the question the other way,* and attempts to separate the obligation to perform the promise, from the criminal affection which prompted it, and from the immoral tendency of the transaction. But it seems to me, that the subject-matter, the motives of the parties, and the general tendency, character, and circumstances of the entire transaction, ought to be *viewed in connexion with the question of the performance of the promise*, and as inseparable from it. If so, the opinion of Bishop Sanderson must be sustained. All the considerations of public policy are on the side of Bishop Sanderson's decision; and this is further evidence of its soundness. For, considerations of public policy, and the principles of good morals, always coincide, when both are viewed in all their connexions, tendencies, and influences.†

A promise cannot be deemed immoral, where it produces, when performed, no effect beyond what would have taken place, had the promise never been made. And this is the single case, in which the obligation of a promise will justify a course of conduct, which, unless it had been promised, would have been unjustifiable. A captive may rightfully recover his freedom by a promise of neutrality; for his conqueror gains nothing by the promise, which he might not have secured by his confinement; and neutrality will be innocent in him, although unjustifiable in another. It is manifest, however, that promises which are substituted in the place of coercion, can extend no further than to passive compliances, for coercion itself could compel no more.

Upon the same principle, promises of secrecy, in certain cases, ought not to be violated, although the public might derive advantage from the disclosure. Such promises contain nothing in them which ought to destroy or impair their obligation; for, as the information would not have been imparted upon any other condition, the public lose nothing by the promise, which they would have gained without it. This applies to the relation sub-

* Moral and Political Philosophy, p. 78.

† The views contained in this paragraph are fully sustained by the analogies of the purest branches of the law. See Story on "Constructive Fraud," in his "Commentaries on Equity Jurisprudence," pp. 290-324. And again, in his "Conflict of Laws," pp. 204, 209, 210, 213-215. This learned author seems to omit no fair occasion to bring into notice and enforce the morals of the law.

sisting between a lawyer and his client, a confessor and the person confessing, both of which relations are highly confidential.

Many writers on morals have laid down the position, that, where a perfect and an imperfect obligation clash, the perfect obligation is to be preferred. For this opinion, however, there seems to be no good reason, — the terms *perfect* and *imperfect*, cannot justify such a distinction. The distinction between duties of perfect and imperfect obligation, is a *legal* and *technical*, rather than a moral distinction. The former may be enforced by *law*, the latter must be left to *the conscience* of each individual. The moral philosopher looks at them both from the same elevated point of view. *The specific performance, therefore, of promises of every kind*, so far as they are binding at all, is a perfect obligation. For, as the reason of the rule applies to all obligations, imperfect as well as perfect, the rule, that promises are void where the performance is immoral, extends to imperfect as much as to perfect obligations. Thus, if you promise a man your vote, and, between the time of promise and performance, he renders himself unfit to receive it, you are absolved from the obligation of your promise. Or if it be a case, in which you are bound, by oath or other obligation, to govern yourself by the qualifications of the candidates, and a candidate of higher qualifications appears, the promise must be broken through.*

If the matter of a promise is impossible or immoral at the time of making it, but the circumstances are such as may be changed, and a change in the promiser's circumstances may render it possible, or consistent with good morals, for him to perform his promise at some time hereafter, it is binding. The meaning of the promiser at the time must have been this, — that he would give the thing or do the act promised, whenever it should be in his power, or whenever, by any change in his circumstances, it should become consistent with good morals. The obligation of such promises, in the mean time, is *in suspense*, but is revived when the event happens which renders the performance of them possible or moral.†

* Paley's Moral and Political Philosophy, p. 76 – 79.

† Rutherford's Institutes of Natural Law, p. 91.

Again, a promise is a personal concern, and the obligations of a man's promise do not descend to his heirs. Promises are obligations upon his person only, — they do not affect his property. All obligations, which reach no farther than the person of the promiser, cease with his person. And, since the obligations of promises are of this sort, it is matter of liberality and indulgence only, when the heir to an estate undertakes to make good the promises of his ancestor.*

Moreover, it may be well to recommend a caution, to young persons especially, from the neglect of which many have involved themselves in embarrassment and disgrace; that is, never to give a promise which may in any event interfere with their duty. For, if it so interferes, their duty must be discharged, though at the expense of their promise, and usually, in a measure, of their reputation.†

Finally, when a promise is made to God, it is called a vow. The use of vows occurs occasionally in the Scriptures; Moses enacted several laws for the regulation and execution of them. "When thou shalt vow a vow unto the Lord thy God," says he, "thou shalt not slack to pay it; for the Lord thy God will surely require it of thee; and it would be sin in thee. But, if thou shalt forbear to vow, it shall be no sin in thee."‡ We have instances of vows too, in the New Testament. § The practice of making vows, therefore, finds authority, if not direct encouragement, in the Old and New Testament. They partake also, in some measure, of the nature of oaths, and their influence in strengthening and perpetuating good intentions and resolutions seems manifest. The violation of them is sinful, as it implies a want of reverence and regard to the Supreme Being. We may conclude with the wise man; "When thou vowest a vow unto God, defer not to pay it; for he hath no pleasure in fools (that is, rash and vain persons); pay that which thou hast vowed. Better is it that thou shouldst not vow, than that thou shouldst vow and not pay." ||

* Rutherford's Institutes of Natural Law, p. 90.

† Paley's Moral and Political Philosophy, p. 77.

‡ Deut. xxiii. 21, 22. § Acts xviii. 18; xxi. 23.

|| Eccl. v. 4, 5.

CHAPTER VI.

OBSERVANCE OF CONTRACTS.

A CONTRACT has been defined to be, the assent of two or more minds to the same thing. The minds of both parties, it is said, must be brought to act upon the same subject-matter, and must concur in opinion respecting it. But by a definition better suited to my purpose, because more easily applied, and capable of a more distinct and easy analysis, a contract is a mutual promise. Hence, contracts, in respect to their obligation, to the sense in which they are to be interpreted, and the cases in which they are not binding, are subject to the same rules as promises.

From the principles before established, that the obligation of promises is to be measured by the expectation which the promiser in any way, voluntarily and knowingly, excites,* results the rule, which (*in foro conscientiæ*) governs the construction of all contracts, and which is capable, from its simplicity, of being applied with great ease and certainty; to wit, that *whatever is expected by one party, and known to be so expected by the other, is to be deemed a part or condition of the contract.*† But as contracts are so much more the object of municipal law, than of moral philosophy, I shall not dwell much upon them. A few general observations, however, relative to the connexion between law and morals, and their respective bearing on each other, so far as this subject is concerned, may be useful.

1. There is a gratifying and instructive coincidence between the rules of Christian morals, and the rules and doctrines of the law, in regard to contracts. "No man can be heard in a court of justice, to enforce a contract founded in, or arising from, moral or political turpitude." Again, "As far as it can be enforced by human sanctions, the rule of the municipal law is identical with the golden precept taught by Christianity, of doing to others as

* See pp. 202, 204.

† Paley's Moral and Political Philosophy, p. 83.

we would that they should do to ourselves." Moreover, "Where the law cannot separate the honest from the fraudulent parts of any transaction, it provides for its own imbecility, by sternly repudiating the whole."*

By the rule of the common law, if there be an intentional concealment or suppression of material facts in the making of a contract, in cases in which both parties have not equal access to the means of information, it will be deemed unfair dealing, and will vitiate and avoid the contract. There may be some difference in the facility with which the rule applies, between facts and circumstances that are *intrinsic*, and form material ingredients of the contract, and those that are *extrinsic*, and form no component part of it; though they create inducements to enter into the contract, or affect the price of the article.

As a general rule, each party is bound, in every case, to communicate to the other his knowledge of material facts, provided he knows the other to be ignorant of them, and they be not open and naked, or equally within the reach of his observation. Thus, in the sale of a ship which had a latent defect known to the seller, and which the buyer could not by any attention possibly discover, the seller was held to be bound to disclose it, and the concealment was justly considered to be a breach of honesty and good faith. So, if one party suffers the other to buy an article under a delusion created by his own conduct, it will be deemed fraudulent and fatal to the contract;—as, if the seller, by his acts, produces an impression upon the mind of the buyer, that he is purchasing a picture belonging to a person of great skill in painting, which the seller knows not to be the fact, and yet suffers the impression to remain, though he knows it materially enhances the value of the picture in the mind of the buyer. The seller must not practise any artifice to conceal defects, or make any representations for the purpose of throwing the buyer off his guard.

The same principle was declared by Lord Hardwicke, when he stated, that, if a vendor, knowing of an incumbrance upon an estate, sells without disclosing the fact, and with knowledge that

* Story, Conflict of Laws, p. 204. — Manuscript Lecture of Simon Greenleaf, Esq., Royall Professor of Law in Harvard University.

the purchaser is a stranger to it, and under representations inducing him to buy, he acts fraudulently, and violates integrity and fair dealing. The inference of fraud is easily and almost inevitably drawn, when there is a suppression or concealment of material circumstances, and one of the contracting parties is knowingly suffered to deal under a delusion.

So, the selling an unsound article for a sound price, knowing it to be unsound, is actionable. It is equivalent to the concealment of a latent defect. The same rule applies to the case where a party pays money in ignorance of circumstances with which the receiver is acquainted, and does not disclose, and which, if disclosed, would have prevented the payment. In that case, the parties do not deal on equal terms; and the money is held to be unfairly obtained, and repayment may be compelled. It applies also to the case, where a person takes a guaranty from a surety, and conceals from him facts which go to increase his risk, and suffers him to enter into the contract under false impressions. Such concealment is held to be fraud, and vitiates the contract.

But, if the defects in the article sold, are open equally to the observation of both parties, the law does not require the vendor to aid and assist the observation of the vendee. Even a warranty will not cover defects that are *plainly the objects of the senses*; though if the vendor says or does any thing whatever, with an intention to divert the eye, or obscure the observation, of the buyer, even in relation to open defects, he will be guilty of an act of fraud. An inference of fraud may be made, not only from deceptive assertions and false representations, but from facts, incidents, and circumstances, which may be trivial in themselves, but decisive evidence, in the given case, of a fraudulent design.

When, however, the means of information relative to facts and circumstances affecting the value of the commodity, are equally accessible to both parties, and neither of them does or says any thing tending to impose on the other, the disclosure of any superior knowledge which one party may have over the other, as to those facts and circumstances, is not requisite to the validity of a contract. There is no breach of any implied confidence, that one party will not profit by his superior knowledge, as to facts

and circumstances open to the observation of both parties, or equally within the reach of their ordinary diligence ; because neither party reposes in any such confidence, unless it be specially tendered or required. Each one, in ordinary cases, judges for himself, and relies upon the sufficiency of his own knowledge, skill, and diligence.

The common law affords to every one reasonable protection against fraud in dealing, but it does not go to the romantic length of giving indemnity against the consequences of indolence and folly, or of careless indifference to the ordinary and accessible means of information. It reconciles the claims of convenience with the duties of good faith, to every extent compatible with the interests of commerce ; meaning by the term commerce, every kind of ordinary intercourse in the way of business transactions.

This it does, by requiring the purchaser to apply his attention to those particulars which may be supposed within the reach of his observation and judgment ; and the vendor to communicate those particulars and defects which cannot be supposed to be immediately within the reach of such attention.* Chancellor Kent is of the opinion, that the common law has carried the doctrine of disclosures by each party in the formation of the contract of sale, to every reasonable and practicable extent, that is consistent with the interests of society.† “The only difference” (in regard to disclosures) “between writers on the highest branches of the moral law, and the doctrines of our own judicial tribunals is, that, while both hold it to be the *duty* of the seller to disclose all the defects or impairing circumstances *within his knowledge*, the common law, on account of the difficulty of enforcing the rule in all cases, and the disorders it might sometimes occasion in society, draws a line of distinction between circumstances which are open equally to the observation of both parties, and those which are within the knowledge and reach of one alone. The concealment of the latter it punishes.”‡

On this subject, the civil law, as stated by the learned and

* Kent's Commentaries on American Law, Vol. II. pp. 377 - 380.

† Idem. Vol. II. p. 384.

‡ Manuscript Lecture of Professor Greenleaf, of Harvard University.

accurate Pothier, which is the law of the greatest part of continental Europe, and the basis of the code of Louisiana, is rather more severe in its requisitions, than the common law of England or of the United States. He says, "Although, in many transactions of civil society, the rules of good faith only require us to refrain from falsehood, and permit us to conceal from others that which they have an interest in knowing, *if we have an equal interest in concealing it* from them, yet in *interested* (pecuniary) contracts, among which is the contract of sale, good faith not only forbids the *assertion of falsehood*, but *all reservation* concerning that which the person with whom we contract has an interest in knowing, touching the thing which is the subject of the contract." * "In the application of this rule, the same commentator is of opinion, that the seller is obliged to disclose to the buyer every circumstance within his knowledge relating to the subject, which the latter has an interest in knowing; and that he sins against the good faith which ought to reign in these transactions, if he conceals any such circumstances." †

2. There are, too, some branches of our own law, which, in regard to contracts, are said to be more strictly in conformity with the decisions of an enlightened conscience, than the common law. This is affirmed to be true of equity jurisprudence. ‡ Yet this superior perfection, claimed in behalf of equity, pertains rather to the means and facilities, which it is permitted to use, in order to attain its end, to the manner in which it grants relief and applies its remedies, and to the extent of its jurisdiction, than to the object at which it aims; to wit, the attainment of the greatest possible measure of justice and rectitude, — which object is not less the aim of the common law. There are "latent frauds and concealments, which the process of courts of common law is not adapted to reach." The object of equity is, to open the breasts of parties, and "courts of equity address themselves to the conscience of the defendant, and require him to answer, upon his oath, the matters of fact stated in the bill, if they are within

* Wheaton's Reports, Vol. II. p. 185, note.

† Manuscript Lecture of Professor Greenleaf, of Harvard University.

‡ Kent's Commentaries on American Law, Vol. II. pp. 382-385.

his knowledge ; and he is compellable to give a full account of all such facts, with all their circumstances, without evasion or equivocation." *

Again, the law of marine insurance is another branch of our law, for which this superior perfection has been claimed. But the contract of insurance is formed upon principles peculiar to itself ; and the common-law doctrine of sales, and the doctrine of insurance, are each perfectly consistent with the facts, and the mutual understanding, which they respectively assume. In an insurance contract, an unreserved disclosure of all the circumstances is required by the nature of the case, and by the mutual understanding of the parties. This will be more fully illustrated by observing, that, in making an insurance contract, the insurer is essentially *passive*, and is known to act, and professes to act, upon the information of the insured. In this kind of contract, the special facts, upon which the contingent chance is to be computed, lie almost always in the knowledge of the insured only. The insurer trusts to his representation, and proceeds in the confidence, that he does not withhold any circumstance within his knowledge. Even if the suppression happens through mistake, and without any intention of fraud on the part of the insured, the policy is void. The common law punishes only for intentional concealment of defects, or silence respecting them, in cases in which information is not equally accessible to both parties.

The standard of morals, too, set up for the commercial community by the commercial law, is very high. "It is one of the cardinal principles of commercial law, that *all its affairs must be conducted with perfect good faith.*" Again, "It is the aim of all law to secure the observance of good faith in *all* transactions. The law is said to abhor fraud everywhere, in all its degrees ; — it requires of the suppliant for justice, in *any* form, that he should approach its altars with clean hands. But, where the necessity for the rule is the most pressing, and the temptations to evade it the most severe, the law, perhaps in compassion to human infirmity, employs the greatest vigilance, and exacts the most inviolate

* Story's Equity Jurisprudence, Vol. I. pp. 25 - 30.

integrity. Hence, the prominent rank which this principle holds in mercantile law, and the high and commanding tone of its stern morality in the rules it prescribes for the government and conduct of merchants." In regard to the numerous and important agencies known to mercantile transactions, the law with evident reasonableness requires, "that the trust of every agent be executed with the most scrupulous fidelity and exactness; that he pay careful obedience to the orders of his employers; that he consult their advantage in matters referred to his discretion; that he execute their business with all the despatch that circumstances will admit; that he be early in his intelligence, distinct in his accounts, and punctual in his correspondence." These injunctions apply to every one who undertakes to transact the business of another, or to perform for him any act on which his interest depends. "To remove all temptation from the agent to violate the rule requiring his intercourse with his principal to be open, frank, pure, prompt, and even above suspicion, which is so necessary to the security of trade and commerce, the law allows him, in no case, to enrich himself beyond his stipulated or customary compensation, by the property confided to his care." "The law requires at his hands the most inviolable integrity, and, to preserve him from the temptation to do wrong, it puts it out of his power to do it with success." *

Thus every branch of the law enforces the precepts of good morals, so far as it is in its power to enforce them. But its power is limited; it cannot reach the many duties that belong to the class of imperfect obligations; these must be left to the consciences of individuals. Their nature is such, that human laws do not and cannot undertake to enforce them; and in this respect the rules of no department of the law, are so perfect as the dictates of conscience; and the sphere of morality is more enlarged than the limits of civil jurisdiction.†

3. The principles of Christian morals are recognised *as the standard* of the rules of law, and every contract or agreement *inconsistent with good morals* in a very extensive use of that

* Manuscript Lecture of Professor Greenleaf, of Harvard University.

† See p. 31.

phrase, is against law, and void. "The reports, in every period of the English jurisprudence," says Chancellor Kent, "abound with cases of contracts held illegal on account of the illegality of the consideration; and they contain striking illustrations of the general rule, that contracts are illegal when founded on a consideration *contra bonos mores*, or one against the principles of sound policy, or founded in fraud, or in contravention of the positive provisions of some statute law." The Roman law contains the same salutary doctrine. "*Pacta, quæ contra leges constitutionesque, vel contra bonos mores fiunt, nullam vim habere, indubitati juris est.*"* "*Pacta, quæ turpem causam continent, non sunt observanda.*"† It will be instructive to review the several classes of contracts and agreements adverted to by this learned jurist, and, to this end, I shall freely avail myself of the assistance of Mr. Justice Story, of the Supreme Court of the United States.

(1.) Contracts are illegal and void, which are against good morals, religion, or public rights. It is not necessary, that such contracts should be prohibited by statute; it suffices to render them void, that they are founded upon considerations of moral turpitude.‡ The rule of the Roman law quoted in the preceding paragraph, is nothing more than the language of universal justice. It applies a preventive check, by withholding every encouragement from wrong, and aims thereby to enforce the obligations of virtue. "For although the law, as a science, must necessarily leave many moral precepts as rules of imperfect obligation only, it is most studious not thereby to lend the slightest countenance to the violations of such precepts. Where-

* Cod. Lib. II. tit. 3, 6.

† Dig. Lib. II. tit. 14, 27, § 4.

‡ This principle of contracts reflects light upon the doctrine of promises as discussed in the last chapter. For, if a contract, which is a *mutual promise*, is against law and void in a human tribunal, when "founded upon considerations of moral turpitude"; assuredly, a *single promise*, when founded upon the same considerations, such as the case mentioned at p. 210, prompted by unhallowed passions, violating decency, against public policy in the best sense of that phrase, and tending to corrupt society, must be against good morals and void in the tribunal of conscience. Perhaps, the case mentioned at p. 210, ought to be regarded as a *contract* between the parties, and if so, it was not binding, on the general principle, that "contracts founded upon considerations of moral turpitude" are not binding.

ever the divine law, or positive law, or the common law, prohibits the doing of certain acts, or enjoins the discharge of certain duties, any agreement to do such acts, or not to discharge such duties, is against the dearest interests of society, and, therefore, is held void ; for otherwise the law would be open to the just reproach of winking at crimes or omissions, or tolerating in one form, what it affected to reprobate in another." Hence, all contracts (including bonds and other securities) for the printing and circulation of irreligious and obscene publications ; contracts to promote or reward the commission of crimes ; contracts to corrupt or evade the due administration of justice ; contracts to defraud the public agents, or to defeat the public rights ; all gaming contracts ; and, in short, all contracts which in their nature are founded in moral turpitude, and are inconsistent with the good order and interests of society, are invalid, and incapable of confirmation and enforcement.*

(2.) In like manner, agreements which are founded upon violations of public trust or confidence, or the rules adopted by courts in furtherance of the administration of public justice, are held void. Thus, an agreement made for a remuneration to commissioners, appointed to take testimony, and bound to secrecy by the nature of their appointment, upon their disclosure of the testimony so taken, is void. So, an assignment of the half-pay of a retired officer of the army is void ; for it operates as a fraud upon the public bounty. Agreements, founded upon the suppression of criminal prosecutions, fall under the same consideration ; for they have a manifest tendency to subvert public justice. So, wager contracts, which are contrary to sound morals, or injurious to the feelings or interests of third persons, or against the principles of public policy or duty, are void.†

(3.) Contracts for the buying, selling, or procuring of public offices are inconsistent with the principles of sound policy, and are, therefore, illegal and void. It is obvious, that all such contracts must have a material influence to diminish the respectability, responsibility, and purity of public officers, and to introduce a system of official patronage, corruption, and deceit,

* Story's Equity Jurisprudence, Vol. I. p. 293, 294.

† Idem, p. 291.

entirely at war with the public interests. The confidence of public officers may thereby not only be abused and perverted to the worst purposes, but mischievous combinations may be formed to the injury of the public, and persons introduced into the public offices, or retained in them, who are utterly unqualified to discharge the proper functions of their stations. Such contracts are justly deemed contracts of moral turpitude; and are calculated to betray the public interests into the hands of the weak, the selfish, the cunning, and the profligate. They are, therefore, held utterly void, as contrary to the soundest public policy; and, indeed, as a constructive fraud upon the government. They are against the spirit of the constitution of a free country, whose offices ought to be filled by fit and well-qualified persons, recommended for their abilities, and from motives of disinterested purity. It has been well remarked, that there is no rule better established (in law and reason, however much it may be otherwise in practice,) respecting the disposition of every office, in which the public are concerned, than this; *Detur digniori*. On principles of public policy, no pecuniary consideration ought to influence the appointment to such offices. It was observed in ancient times, that the sale of offices was one of the leading causes which accomplished the ruin of the Roman republic. *Nullâ aliâ re magis Romana respublica interiit, quam quod magistratûs officia venalia erant*.*

(4.) There are certain illegal and void contracts of a miscellaneous character, which deserve a passing notice in this connexion. Such are contracts made in evasion or fraud of the laws of the country, or against its public policy and interest. This principle embraces, not only contracts arising immediately from, and connected with, an illegal transaction, but, within certain limits, new contracts, if they are in part connected with the illegal transaction, and arise immediately from it. It embraces, too, "agreements, whereby parties engage not to bid against each other at a public auction, especially in cases where such auctions are directed or required by law, as in cases of sales of chattels or other property on execution." Such agreements

* Story's Equity Jurisprudence, Vol. I. pp. 292, 293.

“operate virtually as a fraud upon the sale ; they are unconscientious (against conscience) and against public policy, and have a tendency injuriously to affect the character and value of sales by public auction, and mislead private confidence.” So, if the artifice of by-bidding is resorted to at an auction to enhance the price, and deceive the real bidders, and they are in fact misled, the sale will be held void, as against public policy. Again, gaming contracts are not only prohibited by statute, but are, in their nature, highly immoral, as the practice of gaming tends to idleness, dissipation, and the ruin of families. “No one has doubted, that, under such circumstances, a bill in equity might be maintained, to have any gaming security delivered up and cancelled.” And it is settled, “that, if money is paid upon a gaming security, it may be recovered back, for the security is utterly void. The Roman law, too, contains a most salutary enforcement of moral justice upon this subject. “It not only protects the loser against any liability to pay the money won in gaming ; but, if he has paid the money, he and his heirs have a right to recover it back at any distance of time, and no presumption or limitation of time runs against the claim.” *

(5.) The learned author to whose aid I am indebted for several of the last paragraphs, has examined the question, how far a contract of sale is rendered invalid, by the circumstance of the seller's knowing, at the time of the sale, that the article sold is to be converted by the buyer to an unlawful and immoral purpose. The general doctrine is well settled, that the consideration for which a contract is made must be legal, and even meritorious, consistent with good morals, and not against public policy and the interests of society. But the result of the “decisions” seems to be, “that mere knowledge of the illegal purpose for which goods are purchased, will not affect the validity of the contract of sale of goods intended to be smuggled into a foreign country, even in the courts of that country.” It seems, that, to render the contract invalid, “there must be some participation or interest in the act itself.” And yet, in an extreme case, Chief Justice Eyre said, that the seller “would not be allowed to

* Story's Equity Jurisprudence, Vol. I. pp. 290, 302, 303. — Conflict of Laws, p. 205.

maintain an action upon his contract," because, the consideration of the contract, though in itself good, was, in the case in question, tainted with turpitude, which destroyed the whole merit of it. "Other cases," continues he, "where the means of transgressing a law are furnished, with the knowledge, that they are intended to be used for that purpose, will differ in shade more or less from this strong case; but the body of the color is the same in all. Upon the principles of the common law, the consideration of every valid contract must be meritorious. No man ought to furnish another with the means of transgressing the law, knowing that he intended to make that use of them." Every good man must unite with Mr. Justice Story, in commending "the sound sense, sound morals, and enlarged policy of this doctrine." It is, as he well says, "almost irresistible to the judgment." Again, on another occasion, in the Court of King's Bench, Lord Ellenborough said, "If a person sell goods with a knowledge, and in furtherance of the buyer's intention to convey them upon a smuggling adventure, he is not permitted by the policy of the law to recover such a sale." In this opinion the other members of the court concurred. One of them added, "If a principal sell articles in order to enable the vendee to use them for illegal purposes, he cannot recover the price." The latest English decision has firmly sustained the same doctrine.*

(6.) It may be well to illustrate this subject still further, by advertng "to the nature and extent of the relief which will be granted to persons, who are parties to agreements or other transactions against public policy, and, therefore, are to be deemed *participes criminis*." "The old cases often gave relief both at law and in equity, where, without such relief, the party would derive an advantage from his iniquity." But in the more modern administration of justice, a more severely just, and probably politic and moral rule, has been generally, though not universally, adopted; which is, to leave the parties where it finds them, giving no relief, and no countenance, to claims made under illegal contracts and other illegal transactions. "But, in cases where the agreements or other transactions are repudiated, on account of

* Story's "Commentaries on the Conflict of Laws," pp. 209, 210.

their being against public policy, the circumstance, that the relief is asked by a party who is *particeps criminis*, is not in equity material. The reason is, that the public interest requires, that relief should be given; and it is given to the public through the party. And in these cases relief will be granted, not only by setting aside the agreement or other transaction; but in many cases, by ordering a repayment of any money paid under it." The most effectual way of discountenancing and suppressing illegal contracts (the same may be said of promises) and other like transactions is, to leave the parties without remedy against each other, and thus introduce "a preventive check, naturally connected with a want of confidence, and a sole reliance upon personal honor. And so, accordingly, the modern doctrine is established. Relief is not granted, where both parties are truly *in pari delicto*, (equally guilty,) unless in cases where public policy would thereby be promoted."*

CHAPTER VII.

THE DUTY OF MUTUAL ASSISTANCE.

CICERO quotes, with much commendation, the sentiment from Plato, that we are not born for ourselves alone, but that our country and our friends may both rightfully claim a share in us, — that is, in our affections and our exertions.† This sentiment of Plato, by which we are exhorted to look beyond ourselves and the immediate objects of our personal interest, so far as to embrace our friends and our country in the more ample pale of our regard, is expanded and extended in the Christian Scriptures, in a manner entirely unknown to antiquity;‡ and so as to make it our duty to embrace all mankind, of whatever complexion, name, or condition, in the unlimited sphere of our good-will. "All things whatsoever ye would that men should do to you, do ye even so

* Story's Equity Jurisprudence, Vol. I. pp. 295-298.

† De Officiis, Lib. I. c. 7.

‡ See pp. 44-50.

to them ; for this is the law and the prophets." * " As we have therefore opportunity, let us do good unto all men, especially unto them who are of the household of faith." † Again, " I say unto you, love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you and persecute you ; that ye may be the children of your Father which is in heaven ; for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust. For if ye love them " (only) " which love you, what reward have ye ? Do not even the publicans the same ? And if ye salute your brethren only, what do ye more than others ? Do not even the publicans so ? Be ye therefore perfect " (in your good-will), " even as your Father in heaven is perfect." ‡ Moreover, the parable of the good Samaritan teaches us, that we are to make ourselves useful to all men without distinction, as circumstances may require, and occasion may be presented. I propose to review some of the ways by which we may exercise and make manifest this expansive good-will ; and, to this end, convenience and clearness will be consulted, by distributing what I have to say into several distinct sections.

SECTION I.

ASSISTANCE GIVEN IN THE WAY OF ADVICE.

Men may render one another much mutual aid by advice, good counsel, encouragement, &c., given in a spirit of sympathy and friendship. We have only to look into the records of biography to be convinced, that much good may be done in this way, to the young, the ignorant, the retiring, and the inexperienced. As ships at sea without a helm are driven in whatever way the winds and currents may chance to waft them, so the course of such persons is generally unsettled, and is often turned in a particular direction by a single observation, let fall by an individual of superior talents, experience, and influence. General remarks of this kind, however, are accustomed to make but a slight impression,

* Matt. vii. 12.

† Gal. vi. 10.

‡ Matt. v. 44 - 48.

when unaccompanied by circumstantial details ; I presume, therefore, I may be permitted to illustrate this observation, by advert-
ing to a particular instance, as instructive as it is authentic.

The renown of the celebrated Roger Sherman, of Connecticut, is known to us all ; he was a distinguished statesman, and one of the signers of the Declaration of American Independence. His biographer says of him ; — “ Mr. Sherman, at the first period of his professional elevation, could not fail to recur with pleasing and grateful emotions to the moment when he, perhaps for the first time, appeared in the presence of a lawyer, for the purpose of procuring his advice. A neighbour or acquaintance, in transacting some affairs relative to the family of a deceased person, required the assistance of legal counsel. As Mr. Sherman, then a young man, was going to the county town, he was commissioned to obtain it from an eminent lawyer. To prevent embarrassment, and secure the accurate representation of the case, he committed it to paper, as well as he could, before he left home. In stating the case, the gentleman with whom he was consulting observed, that Mr. Sherman frequently resorted to a manuscript which he held in his hand. As it was necessary to make an application, by way of petition, to the proper tribunal, he desired the paper to be left in his hands, provided it contained a statement of the case from which the petition might be framed. Mr. Sherman consented with reluctance, telling him, that it was merely a memorandum drawn up for himself, for his own convenience. The lawyer, after reading it, remarked, with an expression of surprise, that, with a few alterations in form, it was equal to any petition which he could have prepared himself, and that no other was requisite. Having then made some inquiries relative to Mr. Sherman’s situation and prospects in life, he advised him to devote his attention to the study of the law. But his circumstances and duties did not permit him to follow this counsel ; the numerous family, which the recent death of his father had made, in a considerable degree, dependent on him for their support and education, required his constant exertions in other employments. But the intimation which he then received, that his mind was fitted to higher pursuits, and that he probably possessed talents adapted to the trans-

action of public business, no doubt induced him, at that early period of life, to devote his leisure moments to those studies which led him (from being a shoe-maker) to honor and distinction."* A careful examination of biography in general, could not fail to bring to light many similar instances; and how many more must have occurred, which never found their way into the collections of biography.

SECTION II.

ASSISTANCE GIVEN IN THE WAY OF OUR EMPLOYMENTS AND PROFESSIONS.

Men may mutually assist one another by rendering aid in the way of their employments or professions. Especially is this the case with members of the more liberal professions and employments; such as legislators, officers of various grades in the civil, military, and naval service, lawyers, physicians, clergymen, &c. A legislator has it in his power to accomplish salutary reforms by introducing remedies for existing evils and abuses, and to contribute to the welfare of his country by originating and advocating wise and salutary measures. Frequently, too, individuals, and classes of men, have just private interests to be advanced by legislation, and in this way the office of legislator may subserve the claims of private justice. A civil magistrate, (a justice of the peace, for instance,) who unites a requisite share of legal information with industry, firmness, consistency, and perseverance, may be of the greatest service to his entire neighbourhood, by a vigorous, impartial, and at the same time temperate administration of the laws. An upright and active magistrate is no ordinary blessing to the community in which he resides. Such magistrates "are for the punishment of evil doers, and for the praise of them that do well."†

A lawyer may do great good to his neighbourhood by advising the amicable adjustment of disputes, and lending his aid to this effect; and particularly by discouraging suits between near

* Sanderson's *Lives of the Signers of the Declaration of Independence*, Vol. III. p. 210.

† 1 Peter ii. 14.

relatives, and such as appear to originate in motives of personal pique, malice, or revenge. He may be useful, too, in cases where suits are inevitable, in allaying the bitterness and animosity of the contending parties. On the other hand, no man has it in his power to disturb society so much as the lawyer, by exciting animosities, fomenting quarrels, and otherwise stirring up the elements of discord. "It is scarcely possible," says Gisborne, "to calculate the injury done to individuals and to the public, by a lawyer who foment quarrels and encourages litigation; who takes fraudulent advantages; who imposes on the simplicity of witnesses; who heaps expenses on his employers by recommending needless consultations, by promoting artificial delays and suggesting circuitous methods of proceeding, by drawing out deeds and other instruments to an extravagant and unnecessary length, and by immoderate charges for his personal trouble and attendance; who betrays the private concerns of one man, or of one family, to another; or practises any of the innumerable devices of unprincipled chicanery, by which contests are excited or prolonged, the demands of justice resisted or eluded, and dishonest emoluments obtained or pursued."*

The spiritual functions of the clergy, bring them into friendly and confidential relations with every class of mankind, from the humblest to the highest; and this peculiarity in the nature of their office gives them constant facilities for rendering themselves useful to every grade of society, by promoting peace, giving instruction and advice, and administering consolation to all, as occasion is from day to day presented. Every member of a congregation may well expect to find in his pastor a friend and a confidential adviser; a man "ready to every good work."† No one of the private professions, however, puts it in a man's power to do so much good at a small expense, as the profession of medicine. Health, which is precious to men of every condition, is to the poor invaluable, — it is their all. And with respect to expense, the price of medicines, at first hand, is small, and the cost of advice is nothing, where it is given to those only who are without the means of paying for it.‡

* Inquiry into the Duties of Men in the higher Classes of Society in Great Britain, Vol. I. p. 342.

† Titus iii. 1.

‡ Paley's Moral and Political Philosophy, p. 169.

SECTION III.

ASSISTANCE GIVEN IN THE WAY OF JUDICIOUS PATRONAGE
AND ENCOURAGEMENT.

Much good may be done in the way of patronage and encouragement judiciously bestowed on worthy persons, either by giving them business, introducing them to those who have business to give, furnishing them with loans of money to be repaid after some time, with or without interest, giving them an education, or aiding them in obtaining one, &c. Many, in every age, who have been eminently useful and successful in life, have testified, that they were indebted for all their success, and consequently for their usefulness, to the timely assistance given them by an individual, or a few individuals, in the way of business intrusted to them. A mere introduction and recommendation to men engaged in extensive business, and having much occasion, therefore, to employ others, has often led to the like result. On the other hand, thousands of meritorious young men, who might have been useful and valuable citizens, perhaps ornaments to their country, have sunk under depression, despondency, and despair, for want of the timely assistance and encouragement, which many had it in their power to bestow.

If it were necessary to do more than simply to advert to these ways of doing good, to show their importance, many interesting examples, illustrative of them, might be adduced. Instances must be within the recollection of every well-informed man, of many persons, who have been brought forward under the patronage of individuals, and by whose future career their country has been immensely advanced in the arts, in literature, in the sciences, in manufactures, in commerce, and in every other branch of useful or ornamental labor and enterprise. Many most useful inventions and discoveries have originated in similar patronage, bestowed on men of genius and enterprise by private individuals. Even the discovery of this continent sprung from the private patronage and encouragement bestowed on the enterprise by the queen of Spain. The records of history and biography are crowded with examples of genius, talent, and enterprise, encour-

aged and cherished by private patronage. If there were no other instances, those of Arkwright and Fulton might suffice to recommend this way of being useful.

Again, in respect to the utility of loans, the celebrated Dr. Franklin ascribes all his success and usefulness in life to his being aided in this way. He says, in his Will, "I was assisted to set up my business in Philadelphia by kind loans of money from two friends there, which was the foundation of my fortune, and of *all the utility in life* that may be ascribed to me; and I wish to be useful, even after my death, if possible, in forming and advancing other young men that may be serviceable to their country." To this end, he bequeathed £2000 sterling to be loaned to young artisans in perpetual succession, and on a plan which is a just subject of curious interest.*

But of all the methods, by which men may make themselves useful in their day and generation, no one is so fruitful in its returns of good, as gratuitous education, bestowed on those who must otherwise be without this blessing. All who have the command of money, may make themselves useful in this way. It is, also, in the line of the profession of clergymen, of the presidents and professors of our colleges, and masters of academies and schools, to benefit the community in the same way; and well have they used this talent intrusted to their guardianship. The number gratuitously educated by them has been very great. We have been accustomed, of late years, to hear many complaints; in regard to the abuse of *bequests* made to encourage education, and it is not to be denied, that there has been too much foundation for complaints of this kind. Any abuse of this class of trusts is injurious in a tenfold degree, as it tends to prevent the appropriation of private wealth to advance education, when, at the approach of death, it can no longer be enjoyed by its proprietors.

But flagrant abuses of this kind have been comparatively infrequent, much less have they been general; and, as a set-off against such abuses, there must be multitudes of instances, of an opposite character, scattered through the country, of which my limits

* Franklin's Works, Vol. I. p. 515.

permit me to cite but one. "About forty years since," says the present assistant Bishop of Virginia, "there died in this country, a pious man, who had spent his life in the instruction of youth, and thereby accumulated a handsome fortune. Having no family, he left the greater part of his property, viz. fifteen thousand dollars, to one of our colleges, directing that the interest of the same should be used in the education of poor and pious youths for the ministry of the Gospel. The will has been religiously observed, and some years since it was stated, that, by its means, one hundred and fifty pious youths had been admitted into the service of the sanctuary. And who shall estimate," continues the author, "the good which those preachers have done, and shall do, the thousands and hundreds of thousands, they have been, or will be, the instruments of converting, the hundreds and thousands of other pious youths, whom they may bring into the service of God, and all the good they also may do; and who shall say how much of the happiness of this exalted saint may come from the knowledge of all this good, how rejoiced his angelic spirit may be in the society of those who have been converted under the ministry of his own raising, and who are now among the redeemed above?"*

SECTION IV.

ASSISTANCE IN THE WAY OF ALMSGIVING.

That it is a duty to relieve the suffering poor, can admit of no question in the mind of a Christian. No duty is more frequently or more earnestly insisted on in the New Testament than almsgiving. "Give alms of such things as ye have; and behold, all things are clean unto you."† "Charge them," says St. Paul, "that are rich in this world, that they be not high-minded, nor trust in uncertain riches, but in the living God, who giveth us richly all things to enjoy; that they do good,

* Rt. Rev. William Meade's Sermon before the Convention of Virginia, 15th May, 1828.

† Matt. xi. 41.

that they be rich in good works, ready to distribute, willing to communicate; laying up in store for themselves a good foundation against the time to come, that they may lay hold on eternal life."* "Whoso hath this world's good, and seeth his brother have need, and shutteth up his bowels of compassion from him, how dwelleth the love of God in him?"†

Besides laying down the duty of almsgiving, in absolute terms, our Saviour has guarded us against bestowing alms from an unworthy motive, — we are not to give alms to be seen of men.‡ We are, moreover, *to give alms upon a plan*; § that is, upon a deliberate comparison of our means with the reasonable expenses and expectations of our families; to compute what we can spare, and to lay by so much for almsgiving in one way or another. ||

With these directions, guarding us against the unworthy motive most likely to beset us, and recommending the doing of the duty upon a plan most calculated to render it effectual, we are left to judge for ourselves, to consult our own reason and experience in regard to the limits of the duty, the proper subjects of it, the most suitable occasions for its exercise, and the manner and other circumstances of performing it. Almsgiving is a practical problem, and few, if any, practical problems in morals have been found more difficult than this; which is, *to relieve the suffering poor effectually, and, at the same time, not to minister to vice and the increase of pauperism*. With much diffidence, therefore, I present the results of careful study and reflection on this part of the subject.

I begin with observing, that the proper objects and principles of Christian almsgiving are among the great topics, which have lately engaged, and are now engaging, the attention of some of the best minds in Europe, and in our own country. A few years only have passed away, since the great questions respecting the poor were, what provision must of necessity be made for them in view of their *increasing numbers*, and of the consequent *expense* to be incurred for them? And, how are they most

* 1 Tim. vi. 17–19.

† 1 John iii. 17.

‡ Matt. vi. 1.

§ 1 Cor. xvi. 2.

|| Paley's Moral and Political Philosophy, p. 142.

cheaply to be fed, and clothed, and saved from that desperation of want, under which lawlessness, and depredations, and every form of violence are to be apprehended? And the leading measures, resorted to for the resolution of these questions, were, as far as philanthropists were concerned with them, the establishment of institutions for feeding the hungry, and clothing the naked, at the smallest possible cost; and, where eleemosynary provisions of this kind were found inadequate, legislative aid was invoked in the form of new poor laws, or the modification and fresh adaptation of those existing, to new demands, circumstances, and emergencies.

I do not mean to say, or to imply, that in the times to which I refer, there was not much very active and very wise almsgiving. But I do mean to say, that almsgiving was too generally under a very unwise direction; that the true principles of Christian almsgiving were not understood, as they are now understood; that incidental, but great evils had sprung up under this injudicious course of action, and were growing, and continually becoming more aggravated; that they were extensively and deeply felt, but that their true causes were not, until lately, extensively or clearly perceived. The conviction is now deep and strong in many minds, and is extending, that no great and permanent improvement of outward condition among the poor is to be expected, but *through an improvement of character*; that the best resources for improving their condition are *within themselves*; that they often need enlightenment respecting these resources much more than alms; that alms may be a means of perpetuating poverty, and even of ministering to vice.

I shall avail myself of the most successful and authoritative of the late investigations to which I refer; and attempt to combine and illustrate the results, which seem to be well established, or entitled to the greatest confidence. In doing this, I shall examine, — I. The chief abuses of almsgiving. II. Discuss the chief modes of almsgiving, — which, if judiciously conducted, will unquestionably benefit the poor.

I. My *general* position, in regard to the abuses of almsgiving, may be laid down thus. Almsgiving is abused, whenever it ministers in any way to a neglect of forethought and providence;

to idleness, pride, or vanity ; or to luxurious and intemperate appetites ;—when it encroaches in any degree upon the feelings of a healthy self-respect, or a regard to character ;—and when it in any degree lessens in the receiver the feeling, that it is disgraceful to depend upon almsgiving, as long as a capacity of self-support is retained.

It would be easy to enumerate *specific* abuses both of public and private almsgiving. We all must have met with but too many of them, even in the small circles in which we have moved. There are, in every country, individuals and heads of families, capable of labor, who will not toil themselves, while they can live upon the toil of others. They are indisposed to any effort which they can avoid. Rather than work, they will live upon alms. There are those, too, who might live in great comfort upon their earnings, if they were willing to live within the compass of their earnings. In other words, they might live in great comfort upon their earnings, if they would deny themselves what they cannot afford, and were willing to appear to be simply what they are. But they aim at appearances, which their circumstances do not justify. They would not only find their condition to be a very comfortable one, but they would revolt from the thought of dependence upon alms, if they felt a proper self-respect, and were under the guidance of a higher principle of right, honor, and duty. To give alms to such persons as these, I say, is an abuse of almsgiving. They need rather a ministration to their self-respect and sense of duty.

Again, there are those, and they are not a few, who, in cases of occasional and even considerable failures of employment, might pass through those seasons entirely without the aid of alms, if they would, while they have employment, but look to the seasons when employment will probably fail them, and appropriate, for these seasons, what might well be spared from their earnings. And would not almsgiving here be at least a ministration to thriftlessness ? I need not say, also, what multitudes there are, who, if they would but wholly relinquish the use of spirituous liquors, would never require the aid of alms for their comfortable subsistence. Nay, it may be, that they are in no small degree induced to continue in their intemperance and wastefulness, by their

knowledge of the fact, that when pressed by want, they can avail themselves of alms. Now it is well known, it cannot be concealed, that injudicious almsgiving, has not only relaxed the main spring of industry in many a mind, it has not only acted as a bounty upon idleness, upon intemperance, and upon willing and unnecessary dependence, but it has even led to and encouraged the grossest deceptions, imposture, and recklessness.

Let it be known, that funds are provided for the various objects of human necessity, and these funds will be applied for; and supply, in this case, will indefinitely increase demand. It would be very unreasonable to look for any different result. If no necessity shall be felt, in the spring, summer, and autumn, of provision for winter, on what ground are we to expect that such provision will be made? We shall in vain teach economy by words, where the necessity of it is superseded by the free supply of those wants, which the individual could himself have supplied, merely by an economical use of his own resources.

Nor have parents and adults only been thus injured, perverted, and brought to indolence, thriftlessness, and debasement. Children have been, to a very great extent, made beggars, through the facilities and excitements which are given to beggary. I say, therefore, that to give to one who begs, because he had rather beg than work; or to give to one who is not too proud to beg, and yet is too proud to live and appear as he must, if he lives upon his own earnings; or to give to those who might support themselves, if they would but look to the future, and economize in preparation for it; or to give to the intemperate, who, simply by abjuring the use of spirituous liquors, might be independent of all eleemosynary aid; or in any way to supersede the necessity of industry, of forecast, and of proper self-restraint and self-denial, is at once to do wrong, and to encourage the receivers of our alms to do wrong. It is patronizing pauperism, and, it may even be, great vice.

I have before said, that almsgiving is one of the highest, and, in the records of our religion, one of the most frequently and impressively inculcated, of our duties as Christians. I would, therefore, by every proper means increase, and would on no consideration do any thing to diminish, our sense of its obligation.

But it is proper, that we feel our responsibility, *as well in regard to the evils which may be incidental to it*, as to the good which may be done by it. We must not, therefore, shrink from the fullest view which can be obtained of these evils. We know, that it has been abused by many to whom it has been extended; and it is well if we can say, that it has never been abused by ourselves, through the want of care and good judgment with which we have exercised it. In speaking of its abuses, it is, therefore, to be remembered, that the whole blame of them does not fall upon the poor. I would not be unjust to any one, especially to one who is poor. But I am convinced, that a clear knowledge and a faithful avoidance of the evils of an injudicious bestowment of alms, is essential to Christian almsgiving. Rightly to understand *uses* in any case, we must, also, understand what are tendencies and liabilities to *abuses* in it. We are to do what good we may, in such a manner and under such precautions, as, if possible, to avoid any evils which may be incidental to it.

II. But guided by the facts, arguments, and illustrations just given, how are we to perform the important duty of almsgiving in such a way as to attain the greatest possible good, and avoid the evils which are incidental to it? This is a grave question, and an attempt will be made to answer it as fully as my limits will permit.

1. Education of every kind, especially moral and religious education, is the most beneficial of all the modes of almsgiving. This is too plain to require, or even to admit, much illustration. The tendency of knowledge, that is, its ultimate tendency, unquestionably is, to improve the habits of those who acquire it, to elevate and strengthen their principles, and to amend all that constitutes their character. Principles and feelings, combined, make up what is called human character. And that the tendency of education is to amend this character by the influence of knowledge, and in proportion to its diffusion, there can be no doubt. Its tendency is to increase habits of reflection, to enlarge the mind, and render it more capable of receiving pleasurable impressions from, and taking an interest in, other things besides sensual gratification. This process operates likewise on the feelings, and necessarily tends to improve the character and conduct of the

individual, to increase prudential habits, and to cultivate, in their purest form, the feelings and affections of the heart.* It is admitted, that education is not always a sufficient guaranty against the commission of crime, — it is indeed a mighty instrument of either good or evil, according as it is directed. The great object of education ought to be, the cultivation of the moral feelings, habits, principles, and character.

The children of the poor, then, ought to be special objects of the care of those who take a lively concern in improving the morals and advancing the happiness of mankind. To this end, our infant-school societies are among the most useful of our institutions, in rescuing the children of paupers, and of the most profligate of the poor, from the disastrous exposures of their condition. Their object is, to take these children into their charge, even at the age of lisping infancy, and form their first associations to the knowledge and love of right, to the knowledge and practice of their duty, and to the knowledge and love of God, their Almighty Father. These schools are moral nurseries for those, who, if not gathered into them, or if left where they are, can hardly be expected, when they shall be advanced in life, to have any clear conceptions and permanent regard for right and wrong; and who certainly, if uncared for, will not be wholly accountable for their character and conduct. The responsibility will be divided between themselves and those by whom they shall have been neglected.

2. Furnishing the poor with employment, at a reasonable compensation, is another unquestionable and unexceptionable way of benefiting them. This position, also, does not seem to require much illustration. We shall diminish the demand for alms, in proportion as we can awaken a spirit of industry in those who shall apply for them, and supply those with employment who cannot otherwise obtain it; and not less, in proportion as we shall save the children of paupers from early exposure, and education in the vices, which have brought their parents to debasement and ruin.

3. Alms given by individuals in considerable sums, to merito-

* Lord Brougham's Speech in the British House of Lords, 20th June, 1834.

rious persons and families, suffering (laboring) under discouragement, depression, and misfortune, are often highly useful. By sudden or gradual fluctuations of business, by losses in commerce and manufactures, by seasons unfavorable to agriculture, by deprivation of health, by the fraud or other misconduct of persons who prove themselves unworthy of confidence, by fires, tempests, and inundations, the calamities of war, and the thousand other unforeseen contingences against which no prudence or foresight can guard, many meritorious individuals and families, in every community, are occasionally, without any fault of theirs, suddenly reduced to the most humiliating and distressed circumstances, who have all the feelings, habits, and associations of independence, of comfort, and perhaps of affluence.

Few situations are more trying and distressing than this. It not only appeals strongly to *the sensibilities and personal endeavours* of the friends of such individuals and families in their behalf, —it does much more; at times, especially, it appeals to them for *aid still more substantial*, for loans or even benefactions of money. These are the proper occasions, on which men of wealth, and all persons in easy circumstances, may do good, by unclenching the right hand without letting the left hand know what the right hand is doing.* A benefaction may appropriately be bestowed in such cases, "*not to be seen of men,*" but *secretly*, the open and manifest reward of which is specially promised by the Almighty.†

4. Alms dispensed through the intervention of hospitals, almshouses, infirmaries, asylums, and charitable societies of various kinds. On the first four of these means of administering alms, it is not necessary to enlarge. It does not appear, that previous to the introduction of Christianity, any similar means of relieving the poor and distressed had been provided in any country.‡ They are, therefore among *the most precious fruits of Christianity*, and an imperishable honor to this divine religion. In these institutions, the suffering poor, the maimed, the halt, and the blind, the distressed and unfortunate of every class, who have none else to care for them, find a refuge, and are cared for.

* Matt. vi. 3.

† Matt. vi. 1, 4.

‡ Paley's Moral and Political Philosophy, p. 142.

The necessities which they relieve are pressing, immediate, and do not admit of delay. And, like all other institutions, they must be more effectual in the accomplishment of their exalted purpose, as their external interests and their internal administration are managed with more order, discretion, prudence, and good judgment; and according to the zeal, capacity, and character of those to whom their administration is intrusted.

The last of the means of dispensing alms, above enumerated, to wit, charitable societies, will detain me much longer. The number of these societies in the United States, in Great Britain, and other Christian countries, is very great, and they have become a most extensive means of almsgiving, in every form which it can assume. These circumstances alone would render careful inquiry into their principles and tendencies useful. Besides, the opinion has begun to prevail, and seems to be extending, not only that they have been the occasion of great waste and of great abuse of the alms which they have so munificently dispensed, but that their tendency is to increase pauperism. Effects still worse than these have been imputed to them.

Many at the present time are accustomed to reason thus. These societies, say they, are formed for the purpose of obtaining funds and dispensing alms. They are therefore known, or are supposed by the poor, to possess funds, either for general or specific objects of relief. And these funds are to be appropriated to the relief of those, who shall apply for them, and who shall seem to need them. They must, therefore, and will operate as lures to application for relief. Not only so, they invite, it is said, even those, who would reluctantly expose their necessities to a private benefactor, to join the multitude who are already recognised as habitually and willingly dependent upon alms, and thus to become themselves recognised, and willing, and habitual dependents. And yet further; in proportion as the disposition already exists in any, thus to be dependent, rather than to labor and economize, this provision not only supersedes the necessity of forethought and exertion, but, to the extent to which the provision shall be made, or shall be supposed to be made, it may be called a machine for perpetuating idleness, waste, and dependence. Even if it be supposed, that the funds thus raised

are small, still, not only will reliance be felt, and calculations be made upon them, but the expectations, formed of them and from them, will not be small.

It must be admitted, that this reasoning, sustained as it is by occasional facts, is plausible and fitted to make an impression even on a good man. That his almsgiving, which he has been taught to consider a sacred duty, should *even be suspected* to be an occasion of waste, of abuse, and of increasing pauperism; strikes him with equal surprise and dismay. Many go easily from one extreme to another; many, too, are glad of any plausible excuse for refusing to give alms. No doubt, also, there has been enough of waste and abuse of alms, to admonish all who may be concerned in their dispensation, to be distinctly on their guard, lest they justify the reasoning of those who oppose themselves against all almsgiving, and cast discouragement on this great and imperative Christian duty.

It may well be believed, indeed, that the abuses of almsgiving have been very much magnified; and it may be affirmed, with all confidence, that such abuses are *circumstantial and incidental* to it, not essential. In other terms, the abuses are owing to want of skill and experience in the dispensers of alms, and not to any thing inherent in almsgiving itself, or *in societies, as the almoners of pecuniary bounty* destined for the poor and distressed. Guided by a knowledge of human nature, and by the teaching of the past, rich as it has been in experience on this subject, the subjoined cautions and rules may be recommended to all societies instituted to collect and dispense alms, and to individuals who themselves dispense their own alms.

(1.) Let all who dispense alms keep distinctly in view *the danger of misapplying them*, and do all they can to guard against every abuse of the alms which they dispense. By this, it is not intended to sanction the maxim, that every man is to be suspected to be a knave, till he shall have proved himself to be honest. Nor is every one to be suspected to be an impostor, who asks for alms, till he shall have proved himself to be as destitute as he shall seem to be. Neither should we indulge an easy and weak credulity, which shrinks from inquiry into the necessities of an applicant for alms. We may believe of every one who seems

honest, that he may be so ; and we ought to respect honesty wherever we may find it. But, that our alms may accomplish the purposes of Christian benevolence, our eyes must not be shut to their liabilities and tendencies to evil.

(2.) Again ; it is a fundamental principle, that individuals and families, asking for alms, ought to be relieved *only at their homes, and after a personal examination of each case ; and relief in those cases, when given, ought to be given, not in money, but in the necessities required in the case ; and street-begging is, as far as possible, to be broken up, especially begging by children.* Private individuals, indeed, cannot often do this ; but those, who dispense the extensive alms of charitable societies, must make up their minds to do it with patience and perseverance, if they expect to prevent imposture, and do the good at which they aim. The giving of alms to street-beggars is, it may be said with great confidence, *the worst of all the abuses of almsgiving.* We may well believe, and we ought to act upon the belief, that it is scarcely possible to live by street-begging, and to live virtuously. It is almost certain, that the boy, who shall be reared to beggary, will be a pauper for life ; and that the beggar girl, if not early rescued, will be irretrievably, and in the worst sense possible, ruined.

(3.) My third principle respects those who are called the able-bodied poor, and is this, — *that the alms which interfere with the necessity of industry, forethought, economy, and a proper self-denial, are not only encouragements, but causes of pauperism.* The truth upon this subject is, and the more faithfully it is regarded, the better it will be for all ; that, except the feeble, the aged, the maimed, and the diseased, the number is extremely small, who, by industry, economy, and temperance, could not provide for themselves and their families.

Among the feeble here referred to, may be included a very interesting class of women, principally widows, who have the charge of several children. Their sole dependence, except occasional alms, is either upon their needles, by which they can earn at best a dollar, or a dollar and a half a week ; or upon employment for a day, or a part of a day, whenever they can obtain it, in any of the coarse work of a family. Many of these are the

widows of men, who might have left their wives independent of alms, had they but themselves abstained from the use of spirituous liquors. But their husbands have left them broken in constitution, borne down by discouragement, utterly destitute, and surrounded by helpless and hungry children. The earnings of this class of women, with their best industry, are very precarious as well as small. At certain seasons, even with extreme economy, they could not be comfortable without alms. They are *unequivocally* proper subjects of alms.

But the number, both of men and women, is still greater, who are able-bodied, and yet apply for alms. They are not inclined to do what they can for themselves. Many of them earn enough for self-support, but expend those earnings in the haunts of waste and vice. They know little of economy, and care for it and practise it still less. They calculate, when employment shall fail them, to live upon the alms they expect to receive. It is, indeed, a delicate, and often a very painful office, to decide and act upon applications for aid, where want and even necessity, may at the time be pressing, but where it is not only perceived, that this necessity might have been avoided by a proper self-denial and economy on the part of the applicants, but that, through the continued neglect of this economy, there will be a perpetual recurrence of the very necessity which pleads for immediate relief. In respect to these cases, I can only say, that, if relief must be given, and it sometimes must be, *it should never be of a kind, or to a degree, which will make this dependence preferable to a life of labor.*

In justice to the poor it may be said, that many of them would be economical, if they knew how to be so. But they have been reared in ignorance, and indolence, and thriftlessness. It may even be, that, amidst waste and want, they have been reared to every attainable indulgence of appetite, — and, as far as females are concerned, to every attainable gratification of the love of finery and display. If these evils cannot be remedied in parents, we ought to do what we may, for their prevention in children. And I repeat, — for too great importance cannot be attached to the principle involved in the caution, — *let us take care, that we do not enable the willingly dependent to live more comfortably*

without industry and economy, by living upon our alms, than the humblest of the self-denying, who receive no alms, can live without them.

(4.) Another principle of great importance is this; — *wherever, in our intercourse with the poor, we meet with industry, with frugality, with self-respect, and with a preference of self-denial to dependence upon alms; the encouragement proper and suitable to individuals of this character is, not almsgiving in any of the forms or modifications which it can assume, but the respect and regard for character simply, which such persons will never fail to know how to appreciate.*

This, indeed, is a test by which the truth of character, in these respects, may be tried. The man or woman, who really prefers labor and self-denial to dependence upon alms, will equally prefer our simple confidence, our just appreciation of motives, and our respect expressed by treatment and conduct, rather than by words, to any alms which we could give. Let us not fail to sympathize with such a person wherever we may find him. But let us be aware, also, of the delicacy, of the care, which must be maintained, in the treatment of such a person. Any substitute for alms, which is to be appropriated to the uses to which alms are applied, however it may be disguised, may, if accepted, lead to dependence upon alms. And he is not fitted to be an almoner, who does not understand and feel, that sincere respect, sympathy, and interest will do more to improve the entire condition of the poor, than any alms which we can give them. These sentiments, and a corresponding deportment towards the poor, will save from pauperism, where the want of them will lead to, and inevitably do much to occasion, pauperism. There is no doubt, that much of the existing pauperism is to be ascribed to the fact, that respect and sympathy are given, in so great a measure, to *condition*, rather than to *character*. Multitudes, therefore, who feel that they cannot hope essentially to rise in *condition*, become reckless in regard to *character*. We ought to do what we can to remedy this evil. And, above all, let us take heed, that our alms shall not be means of undermining one right principle in the mind, or of enfeebling one of its well-directed energies.

(5.) Another principle, not less essential than either of the preceding, is, *that where there are relatives of the poor, who are able to provide for them, almsgiving should not be permitted to interfere with the duties of such relatives.* If the alms are evil, worse than thrown away, which operate as substitutes for industry and economy, in a still higher sense are they evil, because conducing to greater sin, where they interfere with, and supersede the demand for, the affections and duties, which belong to the near relations in which God places us in this world. *

It is the will of God, that, as far as they can, parents should provide for their children. It is equally his will, if parents fall into a condition of dependence, and there are children who are able, even at the cost of much labor and self-denial, to take charge of them, that parents, under these circumstances, shall be supported by their children. Law and right, indeed, require this support from more distant relatives of the impotent poor. Law, however, independent of a higher principle, cannot do much in this case. The duty is one of high *moral character*, and as such is to be early and universally inculcated. So it has been inculcated in Scotland ; and the consequence is, that, where there are no poor-laws, and no parish assessments in that country, the care of the people for their own poor relatives goes far to supersede the necessity of any other provision for them. Legal and other artificial provision for the poor, greatly checks and restrains the natural sympathies of relatives with each other's necessities. They also paralyze public sentiment upon the subject of duty in the case ; and induce a tacit approval of turning over poor relatives upon public charity, even where it ought to cover the individuals, who are guilty of it, with shame and disgrace. We ought to do all we can to counteract this insensibility ; to call up and strengthen the affections by which relatives should be bound to each other, and to show our respect for those who are faithful to the offices of kindred and neighbourhood. Here, as in the cases before adverted to, a judicious respect, and a kindly word of encouragement, are a far better tribute, than would be the most abundant alms.

* 1 Timothy v. 8.

(6.) Once more ;— *since not only a large part of the dependence upon alms, even among the virtuous poor, but nearly all our pauperism, (abject poverty,) is either immediately or remotely to be ascribed to intemperance in drinking, the question arises, and it is often a question of great difficulty, — What ought we to do, or what shall we do in the cases, in which, but for intemperance, there would be no call for alms?* We must always distinguish between the intemperate man and his family. The wife of a drunken husband and her children may be without food, without fuel, without comfortable clothing, and wholly innocent in respect to the causes of their destitution. Or, it may be, the wife is as intemperate as her husband. Yet there are children to be housed, and clothed, and warmed, and fed, and instructed. It may be said, that our very alms will be appropriated to the rearing of these children in intemperance. To some extent, they probably will be. Yet there may be actual and pressing want of the absolute necessities of life. Let him, who thinks it easy always to act wisely in reference to this class of cases, make himself practically acquainted with them, and give us the light of his counsel and example. The best general rule is this, — to the intemperate, whether man or woman, money should never be given. Nay more, even relief in kind should never be given to the families of the intemperate, beyond the demands of unquestionable necessity. Not that we ought to inflict upon them any suffering ; we ought, rather, to be willing and gratified instruments, as far as we can, of their rescue from all suffering. But any alms we may bestow, except with the greatest caution, will but plunge them still further in want and misery. Nay, through our own very alms, may an intemperate husband and father feel himself relieved from the necessity, and perhaps from the obligation, of providing for his wife and children.

There are cases, in which law might do far more than it has ever done for the prevention of pauperism. But, while it licenses the dram-shop, and interferes not with the victim of intemperance, to whatever pitch of wretchedness he may bring his family, while he commits no outrage against the public peace, we must still do what we can, that our alms may not minister to his yet further progress in guilt and misery. Let us seek, by all the

means of which we can avail ourselves, to recover him from his ruin. Above all, we ought never to lose our interest in his children.

5. The administration of alms by a system of poor-laws remains to be discussed, and is too important to be omitted. The great danger of systematic and established provisions for the relief of the poor, in the form of poor-laws, consists in *their tendency to deprave the poor, and thus indefinitely to extend and perpetuate pauperism.*

The history of such establishments, is full of solemn admonition on these dangers. The Reports, recently published in England, upon the poor-laws and their effects, enable us fully to understand this subject. They show, that, from the beginning and constantly, these laws have operated upon very many, as lures to seek support by alms, rather than by labor. Where there is little or no sense of character, or sense of shame, to deter from willing dependence, the temptations to it need not be great. Human wants are divine provisions for human exertions; and, where ability is possessed, and opportunity is had, for the exertions by which self-support may be obtained, it is the will of God, that man should provide for his own subsistence. Yet many are, and ever have been, disposed to live with as little labor and self-denial as possible. Many are industrious, economical, and careful for the future, only as they are compelled to be so by the absolute necessity of their condition. They are always ready to avail themselves of any circumstances, by which they can live upon easier terms than daily forethought, care, and toil. The fact stands out in bold relief, and for solemn admonition, that established provisions for the support of the poor have never failed to obtain claimants, to any extent to which such provisions have been made. And not only so, but the relief thus given has been received, not as alms, but as the proportion due to the receiver from a recognised common stock.

As yet we see these results but to a comparatively small extent in our own country. The facilities for employment and support everywhere among us are so many and great, and our population is as yet so little crowded, compared with that of Europe, that demands of this kind may be resisted here, as they cannot be

there. But we have experience enough of these results to satisfy us, that they are not fictions. It is to be considered, also, in this connexion, that every addition to the number so supported, exerts some influence in breaking down the sense of shame in regard to this kind of support, in those who are in the same, or in similar, circumstances. On this subject, the experience of England is too instructive to be passed by lightly. "I am every week astonished," says the overseer of an English parish, "by seeing persons come for relief, who I never thought would have come. Among them are respectable mechanics, whose work and means are tolerably good. The greater number of out-door paupers are worthless people. But still, the number of decent people, who ought to make provision for themselves, and who come, is very great and increasing. Indeed, the malady of pauperism has not only got among respectable mechanics. We find even persons, who may be considered as the middle classes, such as petty masters, who have never before been seen making applications to parish officers, now applying. My opinion is, that they apply in consequence of witnessing the ease with which others, who might have provided for themselves, obtain relief." *

Thus, in England, circle has gradually been added to circle, and the whirling eddy has extended, until it has engulfed multitudes who once thought themselves, and were universally thought, far from its brink. Here, too, the great secret is disclosed, of the pauperism of very many in this country. They might have provided for their own necessities. But they have seen, that others obtain relief amid their wants, simply by asking for it, and thus they, also, have been led to ask for it. And if, moreover, we take into account the peculiar pressure for aid, which always has been, and always will be, incidental to seasons of scarcity, and to those fluctuations of the commercial and manufacturing interests, by which many, for a time, are thrown out of employment, and the wages of labor are reduced to those who may still be employed, while the price of provisions may even be considerably enhanced, the whole mystery of the danger of permanent provisions for the relief of want, so far as the increase of pauperism is con-

* Report of Commissioners upon the Poor-Laws, p. 45.

cerned, and of all other than purely moral provisions for these exigencies, will be dispelled.

It is in these emergencies, that the greatest accessions are made to the number of recognised and permanent dependents upon poor-laws, and upon charitable societies. The difficulties, it may be the actual sufferings of the poor, but independent laborer, are then sometimes very great. A strong sense of character, it may be a strong sense of duty, is then required for the maintenance of his independence. His case is very proper to enlist *private sympathy, to be manifested by giving him employment, or making him small loans*; but let him manfully persevere in his independence, and avoid a resort to poor-laws. By receiving aid under poor-laws, during a pressure of this kind, many thousands have been brought to pauperism, who, aided by private sympathy as they should have been, might have obviated the temporary difficulties of their condition by their own exertions, have gained strength to principle and character from these very difficulties, and ultimately have been gainers through the very circumstances, which, causing them to depend on alms, have eventually brought them to degradation and ruin.

I omit all consideration of the excessive burthens imposed upon the community in the way of taxes by pauperism, because this part of the subject belongs to the legislator and the political economist, rather than to the moral philosopher. But the effects of poor-laws upon the moral feelings and natural sympathies of paupers come fairly within my province. "The burthen of this" (the pecuniary) "tax upon its payers," says the highest authority, "sinks into insignificance, when compared with the dreadful effects, which the system produces upon the *morals and happiness* of the poor. It is as difficult to convey to the mind of the reader a true and faithful impression of the intensity and malignity of the evil, in this view of it, as it is by any description, however vivid, to give any adequate idea of the horrors of a shipwreck, or a pestilence. A person must converse with paupers, must enter workhouses and examine the inmates, must attend at the parish pay-table, before he can form a just conception of the moral debasement, which is the offspring of the present (poor-law) system. He must hear the pauper threaten to aban-

don an aged and bed-ridden mother, to turn her out of his house, and to lay her at the overseer's door, unless he is paid for giving her a shelter ; he must hear parents threaten to follow the same course with regard to their sick children ; and, when he finds that he can scarcely step into a town or parish in any county, without meeting with some instance or other of this character, he will no longer consider the pecuniary pressure upon the rate-payer as the first in the class of evils, which the poor-laws have entailed upon the community." *

Again, another witness says, "Two laborers were reported to me as extremely industrious men. They maintained large families, and had neither of them ever applied for relief. I thought it advisable, that they should receive some mark of public approbation, and we gave them one pound each from the parish. Very shortly *they both became applicants for relief, and have continued so ever since.* I can decidedly state, as the result of my experience, that, *when once a family has received relief,* it is to be expected that their descendants for generations will receive it also. I remember, that, about two years ago, a father and mother and two young children were very ill, and reduced to great distress. They were obliged to sell all their little furniture for their subsistence. They were settled with us ; and, as we heard of their extreme distress, went to offer them relief. They, however, strenuously refused the aid. I reported this to the church-warden, who determined to accompany me ; and together we again pressed upon the family the *necessity* of receiving relief. But still they refused, and we could not persuade them to accept our offer. We felt so interested in the case, however, that we sent them four shillings in a parcel with a letter, desiring them to apply for more, if they continued ill. This they did. And from that time, I do not believe they have been three weeks off our books, although there has been little or no ill health in the family. Thus we effectually spoiled the habits acquired by their previous industry. And I have no hesitation in saying, that, in nine cases out of ten, such is the constant effect of having tasted parish bounty. This applies as much to

* Report of his (Britannic) Majesty's Commissioners on the Poor-Laws, 1834, p. 97.

the young as to the middle-aged, and as much to the middle-aged as to the old. I state it confidently, as the result of my experience, that, if once a young lad gets a pair of shoes given him by the parish, he never afterwards lays by sufficient to buy a pair. So it is also with parents. The disease of pauperism is hereditary. When once a family has applied to the parish for relief, they are pressed down for ever."*

The truth is, the English system of poor-laws has had the effect, so far as the poor are concerned, of repealing that great law of nature, by which the effects of each man's improvidence or misconduct are visited upon himself and his family. The effect has been, moreover, to repeal, to the same extent, the law, by which each man and his family enjoy the benefit of his own prudence and virtue. In abolishing punishment, we equally abolish reward. "It appears to the pauper," say the English Commissioners, "that the government has undertaken to repeal, in his favor, the ordinary laws of nature; to enact, that the children shall not suffer for the misconduct of their parents, the wife for that of the husband, or the husband for that of the wife; that no one shall lose the means of comfortable subsistence, whatever be his indolence, prodigality, or vice; in short, that the penalty, which, after all, must be paid by some one for idleness and improvidence, is to fall, not on the guilty person, or on his family, but on the proprietors of the lands and houses encumbered by his settlement. Can we wonder," they continue, "if the uneducated are seduced into approving a system, which aims its allurements at all the weakest parts of our nature, which offers marriage to the young, security to the anxious, ease to the lazy, and impunity to the profligate?"† Such are the chief evils which have attended the English system of poor-laws; and, in a certain measure, the same system so far as it has been established in this country.

Still it is right to subjoin, that the English Commissioners consider these evils *incidental* to the system, and not its *necessary* consequences. They say, "From the evidence collected under

* Report of his (Britannic) Majesty's Commissioners on the Poor-Laws, 1834, p. 93.

† Idem, pp. 59, 77.

this commission, we are induced to believe, that a compulsory provision for the relief of the indigent can be generally administered on a sound and well-defined principle ; and that, under the operation of this principle, the assurance, that no one need perish from want, may be rendered more complete than at present, and the mendicant and vagrant repressed by disarming them of their weapon, — the plea of impending starvation.”* To secure this end, the new act of Parliament was framed, and the new system is stated to be working well.†

CHAPTER VIII.

THE DUTIES OF FRIENDSHIP.

THE question was discussed as early as the time of Cicero, whether mankind are accustomed to associate by the influence of a natural principle, or in consequence of the mutual aid which they may expect, and which they can most effectually give each other, by living in society and cultivating social intercourse.‡ Cicero decides the question in favor of a social principle natural to man, which leads him, independent of any expectation of aid, to associate with his kind ; and his decision has received the general assent of those who have most extensively observed mankind.§

Social intercourse is seen in its highest perfection in the case of permanent and disinterested friendship ; and every classical scholar must have had his fancy enlivened, and his heart and imagination warmed, in perusing the glowing descriptions of the satisfaction and delight which attend it, as given by the classical

* Report of his (Britannic) Majesty's Commissioners on the Poor-Laws, 1834, p. 227.

† See First Annual Report of the Poor-Law Commissioners, 1835. On the whole subject of almsgiving, the author has made much use of the Annual Report of the Association of Benevolent Societies in Boston, for October, 1835, a very valuable and instructive document.

‡ De Officiis, Lib. I. c. 44.

§ See Ferguson's Moral and Political Science, Vol. I. pp. 21 - 25.

writers of antiquity. "To take friendship from life," says Cicero, "would be almost the same thing, as to take the sun from the world." And Pythagoras was accustomed to make the intimacy of friendship so strict, that each person was to be as much pleased with his friend as with himself; and he made the perfection of it to consist in several persons being made *one* (*unus ex pluribus*) by a union of affections and inclinations, and a resemblance of manners, morals, and excellences of every kind.*

The duties of friendship respect 1. its commencement, 2. its continuance, 3. its abuses and violations, 4. its close,—and under these divisions I shall consider it.

1. The first duty of friendship respects the choice of our friends. The importance of this choice is manifest, when we consider the influence over us, which we give to every one whom we admit to our confidence and intimacy. The moral maxim quoted by St. Paul, "Evil communications corrupt good manners,"† is applicable to all human intercourse, especially to the more intimate connexions of life, and to no one more than to friendship. Many writers have made useful suggestions respecting the choice of friends; but no one has more carefully summed up the necessary cautions to be used, than the author of the apocryphal book of Ecclesiasticus. "Be in peace with many," says he; "nevertheless, have but one counsellor of a thousand. If thou wouldst get a friend, *prove him first*, and be not hasty to credit him. For some man is a friend for his own occasion, and will not abide in the day of thy trouble. And there is a friend, who, being turned to enmity and strife, will discover thy reproach." Again, "Some friend is a companion at the table, and will not continue in the day of thine affliction. But, in thy prosperity, he will be as thyself, and will be bold over thy servants. If thou be brought low, he will be against thee, and will hide himself from thy face. Separate thyself" (that is, as to the interchanges of confidence) "from thine enemies; and take heed," (that is, in the choice) "of thy friends. A faithful friend is a strong defence; and he that hath

* Cicero, De Amicitia, c. 13; De Officiis, Lib. I. c. 17.

† 1 Cor. xv. 33.

found such an one, hath found a treasure. Nothing doth countervail a faithful friend, and his excellency is invaluable. A faithful friend is the medicine of life ; and they that fear the Lord shall find him." *

In the choice of a friend, then, besides the personal qualities and virtues which are a just ground of personal preference, integrity, in the full meaning of the term, education, sympathy, faithfulness, consistency, prudence, perseverance, unsullied honor, self-command, and a well-disciplined temper, are indispensable.

2. A wise caution and prudent deliberation in our choice may perhaps be regarded rather as preliminary to the duties of friendship, than as actual duties arising from this connexion. These cannot in strictness be said to commence, until friendship has been formed.

(1.) One of the first and most imperative of these duties is, the liberal interchange and reciprocation of confidence. On this part of the subject, the ancient writers speak in language, which must seem to savour not only of enthusiasm, but of absolute extravagance, in these calculating, — these utilitarian times. "If you think any one your friend," says Seneca, "in whom you do not put the same confidence as in yourself, you know not the real power of friendship. Consider long, whether the individual whom you view with regard, is worthy of being admitted to your bosom ; but, when you have judged, and found him truly worthy, admit him to your very heart. You should so live, indeed, as to trust nothing to your *conscience*, which you would not trust to your enemy ; but, at least to your friend, let all be open. He will be the more faithful, as your confidence in his fidelity is more complete." † "The life of no man," says Cicero, "is worth living, who cannot refresh himself with the mutual benevolence and confidence of friendship. What is more pleasant than to have a friend, with whom you can converse as familiarly as with yourself. He who sees a true friend, sees, as it were, an exemplar of himself. Through the influence of friendship," continues he, "the absent are always present, the poor are made rich, the weak become strong, and, what is

* Ecclesiasticus vi. 6-16.

† Ep. III. Vol. II. p. 6. ed. Amst.

still more incredible, the dead live, — so great honor, such vivid recollection and regret await them on the part of their friends. Wherefore their life is honorable, and their death is blessed." Again, he says, "There ought to be among friends, without any exception, a mutual sharing of wishes, sentiments, counsels, interests, griefs, dangers, and pleasures." *

(2.) Again, it is a duty of friendship to give mutual aid, not only by way of advice and good counsel, but also by lending effective assistance in advancing each other's enterprises and undertakings. There are occasions in the life of every man, when candid advice and judicious counsel are extremely valuable; and there are occasions, when one friend may be highly serviceable to another, without any sacrifice of his interest, or even of his convenience. Almost every man, too, has laudable undertakings and enterprises, either of a private or public nature, which it is in the power of a few persons to advance, by drawing public attention to them, inducing men of influence to give them their countenance, encouragement, and, if necessary, their patronage.

(3.) Another duty of friendship is, that friends lend one another their sympathy in seasons of distress, calamity, discouragement, and depression. "Rejoice with them that do rejoice, and weep with them that weep," is a precept of Christian morals, enforced by Apostolic injunction.† Such seasons are effectual tests of the sincerity of friendship. "A friend," says the Son of Sirach, "cannot be known in prosperity; and an enemy cannot be hidden in adversity." Again, his counsel is, "Be faithful to thy neighbour (friend) in his poverty, that thou mayest rejoice in his prosperity; abide steadfast unto him in the time of his trouble, that thou mayest be heir with him in his heritage; for a mean estate is not always to be contemned; nor the rich that is foolish to be had in admiration." ‡

(4.) The highest of all the duties of friendship, however, is, that friends mutually make known their errors, deficiencies, sins, and other failings to one another, with a view to secure their

* De Amicitia, c. 4, 6, 7, 17.

† Rom. xii. 15.

‡ Ecclesiasticus xii. 8; xxii. 23.

correction and reformation. This is dwelt upon by all the writers, not only as the highest duty, but as the most disinterested proof, of friendship. "Friendship justifies," says the great Roman moralist, so often quoted, "and requires, not only free, but even severe admonition, on certain occasions." Again, "Friends are often to be admonished and reproved, (*monendi sæpe et objurgandi sunt*;) and such admonitions are to be received in the kindly spirit with which they are given." * He even says, "Bitter enemies are of more use than those friends, who to some men seem kind; for, the former often tell the truth, the latter never." "Faithful are the wounds of a friend," says the wisest of men. † "Thou shalt not hate thy brother in thine heart; thou shalt in any wise rebuke thy neighbour, (friend,) and not suffer sin upon him," is the injunction of divine wisdom. ‡ Again, "Admonish a friend, it may be he hath not done it; and if he have done it, that he do it no more. Admonish thy friend, it may be he hath not said it; and if he have, that he speak it not again. Admonish a friend; for many times it is a slander, and believe not every tale." §

Nor must we shrink from the duty of admonishing a friend of his imperfections, especially of his moral imperfections, because we may give him offence. He who takes offence, from such admonitions as friendship dictates, admonitions, the chief inducement to which is found in the very excellence of him whom we wish to make still more excellent, is not worthy of the friendship which we have wasted on him; and if we thus lose his friendship, we are relieved from one who could not have been sincere in his past professions of regard, and whose insincerity, therefore, we might afterwards have had reason to lament. || Cicero well says, "His safety is to be despaired of, whose ears are so shut against truth, that he cannot hear it from his friend." ¶

But, while the writers are unanimous in respect to the importance of friendly admonition, and the duty of giving it, they are equally unanimous in claiming importance for the *manner* in which

* De Amicitia, c. 13, 24.

† Proverbs xxvii. 6.

‡ Leviticus xix. 17.

§ Ecclesiasticus xix. 13-15.

|| See Brown's Philosophy of the Mind, Vol. III. p. 394. ¶ De Amicitia, c. 24.

this highest and most difficult of the duties of friendship is discharged. A friend is to be admonished in gentle and respectful terms. Whatever of severity there may be in any remonstrance on the part of a friend, must consist in the *matter* of the remonstrance, not in the *manner*, much less in the *language* in which it is conveyed. To this end, a friend is to wait for opportunities, to seek the *mollia tempora fandi*, to be inventive of ways and methods, by which to render his remonstrances as little offensive as possible, and effectual to secure the object in view. He must strictly avoid every thing that savours in the least of assumption; every thing that seems to betoken a sense of superiority. In the censure of a friend, moreover, a captious, officious, fault-finding spirit, is to be guarded against, as almost sure to defeat the end at which it aims. A friend is entitled to have the best possible construction put upon his conduct, of which the circumstances admit. He is even entitled to have his conduct viewed with a reasonable share of indulgence by his friend; and that querulous temper must not be indulged, which can only find perpetual occasion of complaint in the conduct of a friend, and which, like the constant dropping that "weareth away stones," will, in time, wear out the firmest friendship.* We must remember, too, that if our friendly remonstrances fail of their desired effect, through any defect in the language we have used, any considerable want of judgment in the time we have chosen, or any serious impropriety in the tone and manner we have assumed, the friend so admonished is not the only one in fault; we are ourselves in part responsible for the unpropitious result of our endeavours.

(5.) Finally, it is a duty springing from this relation, to cherish the memory of a departed friend, to guard and protect his reputation, now committed to the keeping of his friends, and, with the remembrance of the past, to anticipate that future life, in which we may hope to rejoin him, and which, by this hope, presents new motives and new incitements to strengthen our virtue, and to quicken our preparation for our last and great change. "Though the most magnificent funeral pomp," says

* Palfrey's Sermons, p. 190, 191.

the Marchioness de Lambert, "be the tears and the silent sorrow of those who survive, and the most honorable sepulture be in their hearts, we must not think that tears which are shed from the sensibility of the moment, and sometimes, too, from causes, which, in part at least, relate to ourselves, acquit us of all our obligation. The name of our friends, their glory, their family, have still claims on our affection, which it would be guilt not to feel. They should live still in our hearts, by the emotions which subsist there; in our memory, by our frequent remembrance of them; in our voice, by our eulogiums; in our conduct, by an imitation of their virtues." *

3. Abuses and violations of friendship. The great value of friendship, the resources of happiness which it opens to us, and the benefits which it is fitted to confer on all who are qualified to perform its duties, appreciate its blessings, and yield to its kindly influences, render some consideration of its abuses and violations useful. A complete enumeration of them, however, much less any considerable illustration of them, cannot be attempted within the limits to which I am compelled to confine myself.

(1.) One abuse of friendship consists in the wish and attempt to monopolize the time, the attention, the affections, and the services of friends. Juvenal, among other sarcasms which he inflicts on the Greeks, says it is their characteristic never to be satisfied with a friend unless they can monopolize him.

"Non est Romano cuiquam locus hic, ubi regnat
Qui, gentis vitio, nunquam *partitur amicum*;
Solus habet." †

There are persons whose friendship is of so exacting a kind, that they are unwilling to see a friend admitting any other to his confidence and intimacy. Such friendship is strongly tinctured with selfishness, jealousy, and envy; three of the worst passions which disgrace human nature.

(2.) Another abuse of friendship is, to consider it chiefly a matter of profit, and to enter into it with a principal view to the personal advantages, such as honor, wealth, or pleasure, which

* Œuvres, Tome I. p. 248; Brown's Philosophy, Vol. III. p. 395, 396.

† Sat. III. 119 - 122.

we expect to obtain by it. This is to reduce friendship from the elevated social and moral rank, which it ought to sustain, to the level of an ordinary copartnership in trade or other business. It is a connexion of selfishness, of convenience, of pure personal interest, and not of friendship. Whatever of profit comes from friendship, is circumstantial and incidental to it, not essential. Cicero often remonstrates against this abuse of friendship, although he admits, that almost every personal advantage, besides the other blessings which it is fitted to impart, is incidental to it. He says, that "many persons are most fond of those friends from whom they expect to receive the most benefit, and that such persons belong to that class of men, who can see nothing good in human affairs but what is profitable."*

(3.) Friendship is grossly abused, when one friend expects from another any thing which is inconsistent with good manners, good morals, the law of the land, or religion, or which is otherwise wrong or improper. Cicero reviews and illustrates each of these particulars in his usual happy style; but my limits do not permit me to avail myself of the materials, which he has furnished to my hands. †

(4.) The duty of friendship is grossly violated, when we withdraw our attachment and regard from any one, in consequence of a reverse of fortune, or other adverse circumstances not pertaining to his personal merits and character. To this abuse of friendship, the distinguished and the prosperous of every kind are peculiarly exposed. "The rich hath many friends," says the wise man. Again, "Wealth maketh many friends, and every man is a friend to him that giveth gifts." ‡ "There are persons," says a valuable writer, "to whom the title of summer friends has been applied; who, without any directly sordid view to the promotion of their interest, attach themselves to the prosperous and eminent for the indulgence of their vanity, in seeming to be in credit with such persons; or load with favors and attentions those who are coming forward into notice, to signalize themselves as the patrons of rising merit. Such individuals are not without their use, but it would be a gross abuse of language to

* De Amicitia, c. 8, 9, 13, 15, 21.

† Idem, c. 10, 11, 13.

‡ Proverbs xiv. 20; xix. 4, 6.

call them friends. They are a kind of thermometer, by which one may know the temperature of the public feeling towards him, their assiduities with exact regularity subsiding or rising as that feeling grows cool or ardent."*

(5.) Cicero considers it an abuse of friendship, when superiors in birth, fortune, education, personal accomplishments, or any thing else, arrogate any thing to themselves in consequence of these advantages; and when those, who are conscious of their inferiority in these respects, make it a subject of murmuring and complaint, that Providence has not conferred like superior advantages on them. He says, "As superiors ought, in friendship, to use condescension, so, to enjoy this connexion, inferiors ought to elevate themselves."† The same thing may be as well expressed by saying, that, in this relation, all considerations of superior and inferior ought to be entirely lost sight of.

(6.) It is still another abuse of friendship, when friends cherish expectations of perfection in each other, which human nature, by reason of its many infirmities, is entirely incapable of satisfying, and of which they do not furnish an example in themselves. They expect in their friends, perfections which they are not accustomed to exhibit in themselves in return. We must entertain moderate expectations of our friends and associates, unless we are willing to be disappointed. We must be prepared to see and tolerate, with patience, some things of which we disapprove. It is a good rule, too, to be strict with ourselves, while we grant a liberal indulgence to others, in whatever way connected with us.

4. The last duty of friendship respects its close. After using all possible precautions in the choice of our friends; after performing all the duties of this relation with faithfulness, and cautiously avoiding the abuses and violations incidental to it;—still the painful necessity must sometimes occur of dissolving our friendships. This necessity may arise from several causes. We may have been mistaken,—our friend may not be such a man as we have taken him to be,—there may not, after all, be that correspondence of tastes, inclinations, and wishes, which we had believed to exist,—collisions of interest, of principle, or of

* Palfrey's Sermons, p. 178.

† De Amicitia, c. 20.

party, may unexpectedly have caused alienation of feeling, — or, lastly, our friend may have forsaken the path of honor and virtue, and after all possible attempts to reclaim him, we may have been unsuccessful. By the last of these contingencies, all friendship must inevitably be broken ; and, by each of the others, its dissolution is threatened. From these very contingencies, however, certain grave duties arise.

(1.) The first of these duties is this. When alienation of feeling is threatened from any cause, or has commenced, we ought to use our best endeavours to remove the cause, and restore the confidence and good feeling which once existed. Between good men, earnest and sincere endeavours, and a reasonable share of moderation and mutual forbearance, will most generally insure this happy result. There are few misunderstandings between friends, which, in the first stages, may not be reconciled, if reconciliation is prudently attempted and earnestly desired.

(2.) But, even if all efforts of this kind have proved unsuccessful, it is still a high duty of friendship not to violate the confidence which has been mutually reposed. It is sufficiently unhappy, that the bond of a relation so intimate must be broken ; the duty still remains of permitting nothing to be disclosed, which was imparted under the seal of confidence. * The only exception to this, is, when a former friend has himself first broken the seal of confidence, and has so far violated this duty, as to make it a ground of assailing our conduct and character. In such a case, we must be permitted to defend ourselves ; and, to this end, we may rightfully use what has been imparted to us under the confidence of a friendship, broken without our fault, and now attempted to be used to injure us.

CHAPTER IX.

THE RELATION OF BENEFactor AND BENEFICIARY,
AND ITS DUTIES.

THIS is a relation originating in feelings on the part of the benefactor which do honor to human nature, accompanied by actual benefits conferred in the way of personal services, pecuniary aid, or in some other way. The first duty of a benefactor, is, fully and conscientiously to meet and satisfy all the just and reasonable expectations, which his conduct towards his beneficiary may have raised.* Again, it is a duty arising from the relation thus voluntarily created by himself, to prevent, by a kind condescension, the obligation of the benefit from being oppressively felt by him on whom it has been conferred. He ought to make the sense of his favors press as lightly as possible on the mind of his beneficiary. Not only so, it is appropriate to the situation in which he has by his own act placed himself, to cherish a permanent interest in the welfare of the subject of his kindness and friendly regard.

Gratitude seems to be one of the native moral impulses of our nature ; and, so ready is this emotion to spring up in every good mind, that ingratitude to a benefactor has, in every age, been considered as proof of a natural obliquity of understanding, and of unusual insensibility and perverseness of moral feeling. The first emotion of every susceptible mind, on receiving good, is, love of him from whom he receives it ; the next emotion is, the wish to render him some corresponding return of service. It is the duty of the beneficiary, therefore, to study the gratification and advance, as far as may be, the interests and the happiness of him, by whom his own have been advanced without expectation of reward. The duties of the beneficiary are the more important, inasmuch as ingratitude tends so much to dry up the fountain of beneficence.

* See above, p. 204.

This relation may be abused by a benefactor in two ways, — perhaps in more.

1. He may attempt to exact from his beneficiary, compliances and services which are inconsistent with good manners, good morals, the law of the land, or religion, or which are otherwise wrong or improper. By any attempt thus to avail himself of his situation to extort such compliances, he makes himself an oppressor of the most odious kind. If such was his original design in conferring benefits, he has spread a snare for the conscience and character of him who has received them, and the beneficiary is absolved from all obligation of gratitude. And, if such was not his original design, yet if, after suitable remonstrances, he still insists on exacting or expecting such compliances, the beneficiary is in like manner absolved. Nothing improper, still less immoral, can be rightfully exacted by virtue of this relation.

2. Again, the situation of a benefactor may be abused, by his ungenerously upbraiding a beneficiary with the favors which he has received. "This is odious conduct," says Cicero. He continues thus, — "It is the part of him, on whom favors are conferred, to remember them; not of him who rendered, to commemorate them."* Such an act is inconsistent with all proper sense of character, still more with all delicacy of feeling. It tends to extinguish all the kindly feelings which are appropriate and honorable to the relation.

CHAPTER X.

THE DUTIES OF HOSPITALITY.

Too much is said in the Old and New Testament, of the duties of hospitality, to permit a writer on practical Christian morals to omit this part of his subject. In Genesis xviii. 2-8; xix. 1-3, we have, in the cases of Abraham and Lot, two very interesting and instructive examples of patriarchal hospitality, which

* De Amicitia, c. 20.

show, that delicate attentions and courteous treatment of guests were well understood in those primitive times.

St. Paul makes use of these attractive examples of patriarchal hospitality, to encourage Christians, and to persuade them to the observance of this duty, saying, that they who have practised it have had the honor of entertaining angels under the form of men.* One ground of the condemnation of the wicked in the day of judgment will consist in their not having received strangers with hospitality.† St. Paul makes one of the qualifications of a bishop to consist in his being “given to hospitality.”‡ St. Peter enjoins, “Use hospitality one to another without grudging.”§ The primitive Christians made the exercise of hospitality a special part of their duty, and were so exact in its discharge, as to excite the admiration of the surrounding heathen, by whom they were watched with a vigilant eye. They were hospitable to all strangers, — more especially to those who were of the same faith. Letters of recommendation, given to believers, procured them a hospitable reception wherever the name of Christ was known.

Besides the protection, relief, and personal comfort, which hospitality affords, and which especially it was accustomed to afford in ancient times, when “violence was abroad in the earth,” and the restraints of law were comparatively feeble; its fruits at all times are, the cultivation of social intercourse, mutual kindness and good feeling, the removal of unjust prejudices, &c., — objects always important. Josephus understands the provision of the law of Moses, which required all the Hebrews to assemble three times a year at Jerusalem, to have been partly designed to give opportunity for the cultivation of a friendly intercourse and good feeling by personal acquaintance, festive entertainments, and other social meetings.|| This assembling of the great body of the nation thrice a year, in the capital city, must have furnished infinite occasions for giving and receiving hospitality.

So far as the exercise of festive and social hospitality is concerned, it is liable to two very manifest abuses, which ought to be carefully guarded against by every good man.

* Heb. xiii. 2. † Matt. xxv. 43. ‡ 1 Tim. iii. 2. § 1 Peter iv. 9.
|| Antiquities of the Jews, Lib. IV. ch. 8, sect. 7.

1. When, in the interchange of hospitalities of this kind, men incur expenses beyond those, which in sober calculation are justified by their resources and means of living. When men are of a social temper, there is always a strong temptation and tendency to fall into this abuse ; higher claims are, in consequence, disregarded, higher duties are neglected, debts are incurred, and perhaps the patrimonial estate is wasted. The hospitality, too, which has respect to the personal comfort and accommodation of others, especially to their wants and necessities, is a duty of manifold greater importance, than that which spreads the festive board, and presides over the social circle ; and it is the former branch of hospitality, which is chiefly commended by the sacred writers. One ground of the benediction, to be pronounced by our Saviour on the righteous, at the day of judgment, will be, that they have hospitably entertained strangers, as well as given food to the hungry and drink to the thirsty ; — and one ground of his malediction upon the unrighteous, on the same most solemn and august of all occasions, will be, that they have refused the claims of hospitality to strangers, as well as refused to give food to the hungry, and drink to the thirsty.* Even the heathenism of the Greeks and Romans invoked the vengeance of the highest divinity known to, and acknowledged by, the heathen system, against all who treated with cruelty and bad faith the unprotected and way-worn stranger.† Some nations have been distinguished for hospitality, (we have all heard, for instance, of Arabian hospitality,) who seem to have few other virtues.

2. Again, it is a flagrant abuse of hospitality, when festive and social entertainments are made the occasions of luxury, intemperance, or excess of any kind. Christianity subjects men to no hardships. It justifies them in eating and drinking, and in enjoying, with sobriety and temperance, the full measure of the fruits of their labor. But it justifies no excess or intemperance of any kind or degree. And, to be satisfied of the magnitude of the abuse, to which *the pleasures of the table always tend*, it is only necessary to call to mind the enormous and criminal extent to which they have sometimes been actually carried. Instances,

* Matt. xxv. 31 - 46.

† Odyssey, IX. 269 - 278.

without number, of this criminal abuse, must crowd on the memory of every one who is at all acquainted with the later Roman writers, especially Juvenal, and even with those of the Augustan age, who frequently contrast the extreme luxury, extravagance, and excess of the times in which they lived, and the accompanying decay of virtue, decline of the national energies, and extinction of the spirit of liberty, with the plain living, independence of mind, energy of character, self-reliance, unconquerable spirit of liberty, and the rest of the host of hardy virtues, which flourished in the times of the Commonwealth. I cannot enter into details, — but the luxury and extravagance of the later Romans became such, that, as M. Peignot has remarked, “The gastro-nomic reputation of the Romans became no less colossal, than their political and military renown.” The luxuries and extravagances of the table among the modern nations of Europe do not seem to equal those, which, we are assured, existed in the ancient nation I have just mentioned; but they are quite enough to excite the disgust of every man of sense and sobriety, much more of every serious Christian.*

CHAPTER XI.

THE DUTIES OF GOOD NEIGHBOURHOOD.

THE duties of good neighbourhood form a branch of our relative and social duties, which ought not to pass entirely unnoticed. The chief duties of good neighbourhood are, to render mutual aid, as circumstances may require, to cultivate social and friendly intercourse, and to preserve harmony and good feeling among those whose lot in life Providence has cast near each other. A single individual may do immense good in his neighbourhood, by using his influence to promote peace, to improve morals, man-

* An industrious writer has collected a vast number of details on this subject, pertaining both to the Greeks and Romans, and to the nations of modern Europe, in “The American Quarterly Review,” Vol. II. pp. 422–458; and in “The Southern Review,” Vol. III. pp. 416–430.

ners, and the state of society in general ; by forming associations to accomplish what he cannot do by his unassisted endeavours ; by disseminating useful knowledge and good principles ; by setting an example of industry, temperance, and public spirit ; by projecting or encouraging useful enterprises ; by encouraging the support of schools and churches ; by introducing improvements in agriculture, new inventions in machinery, &c.

1. It may be well to glance at some *legal* considerations, and principles of a general nature, pertaining to the duties of good neighbourhood. It is often said, that "it is lawful for every man to do what he will with his own ; that he may use his own property and his person as he pleases, and even his tongue and his pen, if he always adheres to the truth. But, as a rule of universal application, nothing can be more erroneous. It is always subject to this essential limit and modification, that no injury be thereby done to his neighbour." As has been said before, the rule of the municipal law, as far as it can be enforced by human sanctions, is identical with the golden rule of our Saviour, by which we are required to do to others as we would wish them to do to ourselves, in an exchange of situation and circumstances.* "Thus, in general, a man may lawfully erect what buildings he pleases on his own land ; but yet not so as to deprive his neighbour of the light to which he has acquired a title by long and uninterrupted enjoyment. He may carry on what trade he pleases ; yet not so as to render the air unwholesome to others, or essentially to impair their comfort. He may govern his family with more or less regulation, and manage his affairs with much or little noise, as he pleases ; yet, when his house becomes the scene of common brawls, or the noise made on his premises becomes intolerable to his more quiet neighbours, he becomes the subject of legal animadversion. He may employ his capital in the purchase of goods at his pleasure ; yet, should he buy up the whole stock in market of any one article of the *necessaries* of life, corn for example, — with a view to create a scarcity and enhance the price for his own advantage, the law would regard him as nothing better than a 'rogue in grain,' and punish him accordingly. He

* See above, p. 214.

may order, at his pleasure, the rites of sepulture for his dependants who die, yet so that common decency is respected; for, if this be violated, the law will not suffer the outrage to pass unpunished. In fine, the law protects every member of society in the quiet possession of his private property, his liberty, his reputation, the common comforts of light and air, and the enjoyment of the public peace. And it is only in subserviency to these rights, that any one may do what he will with his own."

"It is on this principle that the law of libel is founded; which forbids the impertinent and *malicious* publication, even of the *truth*, if it tends to disgrace another, and to provoke him to a breach of the peace. The offences which men may have committed in time past against society, if repented of and atoned for, ought to be forgiven. The penitent should have some motive to acquire a new character for virtue, in the assurance that he shall be protected in its enjoyment. 'If private intermeddlers, assuming the character of reformers, should have the right maliciously to arraign others before the public, and, when called to account, to defend themselves by breaking into the circle of friends, families, children, and domestics, to prove the existence of errors or faults which may have been overlooked and forgiven where they were most injurious; the party thus accused, without lawful process, might be expected to avenge himself by unlawful means, and duels or assassinations would be common occurrences.'* Hence the publication of disgraceful truth is unlawful, unless it is done *with good motives and for justifiable ends*."†

2. This class of our social and relative duties, may be illustrated further, by adverting to the chief causes, occasions, and circumstances, which are accustomed to disturb and injure neighbourhoods.

(1.) Great unhappiness is frequently caused in neighbourhoods by slander, tale-bearing, jealousy, envy, prying by one neighbour into the concerns of another, &c. Slander sows the seeds of discord, tale-bearing scatters them far and wide, and in due time, springs up a plentiful harvest of heart-burnings, evil surmises, and quarrels of every kind which can embitter life and render existence

* Pickering's Reports, Vol. III. p. 313.

† Manuscript Lecture of Professor Greenleaf, of Harvard University.

miserable. One neighbour is, perhaps, more successful than another, in the management of his affairs ; or he acquires a larger share of honor and esteem ; hence, again, arise jealousy, envy, and ill-will, manifested on every occasion, and in every form which can annoy and disturb him against whom these baleful passions are excited.

(2.) Again, neighbourhoods are frequently disturbed by mutual irritations, proceeding originally from very slight provocations. Two adjoining neighbours, perhaps, both lay claim to the same strip or nook of land, of no real importance to either. At first, they mutually urge their claims in moderate and decent language ; by and by one of them uses angry and irritating expressions ; to this succeed mutual abuse and menaces ; at length comes actual violence, in expectation of which, each arms himself for combat ; and, it may be, the loss of the life or limbs of one or both of the combatants is the fruit of a controversy originally insignificant.

(3.) Sometimes a single individual, of a restless and turbulent temper, disturbs an entire neighbourhood, by exciting quarrels and lawsuits, fomenting jealousies, forming parties, &c. One or a few individuals may make a neighbourhood so uncomfortable and undesirable, that the worthy and peaceable may be compelled to leave it in self-defence. Juvenal mentions one way of doing this,* and a hundred other ways of doing the same thing are known to every bad neighbour.

* Sat. XIV. 145.