

OUR HEARTLESS POLICY.

DEDICATED TO THE

HIGH-MINDED AND REFLECTING

OF ALL NATIONS,

AT THE

APPROACHING EXHIBITION.

BY "AN ETONIAN."



LONDON:

JAMES RIDGWAY, PICCADILLY.

1851.

OUR HEALTHLESS POLIOY.
PART 1

This work is intended to be read all together
and to be read in one sitting. It is not
intended to be read in two sittings.
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THE HISTORY OF THE
REFORMATION IN ENGLAND
BY
JAMES HANCOCK

The history of the reformation in England
is a subject of great interest and importance.
It is a subject which has attracted the
attention of all who are interested in
the history of our country. It is a subject
which has been the subject of many
works of history. It is a subject which
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PREFACE.

THIS work is intended for those of all—though most of Christian—nations, about to visit our shores, who, whether sternly advocating the necessity for, or supinely conniving at, the continuance of the judicial murder of their fellow creatures, in their several communities, are totally unconscious, it is charitably presumed, how the course they are pursuing is at utter variance with the very first principles of the doctrine which, as Christians, they profess.

Messieurs les Italiens, if, while hesitatingly treading in the footsteps of your great author* of "dei delitti e delle pene," the writer of this un-aspiring work, has at only the eleventh hour been induced to save from—(doubtless a merited) oblivion, what has, however, been the result of some reflexion; it is, that he imagined at the approaching assemblage of the European family, a fresh impetus might not improbably be given, a new field opened, for comparing, with the systems of other nations, what has been as yet, the all but abortive efforts of philanthropists in our own. While, in the possibility of there being found among its pages, some suggestions, perhaps novel, and in furtherance of an object, of which the attainment can be but so desirable, may be traced the motives that alone have prompted him to deviate from what was his first, and but for these, had been his fixed resolve.

* Beccaria.

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OUR HEARTLESS POLICY.

TO THE HIGH-MINDED AND REFLECTING
OF ALL NATIONS.

MY DEAR COUNTRYMEN, AND BROTHERS OF ALL NATIONS,

YOU, whom an enlightened and highly-gifted Prince—anxious to promote the welfare of the human race—has invited to the land of his adoption, where comparisons in all that, as it is supposed, may tend to the general advancement of mankind, are about to be instituted,—to you I dedicate a work, which, for its subject has what can surely be deemed second to none among the objects such as—of import higher than mere improvements in manufactures, or advancement in commerce—ought, on so memorable an occasion as this, to be aspired to, in an effort of which the worthy motive is so clearly manifest.

But, well-intentioned as a scheme, unrivalled as yet, whether for the grandeur of its conception, or its universality, may be: however flattering to the personage who nobly conceived it; unless in its progress, and eventually its solution, results of greater moment than the improved shape of a table, the dubious substitution of Glass for Tiles in the roofs of our stables, our barns, or our out-houses; or the better construction of a cabinet, or a bedstead.

If nothing more important of acquirement, than that only fresh and increased facilities be given, or inroads made, and merely that “Trade may live”—for crowding, for instance, that immoderate quantity of manufacturer’s materials in our fair one’s attire.

Of imposing on them that cruel—because unsettling—
—that vulgar and arbitrarily-assumed necessity for
the so constant change in fashions, of which already,
they are sufficiently as well the dupes as the victims
—they who like “Beauty” are “when least adorned,
adorned the most—”

Dooming their fair forms and fairer faces, as it
does, to crouch beneath a “Tyranny of Trades”
such as nowhere but in England is so insisting and
so dominant: that can trample under foot two of
the best attributes of woman, her Prudence, her
Economy: and which—while no other country in
Europe would tolerate a like indignity, or submit to
so sordid a dictation—renders us the laughing-stock
of our more tasteful, yet more frugal and self-deny-
ing, our more philosophic, and therefore, more con-
tented neighbours.

Unless results be realized, more moral, more in-
tellectual, more cheering, I say, than fruits, such as
at the altar of the mere idol “Warehouse,” we may
calculate on seeing offered at her shrine. If a temple
surpassing that of Solomon in extent, prove a temple
of Solomon without his wisdom likewise; it is much
to be questioned whether the whole project will not
fall infinitely short of what was the first intention of
its illustrious originator; and, instead of conferring
its well-intentioned benefits on mankind, or leaving
a lasting record of what it has effected, will

“Like the baseless fabric of this vision,
And, like this unsubstantial pageant faded,
Leave not a rack behind.”

But to return from this digression, and to our subject.
Let me begin by asking you:—

“ Is man more just than God? Is man more pure
 Than He who deems e'en seraphs insecure?
 Creatures of clay, vain dwellers in the dust!
 The moth survives you, and are ye more just?
 Things of a day! you wither ere the night,
 Heedless and blind to Wisdom's wasted light!”

You cannot, I imagine, reply in any other than the negative to either of these significant questions: much less, be insensible to the moral, with which so beautiful a paraphrase is invested.

Then, if so, I think, we one and all, shall be equally unanimous in agreeing that, that mournful and humiliating position in which it would seem our several communities still continue doomed to find themselves placed, when among their members, those who convicted of some atrocious crime, after passing through the ordeal of a criminal court, and when the supposed efficacy of human tribunals has been exhausted, remain in that awful stage of transition from Time to Eternity; must offer a never wearying subject for our contemplation, whether as philosophers, or moralists, to whatever country or clime we may belong. And, although this discussion has already been the theme of earlier and abler pens, still, when we contemplate this yet existing, sad, and false position of a community—such as our own for instance—so civilized, so abounding in all the outward attributes of Christianity, so lavish of its philanthropy, its benevolence; so emulous, apparently, of advancing whatsoever is good; when, I say, we ever and anon are horrified at some dreadful human sacrifice—such as, while I write, has just been, and others immediately about to be offered amongst us; and, further, it is remembered how occurrences

attending a tragedy, that not unrecently—and not without reason supposed to have been enacted—at York,* and only brought to light through the vigilance and philanthropic perseverance of the humane, have evidenced anew the guilty tardiness of Legislatures to be convinced; I think it will be at once accorded how little apology, after all, is necessary in my revival of a subject, on which so little impression has as yet been made, and how *all, in fact, remains to be accomplished* towards the elucidation of perhaps the most astounding, the most sickening phenomenon attendant on Humanity: involving as it does, in its mysterious nature, a paradox as startling as it is altogether without a parallel.

Again, when we reflect that those malefactors whom we doom to death are our fellow creatures, and were, like ourselves, endowed with all the grand characteristics to fit them for Immortality, until—by some demoniacal influence—those lofty attributes were obliterated and destroyed; when we consider that their early dawn may have been ushered in by prospects quite as bright, as cheering as our own, and who with equal truth may say—

“ I, too, was born in Arcady,
 And Nature o'er my infant cot
 Unruffled sunshine promised me.
 I, too, was born in Arcady,
 Yet, only tears have been my lot.”†

* The case of William Ross—aged 19; tried by Judge Creswell, and convicted and executed for murder.

† “ Auch ich war in Arkadien geboren,
 Auch mir hat die Natur
 An meiner wiege Freude zugeschworen,
 Auch ich war in Arkadien geboren
 Doch thränen gab der kurze Lenz mir nur.”
 SCHILLER.

When, we reflect on the rocks and shoals by which youth—perhaps orphan, and early bereft of the fostering guidance of parental Love—suddenly finds itself beset, alone to stem; and, when with this we remember—

“ . . . how few bring back at eve
Immaculate, the virtues of the morn.”

However little these sorrowful reflections may arrest the daily routine of the Votary of pleasure,—how little dim the eye, or excite the too transient sympathy of the young, the heedless, and the gay; in mercy surely ought, to awaken the serious and simultaneous consideration throughout Europe of all reflecting and maturer minds. Urging them anew to exert their best faculties towards ameliorating a state of society, which in whatever clime or region it prevail, appears so sad, so humiliating, so anomalous.

For, how to account for that excess, that accumulation of turpitude, which on some devoted heads would seem, so singularly to fall, while those whom Society is pleased to regard as its more virtuous brethren—though who, in all probability, might with greater propriety be termed only its less guilty—appear as signally exempt?

What, then, or whence, the hateful influence which has so perverted, or obliterated in some, the lofty attributes of man? what demon has lured *their* pristine innocence from its ingenuous track, strewn in *their* paths temptations such as in *their* weakness they have been unable to withstand, brooded over *them* too long to make *them* in any degree less demoniacal than itself; exulting in each successive

step towards perdition *they* have made, and glorying at last in *their* destruction?

But, while entering on a subject as painfully interesting, as it would seem, imperfectly understood, it is necessary to premise by observing, that, unless we acknowledge a question of a nature so truly serious as the one at issue, as referable to religion alone; unless with a thorough reliance on the truth of this axiom we commence our investigation, there exists much doubt whether any arguments on either one side or the other, can ever leave the question in any light less satisfactory, or more misunderstood than that in which it at present rests.

That the matter must stand or fall, on the merits of the two dispensations, appears conclusive beyond a doubt, while to those (of whom there is reason to believe there are in all countries, thousands,) who declare it never once struck them how a question, involving the judicial immolation of their fellow-creatures, could be of any other than mere secular import, and consequently referable to "expediency" alone, to such their more Christian brethren ought to wish a long, long life indeed, towards affording them every opportunity of convincing them of the levity of their thoughts on so grave a subject as this; to assure them as kindly as language can convey, that, to them, Christ's mission upon earth must seem abortive; and although the lapse of ages may have grounded others in the stedfast, the inflexible belief that the Saviour died to expiate the sins of the whole world, for

"Dessus quel endroit tombera ton tonnèrre
Qui ne soit tout couvert du sang de Jésus Christ?"

by them the useless trammels of hypocrisy, religion's outward cloak, should be at once cast off, while candour, at least, should prompt them to confess, much as though even here again, are they doomed to be in error; that to them it must appear the Saviour of the world has lived, has died in vain!!

Passing, then, over the startling injunction of the Omniscient with reference to the two first murderers Cain and Lamech: conceiving that, if these do not render conclusive the arguments here adduced against capital punishment, no other instance under the Mosaic Dispensation can possibly be urged in its favour: imagining, too, that David presents a remarkable instance, under the old Dispensation, of how real and unfeigned repentance may expiate in the eyes of God, even the commission of the foulest possible deeds; while, the so oft quoted passage—on which we will hereafter as reverently as we can, comment, and which, at least as to us it appears—is, in its spirit, even on our side; our philanthropy—in order to be based on yet further, and less dubious Scriptural corroboration, must, in its human weakness, seek yet another test, a truer standard, which the Christian Dispensation alone can supply, by solving those difficulties, strengthening anew, what was all along our original impression on so critical a subject, and dispelling the doubts which we feel it no humiliation at the same time candidly to confess, we may very reasonably at the outset, also have entertained. Aware, that had not our arguments been borne out by something more than the rapturous impulse of the passions, even when actuated by a worthy motive—had not our endeavours to

advocate the cause of suffering humanity, been rendered subservient to the unadorned dignity of inward reflexion, and become handmaid to that heavenly doctrine, which enjoins us to do to others as ourselves we would be done unto ; had not, I say, our deductions on so awful a theme as this, been strengthened by any aid less than that of Religion to arm them with inferences so conclusive, and such as Sophistry itself should quail to encounter ; our efforts, however humane and well-intentioned, would have met with that shipwreck, which all morbid, and unnatural impulses may naturally be expected to encounter ; and become abortive, since divested of the only legitimate object of all discussion, that of to convince others, or, confess an error under which unconsciously, we have ourselves reposed.

But, doubtless the world will say,—I mean the thoughtless, the unreflecting world—why seek to shake the “Expediency” of Judicial death, when with reference to those outcasts, who, (constituting, as it is known they do, to whatever nation they belong, the very scum of its society,) have, in a career, characterized by the blackest crimes, and in the face of all the opportunities which the various Christianized communities of Europe, can so readily afford ; have chosen to display an absence of all feeling, all virtue, all decorum ; whose souls, lost beyond redemption, with a weight of iniquity, too heavy for them to bear, it would seem, indeed, a mercy, as well to them, as to ourselves, by a judicial riddance, to blot from a world, perverted daily by their example, polluted by their crimes, and who, having lost every claim on that society, whose

endurance they have outraged; can be fit only for that fiery and bottomless abyss, their repeated misdeeds must have so justly won, and whose miserable existence should therefore be judicially forfeited.

“ Alas ! Alas !

Why, all the souls that were, were forfeit once ;
 And He, that might the 'vantage best have took,
 Found out the remedy. How would you be,
 If He, which is the top of Judgment, should
 But judge you as you are ? Oh, think on that ;
 And Mercy then will breathe within your lips
 Like man new-made.”

Turning, then, from the thoughtless to the reflecting world, by whom it is conceived, the views here entertained can alone be appreciated, if the argument now sought to be advanced, is worthy of any advocacy at all ; it will be found to gain in an increased ratio, when applied to those very outcasts of Society, to whom, only the unfeeling and unreflecting, can so unscrupulously, so carelessly advert, for if in this, its force shall not be found to consist, or if it gain not in intensity of interest, as well as justice, in relative proportion, as the crime, to which the principle is applied, be found enormous and of the blackest dye ; then all attempt to advocate it, on the basis of Christian Charity—on which alone, it must stand or fall—is at an end.

For we must begin by admitting, that, we all start on a perfect equality in childhood ; that as the healthiest body has in it the latent germ of every disease, which the unhealthiest would immediately cast off, were it not under some dire influence that prevents it ; so is the mind fraught with the power,

as well of every good, as every ill, which influence alone can repress or develop.

Messieurs les Français, your Chateaubriand is certainly correct, when alluding to "Man's universal equality," he assumes that,—“All, brothers of one family, children do not lose their traits of resemblance, till they lose their innocence.” Shewing how a child is a child, go into what kingdom, or what clime you will, how purity is ever invariably found at the source, however muddy or turbid the stream of life may on its way become, or how wayward and turbulent at last, when mingling with ocean its distracted waves. With such, I think, fundamental truths as these, which the elegant, and mysterious author of “Atala” so sensibly lays down, and when conjointly with the testimony of mere human perceptions, (however exalted and sublime,) we have the remarkable words of the Saviour himself respecting “little children” whose innocence—pronouncing it perfect, as he does—we are with reverence bound to recognize, and, at least, endeavour to imitate; it next, remains to be seen, whether, (on passing the innocence of childhood) as perfect an equality with reference to opportunities offered or denied, can be traced, as existing among the children of a larger growth, or shewn that, we each advance through life, subject to an equal impression from those influences, be they good or bad—which the extremes of wealth, or poverty, alone operate not a little, in exerting over our habits and our minds? That, having thrown off the simplicity of the child, we do struggle until Death, with—to say nothing of the physical—

a host of demoniacal intellectual influences, the lapse of ages past has furnished, as also does the present hour, but too sadly corroborative a testimony.

But, do these press equally on all? Alas! not so.

For, admitting that the results of man's fall from his pristine innocence and consequent felicity, are common to all, and which, though some with the preserving buckler of religion are enabled to withstand; yet, are there others, who, not having had equal opportunities thrown in their way, and to whom, since little has been given, as little may rationally be looked for in return, may more easily succumb to those influences, which the more gifted or more fortunate, may as readily vanquish or evade.

“ And differently the poison works
 On every differing mind.
 Some grow false as the false they blamed,
 And thus 'tis with mankind.

Again, that crime, — induced by these influences, — when it has reached a certain extent of enormity, it matters really little, whether the mind, already completely polluted, shall, or shall not, by adding yet one more guilty act to the fearful catalogue, — bring itself into actual collision with justice; whether (after the cup of villany is replenished to the brim) one last drop shall, or shall not, cause it to run over? It matters not.

And for this reason, that what we in our blindness designate “crime” and “punish” is, after all, no more than some solitary individual act of guilt, forgetful wholly, as we appear to be, of the hidden accumulation of turpitude from which it springs, and of

which this one individual act—and with it possibly countless others undetected, and, therefore, unexpressed in that individual who is polluted to repletion—is but the mere index: pointing to that mine of moral wretchedness that in a case like his, must lurk within, and towards the neutralization of which, the efforts of our several communities, in order to be moral, and therefore to reclaim—and not merely to punish—should be alone directed.

So, that morally and strictly speaking, it becomes actually as stolid as unjust, to take all the cognizance we do of only this one solitary and individual act in this description of offender, or punish it at all. So long, at least—and be it thoroughly understood—as we continue heedlessly, responsibly and criminally, to overlook the seat itself of the disease, and—tho' conscious of its existence—yet refuse to acknowledge, and endeavour by every effort to counteract it: While, no other plea than that of “expediency” can prop up (much less can justify) what is so blind, so unphilosophical, so indiscriminate, and consequently, so culpably unjust. That, the ills, then, in the two phases of guilt I have just cited, are equally through life, referable to those demoniacal influences to which I have alluded, and from which the Saviour of the world himself—although he withstood them—was in no way less exempt than ourselves, cannot, I think, be disputed: but, as to how many may, or for how long, in the bosom of the most enlightened civilization, remain in that state of complete pollution, and yet not come in actual contact with any of our established codes of law; and possibly, during all that time, pass off as

respectable members of their several communities ; although this cannot be proved, can scarcely, I think be doubted, or that in any large community, there must be very many such, while, allusion is made to this, in order alone to show how morally a yet further perfect equality will be found to exist between that individual who already is polluted to repletion, yet whose villany as yet is unrevealed, and he who, by committing one crime more, has brought himself in actual collision with justice, and prove that here it is not as, Messieurs les Francais, you say "le premier," but rather, "le dernier pas qui coute," or, what you, my friends of the Desert designate, "that one last ounce that breaks the camel's back." But, again it will quickly be seen how there is yet another class of criminal, *viz.* he, who, up to a certain period has never deviated from the conventional path of rectitude, until, victim of malignant impulse, he is suddenly actuated, and forced on to the commission of some first crime, in name as enormous as any that he, who with guilt, polluted to repletion, might be expected to perpetrate, and, who, from a mine of moral wretchedness, throws out one more, and last crime, that betrays him.

The world is thunderstruck. How could this individual—whose moral character has been irreproachable until now, commit so foul a crime ?

The law deigns not a reply. Much less will the inflated and erroneous notion it entertains of its dignity, suffer it to ponder.

Crime is crime, however palpable the disparity that may accompany its perpetration.

The law must take its course : and when we find a Judge, who can so far forget himself as to tell a prisoner, whom a jury has just pronounced "guilty" of murder, that, had he seen him commit the very act, he could not have had more thorough proof of his guilt, than what the frail human evidence over which he has been presiding, he conceives, has elicited ; one only wonders it does not oftener take a wrong one. Armed then, with these doctrines and these facts, we can, without scruple, deprecate the inequality of judicial punishment in this view of it also, since it is conceived to have been clearly shown how it is either the last drop only, that, for the most part, Governments in their punishments, take any cognizance whatever of—in him who already is polluted to repletion—or that doomed individual, whose frame seems attempered so, so finely strung, as to make him equally susceptible of the worst, as well as most virtuous influences and impressions, and who is about to suffer for what has been his very first, and which Governments (regardless of further elucidation) insist shall be his very last offence also : while, the inferiority of man to stem these influences, and however, his conscience may at times guide him aright, when contrasted with the Saviour, who when subject to them, had, as we are taught to believe, hosts of angels ready to minister to him, must be strikingly apparent likewise.

Again, let us notice another remarkable equality existing among men. It is, that, inasmuch as each of us must have broken one or more of the Commandments, which, we are told, are so blended together, that to violate one is to violate all. Again,

that inasmuch as to break them in spirit, is, in the eye of the Almighty, the same as breaking them in deed, so the equality of all in guilt, at least, must become but too manifest, and as pointedly shows that when man endeavours to punish justly—even supposing that vengeance or judgment did belong to him at all—the imperfection of himself, as well as his institutions, could never allow him; or, if he did venture in his blindness, to persist in the assumption of so truly awful a responsibility, or insist on so profane a stretch of power, it could only be to offer—as time out of mind it ever has—the absurd spectacle of *imperfect* man, applying *imperfect* laws to punish *imperfection*.

Thus, then, are our various communities clearly not just or perfect enough to erect ourselves into judges over others in the extreme sentence. Still less are we justified in striking a blow which it is beyond our power as mortals to recall. Charity, constituting as it does, the very basis of Christianity and of Islamism too, will not, with the further expansion of intelligence, suffer so palpable a violation of her principles to continue. For, when we take into consideration (and I regret to be obliged to say this of ourselves) the disgracefully hurried course that attends a criminal's trial in an English Court of Law, the celerity with which a matter so serious is so summarily disposed of; when we reflect on those absurd and wicked restrictions, that seem so inseparably the attributes of an English criminal Court of Law, which, while confining within limits manifestly too narrow, the "Evidence before the Court" exclude a host of anterior facts and collateral

circumstances, which (however indirect and irrelevant at first sight, and to the superficial observer they may appear,) are no other than so many indispensable links to a perfect chain of moral evidence, as palpably material as they afford matter, which (if so extreme a justice could be justified) must as scrupulously be investigated and adhered to; for, without them, to arrive at any definition of justice at all, would be impossible, and which—though hitherto slighted—if duly weighed and scrutinized, would in too many instances produce, in criminal investigations, a totally opposite verdict to that so often arrived at.

Again, how unjust and unnecessary, appears in our country, the attitude assumed by our Attorney-General, on criminal trials; evincing, as this functionary appears to do, an animus which must ever induce us to believe he labours under the false idea, that, as the official of the Crown, something more is expected of him than—if we will look into it—we shall find in reason, in morality, or justice, he is at all entitled to. An assumption, that irresistibly leads us to imagine, he conceives his province is, of the two, rather to deal a blow (somewhere), to punish, rather than to screen; while his just province must consist in neither the one nor the other, but merely on the part of the Crown, as public prosecutor, and therefore leading off; to do little beyond that, than watch the progress of a trial, and present in his official capacity what ought to be an impersonation of that perfect equipoise of justice, as pleased to see innocence able to vindicate itself, as guilt break down before what—let us

assume—is uncontrovertible testimony. Never forgetting that the Crown, on whose judicial errand he is sped, and whose dignity he has to uphold, must surely take as much interest in proving the innocence, and consequent civil integrity, of a subject, as ever it can have in the conviction and destruction of a supposed offender.

That, as the Judge who presides, ought to be not only legally, but also morally competent to expound, and yet more, impartially to charge, so can the duty of a prosecutor for the Crown be only one of observation after his leading address has terminated, and his labours—as they ought to do—have ended here.

But when we accord to this functionary that first declamation, which makes that first impression also, and yet further, we grant him the privilege of rejoinder; thus giving that bias which, from the last speaker is known on weak minds so forcibly to operate; I do think this offers (and I think you will agree with me) another feature in the administration of our Criminal Code, which—though in civil actions it would comparatively matter little—admits, in criminal investigations, and as long as the punishment of death shall continue in force, at least another just plea for vast improvement and revision, offering yet another cogent reason for its abolition altogether.

Again, so long as we continue to be blind enough not to perceive what a little reflection will enable us at once to do, which is, that in spite of all the wisdom, that with us our trial by jury is so eminently supposed to embody, it will be found

after all, to amount to nothing more than an indirect—a kind of negative—majority, nay, that it will occasionally be even less than that, and actually, at times, become a minority of one, that obtains a complete ascendancy and mastery over what may, in reality, be a majority of eleven!!

Will not such occurrences as this* expose our fallibility beyond the power of refutation?

For, it is by no means impossible for one individual, possessed of good stamina, a strong stomach, loud voice, clear head, and a more than ordinary power of gastric endurance, ultimately to wear out the patience of eleven men, whose more fragile textures may not improbably be gravitating—under those absurd privations to which it has with us hitherto been considered, a jury ought to be subjected—between the life of a fellow-creature, and those creature comforts which the excellent larder of some good Mrs. Primrose, is able most amply to indemnify them with, on their return to their comfortable hearths, in some of our suburban retreats.

We know well

“’Tis sweet to hear the watch-dog’s honest bark,

Bay deep-mouth’d welcome as we draw near home;

and when arrived, and enjoying those creature-comforts, amid perchance, the thoughtless hilarity of friends; how contributing to the facility of our unreflecting digestion, must be the proud thought, that, we have returned from vindicating the injured majesty of our Country’s Laws: afford-

* In corroboration of which, the trial of “*Biddulph v. Chamberlain*,” that has just taken place at Monmouth, before Mr. Justice Talfourd, offers a most perfect, as well as most opportune case in point.

ing a serio-comic burlesque, that might be wrought up to a picture worthy the humorous pencil of a Cruikshank, were not the subject rather too serious.

For, however reluctant we may feel to detract from the wisdom—little less than that of Solomon—which to our good King Alfred, is so justly due, it is, like all other human emanations, manifestly saturated, as usual, with human imperfections; while, if in the application of this Jury system of ours—one thing more than another, could render this supposed acme of human wisdom, less effective, or men more ascetic and impatient, when in consideration of what their most enduring, most earnest, and unwearying patience ought, you will naturally say, to be sacredly directed towards; it is the depriving them of their food, and usual comforts, at the very time that I think you will agree with me these should *not* be debarred them.

The very circumstance of Juries retiring, and remaining in consultation any considerable time—an occurrence which I ought to inform you, is by no means uncommon, and tantamount in any rational mind to something very nearly approaching an acquittal,—and though even death be after all its recorded result, is another convincing proof of how little those Jurymen can have been of that “one mind,” so essentially the accredited attribute of this, at most, possibly least imperfect of fictions. How their decisions, thus warped under pressure, may merge into positive neglect of the sacred duty, with which they are invested. As endeavouring to evade the infliction of protracted hunger, or galling restraint, they may hurry to a too speedy con-

clusion, at a moment when at their fiat on the doom of a fellow-creature, the portals of Life and Death may be vibrating on almost a silken thread, and when too appropriately with Shakspeare we may exclaim—

“ You weigh equally, a feather
Will turn the scale.”

How sadly, and with what little dignity constituted, must be a Court of Law, in which a learned Counsel, stopped, on the occasion of the trial of a murderer, *in medio orationis*, (by his client's unexpectedly confessing his guilt,) was yet, even after that, “ *O tempora, O mores* ” obliged, as it were, (will you believe it?) “ *pro formâ* ” to travel out a preconcerted track, and forced subsequently to declare, as well he might, that never was Counsel so circumstanced before; illustrating thus forcibly, as, Messieurs les Français, your Napoleon was wont to say, how but one step alone it is, that divides the sublime from the ridiculous, and how the ill-conditioned state of any system, (to which, in early life, we may have devoted our talents, and our time), may drive any of us, to endeavour in an elaborate vindication of ourselves, to justify what, by the veriest sophistry, we might vainly attempt, though could never accomplish: and, which,—whatever consolation the reflexion might afford, of how, after all, the error lay wholly in the wrong construction of a system; might, very possibly subject us, for giving one so profligate, our adhesion and assent, however tacit; to incur the imputation, however erroneous also, of being in reality ourselves but little better than the system we pursued.

How easily accounted for, then, is it, if, in conse-

quence of all these proofs of man's imperfect nature, the startling fact is for ever being rung in our obtuse and dronish faculties, which is, that more evidence not unfrequently is found, I assure you, with us, actually to transpire, subsequently to the trial and conviction, and, at times, has been known—even after the execution of a fellow-creature, than before or during his trial, from its indecent celerity, could possibly be elicited, whether by Judge or counsel, in the cross-examination of witnesses: When, I say, we reflect on the wretched frailty and fallibility of man, whether as exhibited in his institutions or in himself, and at the same time we find these very Courts of Judicature—so prodigal and regardless of human life—hesitating not (in civil matters, where money is in court, and the smouldering embers of exhausted litigation can be fanned anew into polemic flame), to allow trial after trial to occupy, what we in this country hear so frequently designated the “precious” time of the Court, it is clear the immolation of fellow-creatures by tribunals so “preciously” constituted, and from which no appeal lies, can awaken in all well-regulated minds, none but feelings of the deepest horror, apprehension and concern, and incline our attention, not only to the frailty of man, which may be excused, but to his baseness, which cannot, because so perfidiously persisted in.

Can Legislatures ever make adequate amends for what is past, or give security, that so irreparable an injury to society, as a case similar to that in our country, of poor Eliza Fenning, shall not, or may never occur again? or what being, endowed with a

conscience, deny that it were better a thousand murderers should escape, than by the application of some erroneous and imperfect principle, one single member of a community should suffer unjustly, and be immolated under the diabolical assumption, that the system which gave birth to an error so monstrous, could be for any country's good—a good of which it is much questioned whether the most long-sighted among us can picture the ultimate result, which not improbably will be, that, unless speedily checked, that humane feeling so honourable to any civilized community, and which among the well-constituted in all countries, is, I imagine alike ever on the increase, will continue so to invest the sad victims of extreme judicial severity, with an interest which yet further and further increased, from mere pity at the outset, and its concomitant desire to see such, not immolated, but reclaimed, will next awaken the too indiscriminate sympathies of inferiorly constituted minds, and engender at last their very condolence, and their love. And then what may be expected? Why, that, in the end, all discrimination between good and evil, right and wrong, will be confounded, the barriers of discernment subverted, society irretrievably poisoned, and isolated virtue left at last—relatively, without one reward; and it by no means follows as a consequence, that, because such results have not already occurred, the march of error is not rapidly hurrying them towards complete fulfilment. For there is (at least among ourselves) I must tell you, a horrid fascination that seems ever to invest with more than common interest the perpetrators of atrocious crimes, which Legislators must

look to with a more vigilant eye, as this foible with us is evidently on the increase. Will you believe it, Messieurs les étrangers, that, let but a murder be perpetrated in our country, of some horrid or unheard of cast, and as sure will the tree or the floor, under or on which it may have been committed, be cut off by slips, or torn away piecemeal—till prevented—or the rope by which that criminal shall have been executed, fetch a price that would astonish you. How then to account for these things? on which I scruple the less to comment, because this is an acknowledged age of comparison, in which cosmopolitan sentiments, free-trade, and international fraternity seem—save the Crystal Palace, and the yet unrepressed Papal Aggression—the only topics talked of. Then, at least, let us not be taunted for not having given them every fair trial, and by equally candid international avowals, confessing our several foibles, and obtaining as near as we can a correct estimate of our mutual inconsistencies, be better able to throw a light on what is likely to constitute a more perfect system of society for us all.

But I am inclined to think there are many palpable causes, as well direct as indirect, that will be found to produce these results of that morbid state of society to which I have just alluded. A perverted literature, a craving for horrific works of fiction, a thirst, to satiate which, the lives of the most hardened malefactors of all nations, and of by-gone days—raked from their otherwise forgotten ashes—are held up to the eyes of inexperienced youth, as models of bravery and hardihood, while by thus rendering romantic, and, in vulgar eyes,

immortal, the memorials of some desperate career, instead of consigning them for ever to pity and oblivion, we yet further dramatise them; and thus an incalculable injury is done. But, peace be to the dead!

Happily the Press, in our land of well-tempered freedom, by the exercise of its gigantic, and—in the main judicious—power, does prevent decorum from being encroached upon beyond a certain limit, or where the desperate canker of reckless innovation would extend, it is difficult to conjecture, or society at last, but just awakening as from a dream, discover, that, while its yet barbarous and vitiated state was referable to an error of a deeper and more deadly root than it ever before had contemplated, it was, without the safeguard which an English Press presents, vitiated beyond the possibility of redemption. But to resume, and to substantiate an argument such as alone could have induced me to enter upon this all absorbing discussion, suffice it to say, that wherever the crime committed should have been proved the foulest of the foul, and of the very blackest dye, it would only go to proclaim its perverted author—the victim of demoniacal influence—as entitled for that very reason, upon every philanthropic, every Christian principle that actuates us—to the yet further, the yet deeper, and unqualified commiseration of mankind.

In reverting to, and taking a brief retrospect of what the enactments of Criminal codes have ever been held, I presume, in all nations, as having for their ostensible objects—

1st. The annihilation of the culprit, and consequent

prevention of his ever himself again committing a like offence.

2nd. The punishment for the sake of example, with a view to deter in others.

3rd. A further (implied) object, that of to afford the surviving relatives or friends of the injured, the consolation of feeling that the Legislature in its public capacity, has been the means of avenging their outraged feelings, or their private wrongs.

Believing such to be the motives that have ever actuated the application of Criminal codes, it only remains to be shewn, how abortive, they each, and all have been; for whether we examine the first, we shall find, that, in its avowed object, that of to prevent—by the destruction of the offender—this cannot be supposed to render necessary, as a consequence, his death, since it can surely be provided against not only by what is certainly far more reconcilable to a community of Christians, but also as effectually by other means, on which we shall hereafter dilate.

While the second, that of deterring—by too severe example—the commission of crime in others; Experience continues to whisper to us, that, in spite of all our efforts, or rather, in consequence of our stolid, and posthumous modes of curbing it, crime is, as might have naturally been expected, ever on the increase, while, in answer to those who will maintain, that statistical research proves the contrary, and that, the extension of Education is effectually humanizing the human mind, I think we none of us can be backward in perceiving that the increase of low cunning* and deep artifice, simul-

* Welche in Deutschland man heisst. (What in Germany is called) Piffigkeit.

taneously with the advance of secular — unconnected, as unfortunately too often it will be found to be with truly religious—education; must, necessarily, render, in the consequent refinement of finesse, so much the greater refuge from, and barrier against the detection and punishment of offenders, and thus account for this latter result; say what statistics choose to the contrary. While the third (implied) object is nothing more than the satisfaction of injured pride, and public vehicle for private vengeance, delegated to other hands.

It is useless to coerce.

History, among all nations, has amply shewn how inefficacious were the flames to stifle the pertinacity of the martyr in the cause of Religion; equally has experience proved, how inadequate with us the halter, or with yourselves the sword or guillotine has been to repress the pertinacity of wickedness in the perpetration of crime!

As the wheel, when once it has acquired velocity, is uncontrolable, except by some mechanical appliance; so crime, as long as no stronger incentive to virtue, than, at the outset of life, the masses of our community, at least, have held out to them, or no milder corrective in the sequel, than that at present we possess, towards its repression, can be afforded; will ever be pertinacious, and indomitable, and as steadfast in its guilt, as the other principle to which I was adverting, was directed in a virtuous cause.

They both, believe me, are indomitable. If an opposite view, in either case, were to be taken, or if it were conceived for a moment, that—however different their line of progress,—each would not find solution eventually in a similar result; a hope, so

contrary to reason, would be fallacious, and subject whosoever entertained it, to the very reasonable imputation of being highly superficial, and possessing the most erroneous and jumbled notion of cause and of effect: pointing thus forcibly, to how the efforts of all communities ought rather to be directed to the plastic mind of youth; aware, that while it is easy to bend the pliant twig, the lightning's stroke itself, can only shatter the rugged oak to pieces.

Crime is on the increase, as it ever will be, so long as in the supposed "expediency" of political enactments, reference is rather made to that subordinate and base consideration than to morality, which is lost sight of, till we find that by the application of an unsound principle through a succession of years, we have so indelibly, so hereditarily and irretrievably hardened the lowest class.

And, while at this stage of the argument, we cannot help adverting to what appears the ingratitude of those in our country, who not content with a position such as Literature among us,—in her latterly assumed risible aspect—has so justly accorded them, after diligently scrutinizing the minutiae of a public execution, and unmoved by the moral it suggested; could yet record as their unalterable fiat, that those masses, whom the tendency of their writings has, in certainly no way contributed to elevate, should continue to be immolated as heretofore, but—what, in England we consider a most un-English proviso;—that, the thing should be done as privately as possible: while, they scrupled not to denounce as gratuitously, as uncalled for, those who with Christian

philanthropy were charitably advocating the abolition altogether of the judicial immolation of their fellow-creatures ; as too unreasonable to be argued with at all.

But to return, I was about to observe that we have somehow in our country so demoralized the lowest class, that, it is by no means uncommon to see some incipient culprit deliberately suck an orange or pick a pocket at the foot of the scaffold, at the very moment the neglected, the suffering and unpitied child of humanity is on the fatal drop, about to face his Maker, and at the very threshold of a fearful eternity. And then the "jollification" or "glorification" as in the low-lived slang of the more debased (I am informed it is called), of the awful and short-lived hour!! to which by sundry exhilarating and high-wrought concomitants, additional zest is given, and thus characterize these festivals in honour of Moloch, which, in whatever corner of Europe they yet prevail, Governments unwittingly institute, forgetful that while punishing by *ones* they are demoralizing by *thousands*, who "nurtured in blood betimes" they are thus placing in *statu-pupillari*, and qualifying as actors "*in futuro*" for exhibitions such as these.

I can assure the reflecting of all nations, that as the elite of this aristocracy of England's crime, are dispersing to their mephetic cellars and pestilential homes, were you to think you scanned along those poverty and vice-worn lineaments, evidence of at least no less demoralization than before, and further, you conceived how a succession of exhibitions such as these, could at last only tend to render less and less sus-

ceptible of one gentle sentiment or emotion those whom—if perniciously persisted in—they could only become the means eventually of blunting beyond the possibility of reclaim, then would your deductions be logical likewise beyond the possibility of refutation.

Again, one cannot help being irresistibly led to contrast what we have marked of savage energy, or the heartless

“Gloating on another’s pains”

(that in this modern arena, and in that brief hour, we have witnessed) with the amphitheatral recreations of gladiatorial Rome—those days of pleasant Gods and Goddesses, when the primitive Christian might be seen contending with beasts of the forest, and though torn to pieces, maintaining with his latest breath the excellence of a more than perfect Creed : a Creed which we his degenerate descendants throughout Christendom (warped by conventional prejudices as unenlightened as they would seem unenlightenable) have not the moral courage even yet, or virtue wholly to avow. Or, when retrospection of the past pictures to us the naked pagan,

“Butchered to make a Roman holiday,”

unsheathing in mortal combat his naked brand on his as naked adversary, how, as along the thronged arena’s walls the *habet** amid the gestures that recorded it, proclaimed with deafening shouts the thirst for more, or evidenced the savage joy with which some ghastly cut was hailed by the gore-polluted multitude ; or, when in solemn silence the up-turned thumbs showed that the doom of the “dying gladiator” had arrived. Or, in the days when senatorial wisdom was ever wont to terminate its

* He has it.

oration with Dixi, *I have said*, how spontaneously are we led to reflect on how well might "*I have done*" remain in the mouths of those followers of Christ, who, spite of the revealed light that has been shed on them from above, have just deprived a fellow-creature of existence. "Have done," indeed, achieved a mighty deed! one only wonders, after we have performed it—like men who in some desolate place, quail at their own shadows, or their voice, and start at the echo of their very footsteps,—the whispering winds that heedless sigh beneath the canopy of offended heaven, ring not a thousand warnings in our ears, as heedless too; or, their hoarser murmurs convey a rebuke that man has been doing nothing less than attempt, by such immolation, to wrest from the very hands of the Almighty the terrors of his avenging rod; that he has been jostling with his very Maker. Forgetful, as he is, that although the injunction of the Omniscient, "thou shalt not kill," applies of course to malefactor B who murders A, that it equally applies to Legislature C for murdering B, for shedding A's blood.

How sorrowful the reflexion—though now what is done, it is too late to retrieve—that, it is far from impossible in this as in too many instances that have gone before it—and I here particularly allude to my own country—had a more lengthened and less hurried, a more patient, a more collateral as well as direct, and, consequently, a more humane investigation than that which in Courts of Law is ever persisted in, been only gone into, circumstances more or less palliative, attending the murder committed by him we have just immolated, might have been adduced, and

therefore in extenuation of what, erroneously at a first glance, might have appeared its features of peculiar atrocity, or malice aforethought, while, on the other hand, when a judicial murder is committed, in vain can it be denied, that, the spirit of the most studied premeditation has throughout been manifested.

If, therefore, it can only once be shewn, that the murder committed by Legislature C, is in turpitude, virtually no less a murder than that perpetrated by malefactor B ; then, how perniciously is the atrocity of murder as a crime lessened : Since Governments assume to be both just and necessary, a second immolation in addition to the first, which they not only denounce, but imagine that nothing but a second can expiate ; and what a door does not this open to (almost I had said) the justification altogether of the very crime of murder itself in vulgar eyes ; and shews, that, when once vengeance is denied, as being alone the attribute of the Almighty, as justifiably might the erroneous principle—once begun—be extended *ad infinitum*, as pause at the spot on which man's absurd fiat at present appoints it shall.

Messieurs les Etrangers :— why should the illustrious Lady, who wields the destinies of the mighty empire which invites you to its shores, and who blends in her exalted station the dignity of the queen, with the domestic virtues and even duties of a wife and mother, be doomed to reflect, in a progress made by her illustrious consort, and the royal children, that, spite of the enthusiastic indications of loyalty which hailed that pleasing

and auspicious event, it was not attended by multitudes more numerous or more anxious, than amid those offensive strivings to obtain the choicest seats at the execution of a husband and a wife, were manifested; prompting those to take up their positions even over-night.

How derogatory, again, to the majesty of any Executive must be its continuing to uphold a system by which a perverted woman—although guilty of the most horrible of crimes—may yet be so circumstanced, as to be able to bid—as regards the expiation of her offence by the highest penalty, and which, if under a similar sentence, a man would inevitably be doomed to suffer—defiance at once to the laws, the frowns of offended society, or *ex officio* representations of all the functionaries of the land put together. Yet, that this exemption should be sacred, I imagine no human being can deny, nay, further, that punishment generally awarded to women should be far less severe than that allotted to the stronger sex, will, I conceive, awaken among the more reflecting a host of proselytes. That the cruel punishment should in any case then (after, as I think has been clearly shewn, its latitude as regards women does, or if not, ought to amount to complete exemption), be retained for the supposed terror of the men only, after as a vulgar bugbear it has ceased to operate, and our juries, to evade it, have already begun to manifest a disposition to fall into as opposite an extreme, seems to involve with its obstinate retention, the prospect of an herculean effort also. For was it not, Messieurs les Etrangers, natural to suppose that these jury-

men, after returning a formal verdict of "Guilty," yet who found how their accompanying recommendation to mercy had gone unheeded, would in their laudable wish to lean on the humane, because only safe, side, and (sooner than commit outrage on their feelings) be for returning verdicts not altogether reconcileable to logical deduction, or even common sense, as has latterly, I must inform you, been the case amongst us.

That a system such as this, then, I say, should be retained after all its unequal tendencies and abuses, have been, by the clearest evidence established and exposed, is a matter, indeed, of wonder; while, in the particular exemptions claimed by women, to which I have alluded, the inequality of our Criminal Code, as it still exists, is too grossly, too glaringly palpable, much longer to continue.

Thus, then, ought we rather by recasting anew the whole criminal scheme of our several communities, and bending to the expansion of the progressive times in which we all live, do with a good grace what, if we perseveringly neglect to do, the times will not be tardy in accomplishing for us. Let us all institute some severe secondary punishment for that so torturing to contemplate.

Assuredly, philanthropy never so needed a champion as when that nation, who had discovered the beneficent effects of chloroform, could yet let slip the golden opportunity of evidencing something more than the hollow semblance of its humanity, by alleviating, through its application, the sufferings of a cruel judicial death.

The soldier in battle may slay his antagonist:

Self-defence, first principle of nature, may justify him, so long as the imperfect state of society in which we all exist, shall continue, and thus render necessary, as assuredly it does, the equipment of large armies; and, until a further advance upon the social scale shall render altogether nugatory among us, the art of war. I say, the soldier is justified, for we know that no sooner has the stern necessity, which rendered indispensable the unsheathing of the sword transpired, than the well-known characteristics of the high-minded soldier, to whatever civilized clime he belong, will ever manifest themselves; prompting him to extend his hand, and even friendship, to a fallen foe.

Nor less conscious are we, while deeply deploring the only alternative left England in the destruction, by her Navy, of those nests of pirates and outlaws who infest the China seas, and obliged, as again we are, to plead the sad, the stern necessity of preserving the lives, as well of our own, as of the merchantmen of other nations, who track athwart the pathless ocean, their already sufficiently fearful and precarious way.

Not less conscious are we, I say, that the kind-heartedness, which time out of mind, has characterized the British Sailor, and become proverbial, will ever induce him also, to desist from chastising, as soon as the object for which that chastisement was evoked, shall have been attained.

The Soldiers and the Sailors then of our several countries are equally justified in what they do, and often from amid the din of battle, and in the very midst of blood, can evidence the spirit of the most

perfect philanthropy : while, we Civilians, unable as we are (in the infliction of extreme punishment,) either to plead *our* actual necessity to slay, or arrogate to ourselves that what sympathy we do show a fallen brother, is in any way commensurate with those privileged exemptions from danger, and comforts attendant on domestic life, by which we are surrounded. But, listless and ungrateful, and with too often among us, a pseudo-philanthropy, that can denounce those (who, amid the perils of the land or sea, are alone securing us by their efforts, their feats of arms, their privations and their blood, the undisturbed enjoyment of our altars and our hearths,) are not unfrequently the most callous, unfeeling, and least deeply reflecting members of communities miscalled religious. We forget that the absurd severity of the Laws of Draco, it was, that caused them not only to fall into complete disuse, but the Athenians, for whose intended welfare they were enacted, to become yet more criminal and dissolute than before ; while, the definition given by Solon, who, when asked what in his opinion, constituted the most perfect system of law, pronounced it “that which caused the smallest wrong, suffered by the meanest citizen, to be sensibly felt and sympathised with, by a whole community ;” in the wide-spread horror, which it is hoped, among all nations prevails, with reference to, happily, the last remnant of our Draconic Code, and the humane and universal outcry raised against executions, is the definition of Solon beginning every where very remarkably to be exemplified.

Nor can it be wondered at, for this is no ordinary

question, based as it is, upon the very essence of a Creed, from which—in the purity of its tenets—we are prompted to conceive immortality itself shall spring. And which, all absorbing as it is, becomes yet further enhanced in interest, as affording a proof also of identity of those, who rely (beyond a mere semblance) in that belief, which, in its simple and unadorned dignity, enjoins us to be, though “as wise as serpents,” yet, “as harmless as doves.” But, now let us take leave of all other considerations, whether of those pagan combats or heathen orgies to which I have alluded on the one hand, and human fallacies and anomalies on the other, and bring this argument at once within the hitherto rejected pale of religion, and of that charity, so essentially the characteristic of every act of the Saviour; which is, that inasmuch as the devil is the instigator to crime, so those who have committed some heinous sin, for instance, murder, I think you must allow, may be supposed to have been gained over by the influence of Satan, who was not only man’s, remember, but the Saviour’s tempter also. Let us suppose that the very impersonation of Infection was stalking across the land, and that having seized one of our children, the monster had hugged him so long and so resolutely within his grasp, that he had tainted him with every thing that was infectious and impure. Supposing, that by some super-human effort we did recover the child from the monster’s grasp, would we, instead of applying every disinfecting remedy which the most impassioned parental solicitude could suggest, be justified in relinquishing him altogether, because the selfish thought had just

flashed across our brain, that our bringing him home might compromise the health, and end in the death of ourselves or others of our family? Thus, then, how palpably evident must it be, that, if we sacrifice him whom the Evil One has recovered from us, whether through our neglect, or the erroneously assumed utter unsusceptibility on his part, to conversion; it surely requires no great effort of the mind to convince us, that we are, after all, only sacrificing to that Evil One, acquiescing in the prize he has made; that, we are acting in no nobler light than that of his agent and accomplice, accessory to all intents and purposes, as well before, as after the fact.

Again, when a murderer is convicted, and sentence has been passed, society has ever considered it necessary that a stated interval should intervene between his conviction and the execution of the law. Surely this is reasonable enough. But if it be admitted that any time whatever is required, and for a purpose too, the most awful and serious that the human mind can well imagine, the next question to be asked is, on what principle is the period as to length, to be regulated? Whether, as affording time for a stated series of pious exhortations from the Rev. Ordinary; whether, with reference to the greater or less atrocity of the crime for which he is about to suffer, though it must be admitted, if at least the object for so doing, possess any legitimate purpose at all, it can alone be with a view to the criminal's complete regeneration and restoration, through repentance, or we are losing our time. But as "*nemo repente fuit turpissimus*," so repentance, which is its opposite,

in order to be really sincere, must be gradual also. An axiom this, which nothing can controvert, and which, I do think, Messieurs les Etrangers, you will allow. Yes, says some unreflecting member of society, the culprit, I hear, has got a fortnight, and a day or two over! I wish he could have six months, says another, as unreflecting; and if he could have six months, observes a third, so great a miscreant would assuredly ask for yet more. Thank you, I reply, my undiscerning, though honest, my zealous, yet unreflecting friends, this is for me, precisely the view I should wish you to take, since it has most materially assisted me in the argument I am endeavouring to advance. I do fully agree with you, he probably would want more, nay, it is just possible he might require a whole life of repentance, judging from the time during which, it were only reasonable to suppose, he was under the influence, the guidance, and dominion of the Evil One, ever to have been rendered adequate to the desperate effort of revolting wickedness he has.

When a medical man is called in to give his opinion on some deep-seated malady, is not his first question, How long have you had this? If you reply, only a week, such information will not excite his apprehension, but if you tell him you have been afflicted with this cough, or that suspicious pain, for months, he shakes his head and says, Why did you not send for me before? Experience telling him, that of so much the longer duration a malady has been, so much the more will it take of time to undo what disease has insidiously been gaining in advance. Then, admitting this, how can it be consonant with

reason and religion to suppose, that if, for the well-being of our material existence, certain requisites are indispensable, the cure and regeneration of the mind from the effects of pernicious influences, is to be passed over lightly, and deemed of secondary and trivial import? How long shall the several communities of Christendom continue to doubt that that man, the perpetrator—let us suppose—of the foulest crime it is possible for the imagination to conceive, the instigation to which, we may rationally suppose, must have demanded much evil training, much continued rejection of religion, much time to bring him, to work him up to a pitch, ever to accomplish, can possibly be brought to view the heinousness of his offence in its true light, or in any given time whatever, much less in any like that we apportion him; and then, after all our short-lived efforts to cause him to repent, which alone can or ought to be our object in affording him the irreverent and too brief respite we do; if he commence the work of repentance with unfeigned sincerity and earnestness, still less, after he has been deemed a fit recipient of the holy sacrament, can we consign him even then to the scaffold?

Again, supposing after condemnation—and this contingency is by no means of impossible occurrence—supposing, I say, the Almighty were to visit the poor culprit with the most awful of all human afflictions; I say, were the Almighty to make him a raving maniac, answer me, you thoughtless advocates for the continuance of capital punishment, could you—while the very hand of the Omniscient was upon him—goad such a one to the

scaffold, as you would an ox to the shambles? By what sophistry can we, in England, a Christian community, reconcile to our consciences the having driven out of existence, a being so utterly unprepared to face her Maker, as the wretched Mrs. Manning so unquestionably appears to have been, or do less than reprobate the impious farce of administering the holy sacrament to one, who to the last was determined to confront that Maker with a dying falsehood on her lips, and did so; while, the condition of that mind, so revoltingly at variance with her awful position, so totally unfit wherewith to die, and of which, her bearing in every minute particular rendered it impossible to entertain a doubt, must brand with vain presumption and inefficacy any plea or excuse whatever, in our attempted extenuation of so sad, and also so practical a profanation of the most solemn of all religious rites.

What possible affinity can there be between two such opposites, as the sacrament and the halter? or, what being whom we have the presumptuous arrogance to imagine we have completely succeeded in making good enough for a better, is, at least, not pure enough to remain yet a few brief years in this imperfect world?

One sweeping, one indiscriminate, and general rule cannot be applied to all minds, which, as there exist not two leaves throughout a whole forest that are exactly similar, present—according to the influences which the ever-varying circumstances of time and opportunities through life control—as ever varying a phase.

But we, by reducing all to one common size and dimension, by measuring all minds, all crimes, capabilities and opportunities, by another bed of Procrustes; reveal that folly, which it would almost seem, prompted us to conceive that all men's consciences and susceptibilities, without any deviation, like their stature, were alike: while, if all the care and tender solicitude of a whole host of religionists of the whole Church, were needed, it would surely be for that forlorn, neglected, and unpitied child of humanity, who, debarred the opportunities which the more privileged in station or in mind, may be said almost hereditarily to enjoy; a criminal investigation had proved the very worst, the most abandoned member of society, one whom Satan had so effectually won from us, as possibly to render necessary whole years of mental training, ever to undo that amount of moral turpitude that was hurrying him to destruction.

Let us cite a few out of the host of examples, which of those under malignant influence, might be readily adduced.

What must have been that, for instance, Messieurs les Français, that presiding over your Voltaire, could prompt him with all the parade of his pseudo-religion, to plume himself on having—while others dedicated theirs to Saints only—erected his Church at Ferney, to none but God? How sublime and pious the thought, in itself! And, had it only found response in a totally other order of sentiments than those with which his (though vast and powerful yet) perverted mind was, unhappily, but too embued, some feeling more cheering than that of regret, how a

mind, gifted with such capabilities, so amply stored, should not have been devoted to a worthier, a nobler end, might have been the associations that to his memory are allied. His was a sad perversion through malignant influence, however hedged up by all the conventional "bienséances"—those polished usages, for which your country is so justly celebrated. One, whose notions, (reflected in his but too powerful writings,) have gone far to unsettle the faith of whole kingdoms and whole states. Or again, your "self-torturing sophist, wild Rousseau," who, in spite of the pernicious latitude and laxity of his opinions; was not the less able to pay homage to the divinity of the Saviour, in a panegyric, as sublime, as it was deemed almost beyond compare.

Our Doctor Dodd had been known to preach many an excellent sermon, yet whom the little influence the religion he outwardly professed, against a pernicious influence that was instigating him within; brought by a series of untoward events, to an ignominious and untimely end.

It was the province of religion to have neutralized the perverted hearts of each of these, and not for a legislature, in sacrificing the last—to the unchristian and Draconic Laws that with us were then in full force—thus to pay actual homage to the wicked influence that held him in its chains.

Alison, in his history of Europe, records as his opinion, that, even your Robespierre began his career "in many respects a good man." It was, you know, Messieurs les Français, no other than Robespierre, who strenuously advocated the abolition of the punishment of death !!! The philosopher, and his-

torian thus corroborating fully what I have advanced as the startling effects of pernicious influence. The fear of the guillotine, (impending, like the sword of Damocles, above his head) had no corrective influence over Robespierre, and had he been snatched early from the din of uproarious assemblies, and the crash of factions, so critically hazardous at that period of your history, that it was probably self-preservation, by the destruction of others, that alone enabled him to retain position in the mad career, which circumstances at the outset may have caused him, even reluctantly to pursue, and from which, as from a whirling vehicle on a *chemin de fer*, he could with as little safety, as facility, recede; that monster, who, like another Marius, or Sylla, appeared to retain nearest and dearest to his heart, the proscription and annihilation of the human race; might, not impossibly, have resumed eventually the virtuous attributes of his earlier life. But pernicious influence had too long presided over him.

Nor less did the ferocious Danton, the very "Moloch" of your first revolution, evidence what might have been, possibly once, the frame of an innocent mind, in those impassioned rhapsodies respecting the felicity of a country life, in which, in common with his wonted ribaldry and profaneness, he indulged just prior to his execution.

Again, what must have been the amount of malignant influence to which our Nelson was subject, and to whom, in achievements second to none, a justly-appreciating country, one would have imagined, might have been less tardy, as in some

instances it has shewn itself, in recording the manifestation of its gratitude, for his chivalrous deeds? It was, that, those deeds were tarnished beyond redemption, by the malignant influence which female blandishments exerted over the rugged hero, prompting him to descend to acts of as mistaken as uncalled-for vengeance, and cruelty, in behalf of a foreign potentate, to whom he owed no allegiance, and in whose defence, after the protecting sword,—unsheathed as it had been for a specific purpose,—was no longer required; he was in honour bound, to have restored unsullied to its scabbard. And if yet another instance were needed—while most to be deplored, because the most remarkable of all—in song immortal: ingenuous at his dawn: in after years, but how perverted, Byron!!—Byron, with Shakespeare and Schiller, the admired of all nations—in the following beautiful lines, do we owe to the late Miss Landon, a further and yet fuller corroboration of our views, on the effects of pernicious influence, too often exerted, (and always then too fatally,) on minds the most ingenuous, the most susceptible:

“The young warm heart, whose faith and love
 Were all too prompt at first,
 What must it feel, when these are turned
 To darkness and distrust?
 Wormwood to know that heart has been
 Dupe of the false, prey of the mean.

Such will not ask for sympathy,
 Knowing they ask in vain,
 Nor yield to softer feelings way
 To be deceived again;
 And bitter laugh and scornful sneer,
 Becomes at once their shield and spear.

Such, methinks, was the destiny
 That threw its chill o'er thee ;
 Thou hadst mixed with the false, till all
 Seemed but alike to be.
 Could not the workings of thine heart
 Another, holier creed impart ?”

But why should I have been labouring to prove the presence of these influences, when that prayer (which enjoins us, while humbly asking for “our daily bread” to supplicate also for what is no less necessary, that, “we be led not into temptation” acknowledges their incontestable existence?

While, if their effects on those, who, though in easy circumstances, highly gifted, as well as educated, are not any the more able, but in their own conventional and hollow way, to practise virtue,—however they may panegyryze it,—how can any civilized community have the folly, the drivelling imbecility to suppose, that, those without a guide, without an inducement, without a glimpse of any haven of peace, or of reward, to look forward to, either here or hereafter, with scarce a pillow whereon to lay their heads, or with more than rags to cover them; without a home, and with starvation for ever staring them in the face; can be brought to take any interest in, much less induced (although they may hear it extolled, though oftener see it unpractised), to follow out the saving truths of religion, or themselves to practise virtue, and to whom, in the desolation of their misery at their last hour, we might well apply those lines of Racine:—

“ Disparoitrai-je de le terre,
 Sans qu'un sourire du destin
 N'ait charmé ma longue misère ?”

But, even, were it incontestably found, that to coerce were fruitless, and to reclaim, impossible—ever looking upon, as it is the bounden duty of us all to do, these forlorn children of neglect and wickedness, in only their true light, that of the weakest of the weak – it does not even then follow, that for that reason, we are to imbrue our hands in their blood !!

“ Must crimes be punished but by other crimes,
And greater criminals ? ”

We can well imagine how those who can never be brought, or whose temperament will not enable them, to think deeply on any subject—much less on one of such all absorbing interest, as the destruction of a fellow creature—to refer this question as to one of mere secular import, and “ expediency,” for then the whole matter can at once be conveniently disposed of, since, no more bolts, chains, manacles, or jailors, with reference to this description of criminal can be needed ; the acme surely, this, of political economy and wisdom, for what malefactors cost less to a nation, than those who are mouldering in their graves ? But how much longer will human beings in any civilized clime, reconcile to their conscience, so humiliating a remnant of pristine barbarity ? Can good be looked forward to, as likely ever to come of what is based, and begun in such palpable absence of all charity ; in such error, such corruption ? Or, is it too profanely, too deeply diving into futurity, to suppose that the Omniscient’s great agent, Nature, may at some future period, take signal vengeance ; manifesting the disapprobation from on high, by famine, by pestilence, inundations, or by those sanguinary wars, those fierce rebellions, or bloody reprisals,

such as too lately have desolated the European family, towards restoring that equilibrium, which—whether in the intellectual or physical world—man’s reckless hardihood can alike so signally disturb? Even, supposing, that, good could for a time come of evil; it would be the duty of us Christians to reject it on such terms; conscious, that while secure in the advocacy of a just and upright principle, we can, with confiding reliance, leave to the Disposer of all earthly events, that consummation, which in his wisdom he shall ordain, and obeying diligently his injunctions, suffer him only to wield the avenging rod; nor (impressed with a consciousness of our own insufficiency), forget that—

“He who the sword of heaven will bear,
Should be as holy as severe.”

That, we are all responsible the one to the other, cannot for a moment by any rational being be questioned. But, that, man has no clearer nor juster right, than “the mere right of the strongest” to go beyond what ensures his self-defence, and, that, when once obtained, whatever exceeds this, is within the province of the Almighty; is as palpably evident also. Then, least of all, should man prey on man. Assuredly, there exists already, in this world of probation, enough of misery, to render unnecessary, in yet further aggravation of the primeval curse, the heaping upon man by man, its bitter fruits, the reminiscence of his fall.

Let us in our several communities, institute new plans to reclaim, but, if neither coercion, nor milder efforts shall avail; it surely does not follow, that because we can accomplish neither the one nor the

other, nor rescue from the grasp of Satan, those whom possibly in some measure through our negligence Satan may have won, we are with Satan to compass their destruction. And it is the setting on a rational basis, where man's responsibility to his fellow man ends, and where his responsibility to his Maker commences, that will be among the most enlightened, and earnestly to be desired advances towards that perfection in domestic polity, from which, alas! we are at present immeasurably remote. Man, in sitting in judgment on his fellow man—after he has departed from his jurisdiction—has for ages been insisting on an assumption, as profane as it is bold.

Age after age had tolerated, and thus insensibly, confirmed it, while, nothing seemed likely to shake its durability; starting, as mankind had, on a false basis, and regardless of the fact, that, as soon as we have secured ourselves against aggression of whatever kind it may be, our right, from that moment ceases; while, the object of our correction or revenge, has come within the scope of a much more unerring and awful tribunal. And strange it certainly is, that the whole host of religionists of what denomination soever, or of whatever clime, but alike agreeing (if on no other) on at least, one would imagine, so fundamental a point as this; have not long since come forward, with one voice, to implore their several Legislatures no longer to persist in the continuance of what, to all ecclesiastics must appear so glaringly, so abhorrently, at direct variance with every doctrine, with every tenet of the Christian's, and doubtless, with the spirit of many other creeds.

Why our Clergy, for instance, do not assure our Legislature, that the main-spring of Christ's pure

religion, is charity. That, what from the pulpit they are continually expounding, and are in duty bound by every available means, to the utmost of their power, to promulgate and advance; no longer leans on the Mosaic, but, that, a milder and more humane dispensation, has entirely superseded a former economy, which the Almighty specially instituted for some wise object; at one particular period: Why these revered pastors, so ceaselessly insisting, and re-iterating to us, that the blood of the Saviour was shed for the complete atonement, *without reserve*, of the sins of the whole world,—to be consistent—do not insist likewise, that, while with individuals his precepts ought to constitute the main-spring of their actions, the loadstone of their thoughts; so, Governments, in no way less exempt than individuals, from an aggregate responsibility; can have only one justifiable, one Christian course to pursue; and candidly avow, that, while not a single sentiment recorded of the Redeemer throughout his mission, leant in the least to punishment or vengeance, all, on the contrary, leant—through repentance—to forgiveness and to love.

But, this supineness on the part of our Church, ought, after all, to excite in us, emotions, rather of compassion, than surprise. How can churchmen—until freed from the trammels of the “state carriage,” “believe themselves with wings,” any more than could “the unharnessed kings” of the great Sesostris, until “freed from the bit?” Or, how can it be expected for one moment, that a “Church militant” so shackled, can be equal to the repression of any innovations of its own subalterns at home, or

assaults of a Catholic Prince from abroad ; when its acknowledged masters, whose yoke it is doomed to bear, appear unable, although a whole nation is as indignant, as with one voice it is unanimous—to offer any remedy themselves, for an insult, which, thus seems to verify the Spanish proverb, of “un enemigo por pequeño que sea, siempre daña,”* or, which reminds us—until at least, some remedy like that of the philosopher’s stone shall have been discovered, for what in a measure has been “our own act and deed,”—of the Falcon, which, while

“ Towering in her pride of place,
Was, by a mousing Owl, hawked at and killed.”

And next, and because in England the advocates of capital punishment regard it as the stronghold of their argument, will we, with reverence, and without that taint of either pedantry or cant, with which we think this discussion has been at times invested, approach, (for the purpose of making some comments), that too distorted Scripture, “Whoso sheddeth man’s blood,” &c. And, much as at a first glance, this famous passage did appear to justify in its letter, the retention of the punishment of death, yet can we not help thinking we perceive in it a latent spirit, in no other than complete harmony, with the doctrine we advance. Nor, can we divest ourselves of the opinion, that to whomsoever on scrutinizing that spirit, will the injunction it conveys, appear in any way less stringent against Legislature, C, which sheds the blood of condemned malefactor B,—than against condemned malefactor B, for shedding A’s blood.

* An enemy, however insignificant, always injures.

Not that it is more so, however, on either or both of these, than it is on any individual of the human family, of whom, we are confidently impressed with the firm belief, that, we are not warranted for a moment, in conceiving it ever contemplated a single exception. For, can it be consistent with what the pious and refined are intuitively impressed, (as constituting the majesty of the Omniscient;) our supposing he could ever descend to fix, as it were, a stated punishment for any crime; still less could we suppose, he would inculcate reprisal or vengeance in those so unworthy of dealing it. Does he anywhere? And, although he does *himself*, visit the sins of the fathers upon the children; nowhere does he ordain, that, man shall invade the majesty, the wisdom of his judgment. But, on the other hand, does distinctly tell us, that, "Vengeance is his alone." Can folly or profanity, any less than human, picture to itself the Almighty descending to say,—“If you A, kill B, I shall suffer C to kill you!!” The injunction, surely, does not actually insist that C shall become a murderer, because B has been one; but, that, as the human heart is constituted, he very probably may. And, that, when once the hand of vengeance has been raised, and the doctrine of reciprocal murder been once instituted, vengeance and murder will follow, as a necessary consequence, in rapid succession on their demented track. Thus warning us of the penalty we shall run the risk of incurring at each other's hands, should the unbridled action of brute impulse obtain the mastery over human reason.

How, on our rejecting and trampling under foot

the pre-eminent rank in creation we are destined to fill, we shall fare as it is the lot of brutes to do, and tear each other to pieces. But, furthest of all, can its intention be, to give an exclusive right to any one over another.

For, were we to attach so absurd an application, or draw so worldly an inference, as that the Almighty ever intended that one human being should be another's destroyer, only to add a second and similar crime to a first, of which in the very injunction itself, we may recognize that divine abhorrence, which deemed nothing less than what was, mentally, its exact equivalent, as adequate to the expiation of a thing so grave: and which, we, in our finite perceptions, have, in a material sense, mistaken for a positive injunction to commit a second crime no less repulsive, no less abhorrent; as reasonably might we begin to entertain doubt on that power whose beneficence it were profane to question. Let us then with sense, with candour, but not impiety, attribute to the lapse of ages, and another order of things and influences, our inability rightly to interpret, still less apply, that which it possibly was never intended; after once reposing in the efficacy of a milder dispensation, and one better adapted to the growing exigencies of a progressive world, we ever exactly should.

If, therefore, the precept, as coming from the Omniscient, implies what in our own innate conception of his goodness, it ought, it can only apply, without exception, to one and all: Cautioning all alike to abstain from destroying human life, and signifying that if revenge were once acknowledged morally,

the result would be, that, murder systematically, and deliberately delegated from father to son—and which in those hereditary feuds that once prevailed among the highland clans, or those frightful reprisals which in the Carlist war of succession, are with the name of Cabrera, so intimately associated, afford no inappropriate example. Nor, is it too much to suppose, that, were the principle of mortal retribution (as it undoubtedly would be) carried out still further; the whole human family might, at last, become all but extinguished in each other's blood; and the divine intention remain unaccomplished of promulgating the human race. The injunction, surely then, is prophetic, universal, monitory, continuous, and, if not profane, and for alone the sake of illustration, to reduce to human parlance, the intents of heavenly ordinations, would convey this.

If you kill each other, you will have to take the consequences, which, consequences will be, that, until stopped somewhere—and that, not by perpetuating revenge, which, however, I am aware will be your first impulse, but by restraining it, and by, in fact, returning good for evil—bloodshed will go on ad infinitum, and—until bending to the nobler and better principle of forgiveness, which alone can quench it, and which, when ages shall have passed away, I may find you able to acknowledge and appreciate in another dispensation, I shall send you—become inextinguishable.

But, some have argued: If you say the injunction is as binding on legislature C, as it is on malefactor B; you must, with it, allow the whole injunction to be utterly purposeless? Purposeless, it

assuredly is, if straining through the focus of your limited intelligence, your mortal vision causes you to overlook in a purpose so extensive, the grandest feature of this divine injunction, which plainly tells us, *we are not to kill at all.*

It says alike to one and all, thou shalt not shed each other's blood, much less does it give an immunity to any one to shed another's. The idea would be as profane as preposterous. If the injunction were to those possessing the perfection of angels, and with that perfection, a more than mortal discrimination also; it might be another thing: But, while the imperfection of mortals shall remain what it now is, what, since the fall, it appears unalterably to have been, and what—until the divine precepts of the Saviour shall prevail—it must ever be; that natural definition implanted in our minds, of what constitutes the divine perfection; will never permit us to imagine, how a beneficent Creator could ever have intended to intrust so fearful a responsibility, to the unsafe and frail custody of so imperfect and incompetent a creature as man. But this, we must admit, is *only* its Christian interpretation!!

We say *only*: Further we cannot, we dare not venture. Imagining, that, if above all, the passage cannot be explained in a perfectly Christian spirit; if it agree not with the spirit itself of Christianity; and—yet more, if in what, doubtless, is its misinterpretation, be also found what is totally at variance with the divine principle of Christian forgiveness; then it cannot, in the least, be applicable to any community professing Christianity; nor, can modern legislators be justified—where the spirit of

dispensations differ, in giving a preference to that which, shrouded in the mist of ages, and whatever may have been the Omniscient's all-wise motive for instituting or regulating a principle then, it surely cannot be his wish, in a subsequent dispensation, we should violate now; or that, that which, for some hidden reason, cannot be explained, shall supersede that which as clearly can.

But, even the Mosaic law, admitting that the Jews did advocate literally the necessity of shedding blood for blood, supposing, that "expediency" then—as in too many instances it is suffered to do now,—caused Legislatures of that day to be no less blind, than we ourselves have been, in interpreting the import of the divine injunction; was mild in comparison with the sanguinary enactments of our Draconic code.

If we consider the truly humane reluctance, which among the Jews, in the assumption of judicial vengeance, their executive was known to evince; with what reserve, and extreme caution, it advanced, step by step, hesitating so long as there yet remained the "shadow of a shade" of doubt, or, so long as any good of any kind whatever, could be advanced, from the mouth of even the passing stranger, in the culprit's favour: when we consider that, in the Sanhedrim, where question was of life or death, the delinquent had the right of reply, and, that, on his conviction, a new trial was open to him, we are doomed anew, while instituting this comparison, to blush at our inferiority in these particulars.

Let us remember, that it was even during a period no less prolific in blood-stained events, than your

first revolution, that, *Messieurs les Francais*, your court of Cassation was preserved, and, in every essential respect, under all the changes of the revolution and restoration; a beneficent provision, by which, spite of some objections attending it, you humanely give time for inquiry at least.

In the "*Bāgh-o-Bāhar*,"* we find a remarkable corroboration of the prudence of postponement. An Ottoman emperor, incensed with his "*Wazir*" for daring to assert that a ruby on which he set an undue value, was surpassed by any one of the twelve rubies on the collar of a favourite dog, belonging to a merchant of *Naishāpūr*; orders the "*Wazir*" to be immediately put to death.

An ambassador of the Franks, who was at the audience, "joining his hands in humble supplication, stood before the monarch, who asked him what he wanted?"

Ambassador.—"I hope I may know the *Wazir's* fault."

Monarch.—"What can be a greater fault than to lie, especially before kings?"

Ambassador.—"Your majesty has not yet ascertained his falsehood; perhaps what he has said, may be true," and then—alluding to what seemed to cause the monarch so much surprise—"Remember," continued he, "that nothing is surprising before the power of God. Perhaps it may be the case. It is most advisable for your Majesty to order the *Wazir* to be imprisoned, if he is as guilty as you suppose.

* The *Hindustāni* title and translation of the Persian tale, entitled "*Kissa-e-chār-Darwesh*," lately translated into English, by Duncan Forbes, L.L.D., to whom the author is indebted for this extract.

Mighty Sire, former kings have erected prisons for this very reason, that when their wrath is raised towards any one, he might be confined until their anger subsides, and time is allowed to prove his innocence, and save the king from shedding innocent blood, and not have to answer for it at the day of judgment."

Words not only highly applicable to our subject, but shewing likewise the nice appreciation of the orientals—in even their works of fiction—of the danger of precipitancy.

From them we may draw a yet further inference, which is, that Legislatures ought, of the two, rather to be bent on the hope of proving the innocence, than the guilt of any one.

In referring once more to this tale of perfect romance, yet, of as perfect wisdom, it is only necessary to add, that the lapse of a considerable time, as well of peril as of adventure, incurred by the "Wazir's" daughter in procuring the jewelled dog; fully proved the truth of the "Wazir's" assertion, and her father's innocence, and saved a life which otherwise, as too oft has been the case with us, must have been sacrificed.

Thus, in an oriental work of mere fiction, and written centuries ago, do we find a wisdom that amid our boasted civilization and in a later age, we may seek in vain. Let us own the wickedness of *our* precipitancy, and confess at least our folly, if nothing worse.

My transatlantic brothers, you too, for instance, are far more tardy in striking the irrevocable blow, and in Michigan, that State of the Union, in which

total abolition has been introduced, the system has been found to work admirably. Meine Herren Preussen,* your great Frederick, to whom none could attach the idea of a superabundance of sensibility, was yet so alive to the fearful responsibility that rested upon him, that he caused all those documents, which had reference to questions of life or death, to be invariably printed on blue paper; so that, lying among his other papers, these might for ever arrest his attention, and remind him of the duty he had to perform, while, the very considerable time, which, you know, he would suffer to elapse, before he did attach his sign-manual, offers sufficient proof of the reluctance he felt at shedding a fellow-creature's blood, nor have we in more recent times been backward in perceiving, how necessary it became, in our own country, to transfer, through a legislative enactment, into other hands, so heavy a responsibility, as, till then, had rested on the sovereign alone. So that, look where we will, evidence of the same spontaneous reluctance to shed blood, is found to manifest itself; index to that mercy, which, with the lapse of years, was to become throughout Europe overwhelming, and exert a paramount influence over the growing sensibilities of an advancing age.

I must tell you it has been hinted, that, on abolishing the punishment of death, individuals left to their own resources, might be prompted to take the law, thus rejected, into their own hands, together with that prompt and summary justice,

* Gentlemen of Prussia.

which, could we view the actual blow of the assassin, we might be justified in doing on the principle of "self-defence." But when we reflect, that, inasmuch as murders—and especially the most malignant—are, for the most part, shrouded beneath the veil of so impenetrable a mystery, and are so occult, as ever to need the intervention of the most scrutinizing tribunals to elucidate them at all; and, as it must follow for this reason also, that tribunals of some sort must continue to exist, and with them the acknowledged propriety of delegating the distribution of justice into any other than individual hands; so, therefore, the abolition of capital punishment (by, of course, the substitution of a safe equivalent), could never in the least be liable to induce that Lynch Law, to which some investigators of this question have adverted, as its probable result.

Again, I am cautioned, that he who can denounce on Christian principles, the execution of a murderer, is bound to go still further, and insist that, so long as the Saviour's divine precept shall be recognised of presenting, after we have been smote on one, the other cheek, no punishment of any kind, on any pretence whatever, can be awarded to any description of offence! As well might it be averred that the man possessed of the seven mortal sins, was not nearer perfection, after he had abandoned one of them, than he was before, as to suppose, because in the actual phase of society, all the divine precepts of the Redeemer cannot at once be made available, that those which can, shall not; or how are we ever to begin to make successive though tardy advances towards that state of being, which, in the peaceable

Kingdom of Christ, is held out to us as the reward of complete perfection?

Again, will those who reason thus, deny that while subject to the imperfect state he had put on, the very Saviour of the world himself during his earthly mission, was not frequently known to assume the attributes of the merest mortality? How then can *our* accomplishing in part only what our imperfect natures will not enable us wholly to fulfil, be other than commendable for what that effort does accomplish, than deprecated for that of which it seems destined to fall short? And, although to those who cannot reflect deeply, these facts concerning the Saviour, may seem startling, as inconsistent with his divine origin; the host of heavenly precepts contained in his sermon on the mount, are of themselves sufficient, to show how such apparent discrepancies are, not only, quite reconcilable, but even corroborative of that union of divine as well as human attributes, ordained in his nature to be blended. Nor, to those false reasoners can we do other, than make this further remark, that, sincerely as we could wish the present aspect of society could admit of perfection, such as would render unnecessary the punishment altogether of crime, (which, in fact, in that case, would not exist;) on the other hand, like Don Quixote, who liberated and sympathized with a whole caravan of malefactors, before he had considered what was to be done with them, or even, what were the merits of their case; or, as Frankenstein, by incantation, evoked a demon, which, when he had raised, he found it as difficult to subdue; I have no idea of staking the safety of a

whole community on the unconfirmed assumptions and rhapsodies of the mere philanthropist, for a thorough equivalent must be sought, and will be found.

Grappling, therefore, as throughout this argument it has been the wish to do, with every opposite opinion, paying all deference to that host of conflicting notions, which in all classes on this momentous question, so singularly in this country, and probably in all others, prevail, and which engender the belief, that, as yet, but very little really deep reflexion has been bestowed upon it, in the earnest desire to sift and scrutinize the correctness of these deductions, and argue, if possible, against myself; I am bound to record, (the result of the maturest reflexion) a conviction that prompts me to declare, that, when I consider, so long as human nature shall continue as imperfect as it is, an innocent creature may be sacrificed; (and, I shudder to find, that not by *very very* many, is our Eliza Fenning's case the only detestable one on record.) I do conceive those among us who are real Christians, would rather live in that community, in which it was notorious, unpunished murderers were at large, than be instrumental, however remotely, in retaining on the fallacious principles on which it is based, the punishment of death, for one single hour longer, or stake the life of a fellow creature on the fiat of any humanly constituted tribunal. For, sad, as in civil cases only, may have been the fruits of human imperfection, as instanced too often in the decisions of courts of law, in the destruction of affluent benevolence, the prospects of families blasted, and never to be retrieved; perfectly

as such results, though not reconcilable, might be accounted for by him who could

. Venture to unmask
Man's heart, and view the hell that's there.

Still, I say, these, provided they were confined to mere civil matters, would be trivial, when compared to nearly, if not, the most sickening thing a real Christian can contemplate, and which must eventually be scouted by every Christian community. How long shall we continue unable to draw a distinction, to which, in our assumed wisdom and boasted refinement, we seem destined to remain blind, that, human evidence, bad as it may be, if just sufficient to convict on what we can retrieve, is surely not on what is irretrievable?

Again, it has been urged among us in England: But, how can we help the occasional occurrence of wrong convictions, when we recollect how crowded is the community in which we live, and happening, as such heartless reasoners insist, we must allow they do, so *seldom*? Our reply is: If we adhered to sound principle, they could *never*. Even, a heathen writer* maintains the inviolability of genuine and correct principle, when he shows us how that man, who is as determined in his resolution as he is just, becomes possessed of nerve sufficient to face every peril, and "fearless bear the very crash of worlds;"

"Nor quiver though the universe may quake."

While we, as Christians, with, it might be supposed, infinitely greater opportunities than he, con-

* Horace.

tinue to be ignorant of those first principles as Christians, which he, a heathen, it would appear, was intuitively possessed of, and whose heart set him right, while we, the civilized nations of Europe, with all the light of revelation, are still, on, at least, this point, heathens, to all intents and purposes, and he as clearly a Christian, in spirit, if not in name.

So thought the heathen, but "Expediency"—accursed word of later days, in which, too often, we are doomed to find that sophistry has been enabled to make a resolute and effectual stand, when honest argument and principle have for ever fled—says No. But, on the other hand, it is pleasing to reflect among those, of whom, in the midst of worldly distractions and usages, the supposition has erroneously been entertained, that, these must render tantamount, almost to prohibition, any very deep reflection on a subject so grave as this: that, it has by them been very seriously entertained and reflected on; and when we consider the sympathy for which (in the sufferings of even the brute creation) the highest classes in England are so pre-eminently conspicuous, we recognize in these traits of national excellence, earnest of the fairest hopes, and with it, the reasonable inference, that, with such, the cause of mercy could never slumber long; while a discussion so important as the one at issue, and which involves the question of what constitutes the first obligations of every civilized community, must alike be as honourable and interesting to the peasant as to the peer.

It next becomes a painful duty to consider what equivalent, on the withdrawal of that which hitherto

has been absurdly deemed its indispensable and only safeguard, the European family would naturally be expected to require in its stead. One almost quails at the contemplation of admitting the necessity of any such, philanthropically urged as this argument has been, on Christian principles alone. It is painful to suggest: yet more to advise. But have it we must, however repugnant to the feelings the thought may be, or harrowing as are the results, which we may naturally calculate on seeing realized in those, whom a stern necessity has had no other alternative left it, than thus to dispose of. For, were the total abolition of capital punishment advocated on other principles, the whole proposition would fall to the ground, as puerile as visionary.

With us, not far remote from the estuary of the river Severn, and at about twelve miles off the Devonshire coast, is situated Lundy Island,* in length about three, with an average breadth of one mile. Cradled in the bosom of the waves, surrounded by high and steep rocks, rendered, by means of these natural barriers, inaccessible in but one or two places; it thus offers a no inappropriate abode, as the last resting place on earth, of Guilt and its attendant misery. With these natural advantages, conjointly with its sufficient, yet not too unpleasant, proximity to the land of their misdeeds, and with a constabulary cordon to invest a deep moated building—*not* inappropriately offered, we conceive, already, in old Morisco's tower, or at least its site,—might the sad examples of an indispensable necessity, free from the possibility of tamper or escape, be suffered

* Beauties of England and Wales.

to pass the remainder of their days in prayer and penitence, in solitude, amid a daily routine of some useful occupation, towards reimbursing the Legislature: receiving the constant visitation of some pious individuals, as well with a view of affording consolation in this extreme of misery, as of watching the progress of the mind, and recording those phenomena which, in a state of existence so novel, and under such circumstances, might naturally be expected: while, I have alluded to Lundy Island in our country, only with a view of calling public attention, with us, to what there appears reason to suppose are its advantages as a locality, which, if hereafter canvassed and found over-rated, might be rejected for a better, if existing. Nor are hosts of localities, equally advantageous, wanting in other countries: such, for instance, as Ischia, in the kingdom of the Two Sicilies, &c.

But there are some persons who have no sounder arguments to advance why murderers should be punished with death, than that, on its abolition, their perpetual imprisonment would entail too great an expense on communities!!

Of such we must impugn both right and honesty in advancing such a plea, when we consider, that, the cost attendant on this abode of solitude, could not enter into comparison with what we, for instance, as a community, are annually wont to lavish in unnecessary parade, and luxurious comfort, on our places of public worship, at which, though we by thousands congregate, yet are there not any two of us, who, on matters of religion, can be found to think exactly alike.

To this want of *ensemble* in fact it is, that our, as yet, fruitless attempts to repel the Papal aggression is as attributable, as of it, it is illustrative: proving, after all, that, all men—had they the candour to avow, or the sense to perceive it—are dissenters, one and all, without a single exception.

Assuredly, it would be more virtuous to dispense with such things as our choir, our steeple, our stained window, and our organ funds (so unnecessary as at least must obviously appear the three first) in places where the purest and least ostentatious of all religions is ostensibly followed; and (by diverting into so truly philanthropic a channel, the immense contributions which annually in England are collected for baubles such as these) do something at last, like Christianity, and as worthy of Christians, at least, as this. But, it is needless to blind our eyes to the fact, that the inmates of these *ultimata* of human punishment, would in the end, become any other than confirmed maniacs; while, that result, to arrive at which, the sad necessity had been imposed at all, would, on the other hand, fail not to reward tenfold the philanthropic experiment in the sequel. For, among that demented crowd, some few sane minds would be eventually noticed, who, with greater resignation and composure, would be found to wear the solitary hours away, to whom the phantom, for ever haunting the pillow of guilt, would be ever as remote.

These would turn out to be no other than those supposed offenders, types of the less fortunate ones, whom, in an iron-bound state of society, we in England had been formerly too often wont to immolate on only circumstantial evidence.

The guiltless glance, offspring of that innocence, which at the time of their conviction, though emphatically persisted in, was as ironically sneered at by their accusers, would gradually become corroborated, and thus completely accounted for.

Enquiry, as well collateral as direct, in a community so abounding in benevolent individuals, and the numerous charities it does, would not be tardy in instituting the most searching scrutinies, sifting the whole history of individuals from beginning to end, and thus furnish that epitome of a whole life, which, it would seem, in our courts of law, impressed apparently with alone the necessity to convict at once, screen the guilty, and, on circumstantial evidence, too often immolate the innocent; we have in this country so recklessly disregarded, but which the ray of meridian intelligence will as speedily dispel: while, our apparently callous indifference to human life, has operated not a little to evoke the numerous and highly-gifted champions it already has, in this as truly philanthropic as Christian crusade. For, could guilt, through some supernatural agency, have been identified, and pointed out beyond the possibility of doubt—a privilege it is not in the power of mortals to aspire to—or, had human nature—even imperfectly constituted as it may be—been humbly impressed with the thorough consciousness of its weakness, its fallibility, or manifested in the constitution of human judicatures, as great an acknowledgment of its insufficiency, as emulation in seeing realized, as for instance at our Bar, the hackneyed epithet of “learned in the law.” Had we, I say, by obliging our courts of law to

spread over an infinitely greater space of time, their investigations on a criminal trial, evidenced a desire thus morally — not mechanically — to investigate, much of the energy which this all-absorbing subject has awakened in philanthropic minds, would, though not eventually altogether, have yet been retarded for a time.

But, as we ought not wholly to deprecate sweeping changes, so they be for the better, and in all mundane matters they must occasionally occur, so the attempt to ameliorate or expect healthier fruits from the worn out stock of antiquated imperfections and prejudices, would only be to retrograde.

But, deem not that the author of these passing reflections — and however leaning, as it may seem he has done, altogether on the side of mercy — is averse to secondary punishments. Quite on the contrary. It is his opinion that, Legislatures do not punish by one-half enough. That, those salutary correctives, which are legitimately within our reach, are, strange to say, most injudiciously, and, it would almost seem, purposely disregarded, and utterly, at last, lost sight of.

That, to such highly culpable neglect on our parts it is, that, doubtless, in a great measure, may be attributed the supposed necessity for the retention of the punishment of Death at all.

Evidencing, thus, how folly ever fluctuates between extremes, and is, here, for that very reason, found to call into existence, on the one hand, what is so opposite to, and so totally at variance, on the other, with that pernicious, and, therefore, responsible, Leniency, which, at the outset, by screening from

early punishment the juvenile offender, at a period when, at but trivial cost to a community, and with comparative ease, the one might have been effected, and he have been reclaimed; consigns him to a no less opposite extreme than that of the scaffold, and thus becomes greatly accessory and instrumental to his ignominious end. Manifesting in this result, the almost utter impossibility of reclaiming, when once the mind, wholly neglected, and warped by the force of evil habits, has become too complicated in its corruption, to admit of the possibility of either unravelment or recall.

Nor, is this early correction other than of immense importance, as must appear to any community that will pause, but for one moment, to reflect on what would probably follow its adoption, and by which immense sums would annually be saved, at a time when economy and retrenchment—suggested by that mass of public debt that seems to attach itself and hamper communities in proportion as they are advanced in civilization—are so universally deemed of paramount consideration, in matters of certainly, very trivial and secondary importance, when compared with this.

If, throughout the foregoing pages, actual reference has not been oftener made to passages in the New Testament; it has been solely because it was conceived (in a compilation of precepts so pure, so sublime, and so corroborative as well of each other, as of the position which is here assumed) that, if one only was selected, viz. that which enjoins us to abstain from casting the first missile of censure at any one, until we feel conscious, that, ourselves we

are wholly devoid of censure or reproach, and which—if possessing—renders us equally possessed of that unfitness also, to be another's judge. Considering, too, that of these precepts (the emanations of a being as perfect as he was consistent) to instance one, in fact, would be to instance all. Nor, did we feel less aware that it was necessary to draw to a conclusion, the wanderings of an effort—however well-intentioned,—already but too prolonged.

Such then, my dear countrymen, and brothers of all nations, are the deductions, which, after the most mature deliberation on this important subject, have, as impartially, as irresistibly presented themselves. Happy, if while seeking to advocate the cause of unbefriended and desolate humanity, in whatever corner of the world it shall be found to pine, or happier, if in their adoption throughout Europe, may be found the ameliorating results which alone they meditate; these humble efforts, may not altogether have been made vain.

If, with the secondary punishment here suggested, we are able to lay our heads on our pillows, and at least feel, that, while all our intentions and views on so awful a question as that of dealing death, and whatever the result may be, have been based on sound principle, and without deviation,—as we think we can conscientiously feel they have not,—from a single doctrine of the Redeemer, whose unbounded philanthropy appeared in all his acts; that, having entered on a just crusade, even were ill to come from it for a time,—a result not unfrequently attendant, as we all know, on the transition stage of the best of changes; it will in a tenfold ratio, justify itself

in the end, and by humanizing the kingdoms of Christendom, do more towards preventing the recurrence of atrocious deeds amongst us, or of sanguinary wars, than all the supposed terror of the extreme penalty could ever be expected to accomplish by whatever mode, or in whatever clime it was conceived. At least, shall we be able to feel, that, by no profane stretch of man's puny prerogative, have we been disputing with Him—to whom vengeance and judgment can alike and alone belong—the wielding of his avenging rod; that, for the blood-stained and obsolete alternative of capital punishment, we shall have substituted in its stead, one that shall alike prevent repetition of the offence, in the actual offender, as offer him—in a life of entire seclusion, of penitence, and prayer; the charitable option of possible reform. That, while we have hermetically closed, with, as it were, an adamant signet, our criminals for ever from that society they have outraged, will alike preserve our several communities from the recurrence of so indelible a blot, as certainly, among ourselves, in England at least, has occurred, the too frequent sacrifice of the innocent. That, while tranquillizing the minds of our English juries, with reference to those malefactors, who, though with one voice, with one accord, and, as it were, by acclamation, public opinion deems guilty beyond—I had almost said, the possibility of a doubt, will persevere in protesting their innocence to the last, and with that, let us not disguise it, the possibility of its even being so.* That will, on the

* It is truly singular, that this is just now the very case, with those convicted of the Frimley Murder; while, in this instance,

other hand, enable real innocence, under the too frequent possibility of wrong conviction, to quit, at any period, a prison, and receive that homage, which, after unmerited persecution, is so eminently its due. And, which, substituting as this proposal does, an infliction, which, though partaking of the saving power of revocation, is, (if not more terrible,) at least as efficacious as death itself; will, by snatching future victims from beneath the gore-stained wheels of our judicial Juggernauts; for ever, at least, preclude the possibility of our taking away a life, which, though given, *we* never gave, and, which, when taken, *we* can never restore.

as in too many that have gone before it, justice seems *satisfied* with the *ipse dixit* of the approver, who, of all the villains concerned in any villainous transaction, may be always calculated on, as being the very villain who out-villains all the rest; and who, for that very reason, will not improbably too often be the very party who has dealt the fatal blow.

THE END.