

# From Behind the Bars

by

D.M. Bennett



This book has no Table of Contents, and the page numbers are not consistent as there are several inclusions from other publication. So we are constructing a Contents to make this rare and needed book of religious persecution in America more useful for you -- we will use the file page numbers as seen at the bottom left of your screen.

## Picture of D.M. Bennett

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Eng<sup>d</sup> by Geo E. Perine, N.Y.

*D. M. Bennett*

FROM  
BEHIND THE BARS.

A Series of Letters Written in  
Prison.

---

BY D. M. BENNETT,  
EDITOR OF "THE TRUTH SEEKER,"

*Imprisoned ostensibly for depositing Prohibited Matter  
in the Mail, but really for entertaining  
and speaking his Honest  
Convictions.*

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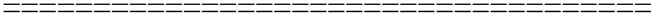
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TO THOSE IN FAVOR OF FREEDOM OF THOUGHT,  
OF SPEECH, AND OF THE PRESS;  
TO THOSE OPPOSED TO THE ESTABLISHMENT OF  
A CENSORSHIP OVER THE PRESS OR OVER THE MAILS;  
TO THOSE WHO REVERE  
THE CONSTITUTION OF OUR COUNTRY,  
AND WISH ITS GUARANTEES TO BE PRE-  
SERVED AND EVER HELD SACRED,  
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## PREFACE.

The following letters were written very hurriedly, in some instances without time to read them over before they were put in type or the opportunity to see a proof to correct them after in type. This being the case I feel sure the reader will overlook the roughness and inelegance that are conspicuous. If it may be thought that too much bitterness is exhibited in places, the reader is asked to take into consideration the bitter provocations that have been given me, and the bitter wrongs that have been done me.

For more than two years my arch-enemy has been pursuing me with the venom of a viper. I am the editor of a radical, out-spoken journal, and publisher and seller of many radical books and pamphlets. I have not so much "faith" as many of my fellow-men profess. I cannot easily believe as much as they acknowledge to. My belief, so far as I am able to ascertain, agrees very closely with that held by Thomas Jefferson—than whom this country has produced no worthier man—in some respects with the views held by Benjamin Franklin, George Washington, John Adams, and closely resembling those held by the late good and revered Abraham Lincoln. I have strong convictions counter to current creeds, and have the habit of speaking out what I believe. I cannot accept supernaturalism; I am not a friend to priestcraft; I oppose old theological fables and

unsupported tales ; hence I have been a rock of offense to many who deem themselves "the salt of the earth." The clergy and their immediate friends have been annoyed by me. The question how to silence my pen and my press has been canvassed again and again. The question how to squelch Bennett has come up several times in the meetings of the Young Men's Christian Association at their splendid hall on the corner of Fourth avenue and Twenty-third street, New York. I was declared an enemy to ecclesiasticism and revealed religion, and the decision that I should be suppressed was unanimously arrived at. How to do this, and who should do it, were the questions. The spy and decoy, Anthony Comstock, the founder, secretary, and active agent of "The New York Society for the Suppression of Vice," volunteered to undertake the enterprise. He knew there was no law now in use to punish heresy or unbelief, or even blasphemy ; but he also knew that he had a little obscenity postal law which Congress had enacted for him, and that if he could use that upon me my conviction and imprisonment were certain. He accordingly commenced operations. The course he took and the part he played in the three arrests that I have suffered will be found narrated in subsequent pages, and need not be detailed here.

My trial on the last indictment against me came off before Judge Charles L. Benedict, in the criminal branch of the United States Circuit Court, on March 18, 19, 20 and 21, 1879. The term *trial*, however, in this case is a misnomer. It was a farce—a mockery. I was *tried* for one thing, but *convicted* for another. I was not allowed to introduce the

testimony of competent authors, writers, publishers, dealers, and philologists, to show that the pamphlet is not obscene, though nearly fifty of the ablest in the city were ready to give such testimony; in fact, allowed to introduce no testimony save a little as to my good character through life. Even the pamphlet itself was not permitted to be read to the jury, but such detailed passages only as the prosecuting attorney pointed out. No comparison was allowed to be made with other standard works, sold by every book-dealer and to be found in every library in the country. The judge ruled severely against me in all cases, and his charge and instructions to the jury were of such a character that if followed they could not do otherwise than convict. This course, however, was not repugnant to the feelings of the jury, for they were mainly members of Christian churches, and the foreman a superintendent of a Sunday-school. An Infidel publisher was on trial before them, and they very naturally felt it their duty to convict. Three or four of them, as I was informed, were at first for acquittal, but all save one readily yielded to the majority. That *one* held out all night—fifteen hours in all—when he finally yielded, though against his better judgment, and at the earnest entreaty of a jurymen who had a sick wife, who had sent word to her husband to return home at the earliest possible moment. This dissenting juror the more readily yielded because the judge had said I could make my exceptions, take an appeal, and have another trial. Had the jurymen not thought I could easily obtain a new trial, he would not have yielded.

My attorney, Mr. Abram Wakeman, had made twenty or more exceptions to the judge's arbitrary

rulings, and appealed, upon a writ of error, to three judges, with the hope that they would dismiss the case upon the ground of a defective indictment or grant a new trial, or, by a disagreement of opinion, allow the case to go to the United States Supreme Court, where the whole case could be reviewed, together with the constitutionality of the statute under which the conviction was secured. The case was presented to the three judges—Blatchford, Benedict, and Choate—sitting in banc, May 21st. The points and exceptions were printed and argued at considerable length by my attorney, but all without avail. The judge who had secured my conviction was one of the three to decide whether I should have a new trial—a thing manifestly most improper, as few things can be more absurd than for a judge to review his own rulings. The fact is, Judge Benedict was on trial before the three judges as really as myself. If the case were set aside, or a new trial granted, it would virtually be a condemnation of his rulings. In such a state of things it could hardly be expected a judge would decide against himself, or that his two companions—brother Christians as well as brother judge—with the courtesy common between judges, would decide against him. They did not. Benedict was sustained, and a new trial denied me. June 5th was the day set for pronouncing sentence. Accordingly, on that day, I again appeared before Judge Benedict, who, after denying the request of my attorney for a stay of proceedings that the case might be taken before the United States Supreme Court, at Washington, at its fall session in October, sentenced me to “*thirteen months’ imprisonment at hard labor in the Albany Peniten-*

*tiary and a fine of three hundred dollars (\$300)."* Before sentence was pronounced I requested to speak a few words, but this privilege was summarily denied me. Numerous friends were present, and I wanted to exercise the poor favor usually granted to the worst of criminals before being sentenced; but I could not be indulged to that extent.

I was taken to Ludlow-Street Jail soon after. Awaiting the action of the President, I was allowed to remain there until July 28th, when, he declining to pardon me, a United States marshal conveyed me to this prison. My experience here is partially described in the letters from this place. For seven weeks I worked in the shop at shoemaking, when, becoming an invalid, I was sent to the hospital, where I still am. I am allowed to write when I feel able, and am writing a work to be called "The Gods and Religions of Ancient Times"—an octavo volume of over 1,000 pages. I trust it will be a work of some value, and that it will be ready to present to the public about January 1, 1880. All who wish a copy are requested to indicate the same by writing to THE TRUTH SEEKER office, 141 Eighth street, New York. Price, cloth, \$3.00; leather, red edges, \$4.00; morocco, gilt edges, \$4.50, including postage.

I cannot be insensible to the wrong that has been done me in sending me here for no crime, and for simply exercising the rights guaranteed by the Constitution to every American citizen. But as I am destined to suffer this indignity and wrong, I can only be glad that it is in so good a cause as free thought, free speech, a free press and free mails. I feel sure that the founders of our government never intended that persons should be imprisoned for

opinion's sake, or that the government should deem it its duty to inquire into the religious views of citizens, nor punish them on account of such views. The Constitution guarantees to every individual the right to worship God according to the dictates of his own conscience, or to not worship at all, if he so prefers. It is comparatively a modern thing that men are sent to prison in this country for entertaining views not in accordance with the demands of the church ; but that this is the reason why I am here is most clear. It is a revival, though in a modified form, of the persecution of heretics so much in vogue a few centuries ago. Then it was torture at the stake, now it is a term in the penitentiary.

Yes, I was *tried* for one offense but *convicted* for another. Whoever will take the trouble to post himself in my case will inevitably come to the conclusion that "obscenity" was only a *pretext*, and that I am in prison because I am a prominent Infidel publisher. Those who wish to inform themselves of the facts are cited to the published edition of my trial, as reported by the official stenographer of the court—a book of 275 pages. Price, cloth, 50 cents ; paper, 30 cents.

Among the hopes I indulge is the one that Congress will soon see the importance of repealing the statute under which I am convicted. It was not called for by any considerable number of the people ; it was not publicly discussed on the floors of Congress ; its passage was almost surreptitiously procured, and it was rushed through at the request of Anthony Comstock, in the expiring hours of the Forty-second Congress, when some two hundred and sixty bills became laws in a few hours, not one man

in ten knowing what he was voting for, and at the time that the "back-pay," "salary-grab," and "salary-doubling" laws were enacted. As the statute authorizes an inspection of mail matter, to ascertain its moral character, declaring it unmailable if of a certain description, and not to be conveyed or delivered by any mail-carrier or postmaster, making the extreme penalty imprisonment for ten years and a fine of \$5,000, it is clearly unconstitutional, as the Constitution does not confer upon Congress the right to inspect or withhold mail matter for moral, religious, or political reasons.

There are millions in our country to-day who have not the slightest idea that such a law is upon our statute books, and by far the greater portion of those who are aware of it, when made to fully understand it, think it should be repealed.

Obscenity is a wrong that should be duly punished, but it is not wrong simply because it passes through the mails; it is just as wrong when sent by express, or by any other mode of conveyance. It certainly is no part of the duty of the general government to hunt up and punish obscenity any more than burglary, larceny, arson, assault and battery, manslaughter, and murder. The state and municipal courts are ample for the punishment of all these crimes. Obscenity forms no exception. A little activity and watchfulness on the part of municipal police will always prevent the prevalence of this wrong. The fact that it was suppressed, and by the activity of a single individual, before the statute under consideration was enacted, sufficiently proves this proposition. Let it be held to be a crime to transport obscene matter by mail the same as by

express, freight, or any other conveyance, and let it be left to the state courts to punish. The states do not own the express companies or the freight lines any more than the mails, and they certainly have the power to punish when sent by either mode. It is quite unnecessary that the courts of the general government should be occupied in trying *obscenity* cases. Let the Comstock law be repealed.

To give additional information touching my case before commencing the "Letters From Behind the Bars," my "Open Letter to Samuel Colgate" will be given, published before my trial. My "Circular Letter to the Press," after the trial, to be followed by two editorials from THE TRUTH SEEKER of June 7, 1879, printed the day I was sentenced, the second of which contains the substance of what I would have said in court had the judge permitted me to speak, and lastly my appeal to the President, asking for liberation, with the form of the petition which 200,000 people signed, will, I hope, all prove of some interest to the general reader.

Very truly,

D. M. BENNETT.

*Albany Penitentiary, Oct. 15, 1879.*



AN OPEN LETTER  
TO  
**SAMUEL COLGATE**

[*From The Truth Seeker of Feb. 22 1870.*]

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DEAR SIR : My reason for addressing this communication to you is because you are at the head of a society—the New York Society for the Suppression of Vice—which is trying to crush me, to deprive me of my good name, my property, and my liberty. From the information I am able to obtain, the determination is strong in your society to press me to the wall, to break up my business, and to thrust me into prison. My love of liberty and my aversion to injustice are probably as great as any man's, and it is but natural that I feel some uneasiness in consequence of the danger in which your society has placed me. It has already subjected me to an expense of thousands of dollars, it has blackened my reputation all over the United States and in Europe, and at this moment it has its hand at my throat, struggling to deprive me of my liberty and my rights, if not my life. I am, of course, deeply interested in this contest, and wish to talk with you about it with plainness, directness, and earnestness.

In some respects you and I stand upon an equal-

ity, while in others we do not. We are both natives of this country, both citizens of the United States, both have borne an honorable name among our fellow-men, both have lived to a fair old age, having entered upon our seventh decade, and both stand equal before the laws of our country and the Constitution as it was established by our fathers. In other respects we are not equal. You are rich ; I am poor. You have been very successful in your life enterprises, while I have not. You are to-day honored and respected by most of the people of this city and country, while, by the same class, I am hated and despised. You are the president of an organization composed of rich and honorable men, while the finger of scorn is pointed at me and I am denounced as a criminal unfit for life and the blessings of freedom.

What is the cause of this state of things ? Is it because I have really committed wrongs and am a worse individual than yourself ? By no means. I have ever been a law-abiding citizen, and defy any man to designate any crime I have committed. I insist that I have not been a law-breaker, while I think I will soon be able to show that you have been. But the great difference between you and me, Mr. Colgate, is just here : You are a believer in current theology ; I am not. You are a member of a rich and fashionable orthodox church ; I am not. You accept the system of celestial arithmetic that one is three and three are one ; I do not. You believe that a son may be as old as his father ; I do not. You believe in supernaturalism ; I do not. You believe that your system of religion has been handed down from heaven ; I do not, but regard it,

like all other systems of religion, as of human production. You believe that a certain individual of illegitimate birth, said to have been born nearly two thousand years ago of a Jewish maiden, was begotten by the Supreme Creator of the universe, and was himself the creator of the universe and his own father; I do not. You believe that the blood of this individual was very different from the blood of all other human beings and possessed virtue enough to save and make forever happy those who accept the belief you do; I do not. I regard every person's blood, who has lived upon the earth, as essentially the same. You believe that all who do not accept and acknowledge the faith you do must go to hell and suffer eternal torture; I do not. I cannot believe that any man is to be punished to all eternity for entertaining an honest belief. We are punished *here* for opinion's sake, but I hope not *there*.

I will concede that you are honest in your views, and for entertaining them or professing them you are honored and bowed down to. For not being able to believe the same, and for having the honesty to avow my inability to believe them, I am despised, denounced as vile, and for this very thing you and others are seeking to deprive me of my liberty and my dearest rights.

I wish to remind you that in the formation of this Government it was designed by its founders to be perfectly free for every form of belief, theological or otherwise. It was intended that every religion here should enjoy an equal amount of freedom. That every man should believe in and worship any kind of a god he pleased, or no god at all, if he pleased. The Government was not established in

the interest of any system of religion. There was to be no union of church and state. Every man should have the right to espouse and proclaim such views and opinions as to him seemed good.

Many of the men who took a prominent part in preparing the country for the free Government which was here established and in perfecting it, were unbelievers in the main dogmas of the Christian religion. Thus Benjamin Franklin was a Deist ; Gen. George Washington was a Deist ; Thomas Paine was a Deist ; Gen. Ethan Allen was an Atheist ; Thomas Jefferson was an Atheist ; John Adams was a Deist, and many others who were connected with the civil branch of the Government, and who as generals helped to fight the battles, were unbelievers in the fundamental dogmas of Christianity. These statements are susceptible of proof, but I will not now take the time to enter into that. I will say, however, that it has been claimed that but one of the signers of the Declaration of Independence was a Christian, and he a Catholic—Carroll of Carrollton, Maryland ; and it is well known that Washington while filling the chair of first President of the United States, signed a treaty with the Government of Tripoli, in which it was explicitly stated that “The Government of the United States *is not in any sense* founded on the Christian religion.” Among our later Presidents some have been unbelievers or Infidels, notably Abraham Lincoln.

Under this view of the matter it would seem that my right to hold my honest opinions ought to be just as sound and just as firmly protected as yours, but it is not so. A great change has come over the state of our country. The Christian religion has

become very fashionable and popular. We are supporting from 60,000 to 70,000 clergymen to uphold it. We have churches and cathedrals in this city costing from \$500,000 to \$5,000,000, and these are free from taxation, while the humblest cottage of the poor man is taxed, and if he is not able to own a cottage and is forced to rent a home he has to pay in rents to make up for what the property of the churches and the clergy do not pay; and many of the clergy, for preaching the church dogmas to the people, are paid the exceedingly comfortable salaries of \$2,000, \$3,000, \$4,000, \$5,000, \$8,000, \$10,000, \$12,000, \$15,000, and \$20,000 a year. It is perhaps not strange that some of these men wish to send to prison the man who is trying to show the people the folly of keeping up this expensive and useless farce.

Yes, Mr. Colgate, my principal sin is in not being a Christian, and in publishing arguments and facts calculated to shake the faith of my readers in the divinity and beauty of that system of religion. The charge of obscenity against me is a mere pretext. I am not and never have been a dealer in obscene literature. The charge is infamously false. I have even hardly seen a lewd or lascivious book for twenty years save the part of one which your agent Anthony Comstock sent through the mail to a friend of mine. But a pretext was sought for against me by your society by which I should be arraigned before the highest courts of our country. Your agent, Anthony Comstock, visited my place, searched through my publications, books, pamphlets and traets to see if he could not find something on which I could be arrested and convicted. He

finally found two little tracts—one an “Open Letter to Jesus Christ” and another a Scientific essay, written for the *Popular Science Monthly* by a most worthy gentleman upon the propagation of marsupial animals. These were taken and submitted to your committee whose business it is claimed is to examine the grounds for charges before authorizing your agent to go ahead, and they pronounced the two tracts sufficient to proceed upon, to imprison me and despoil me of my property. Your salaried agent, Mr. Comstock, wrote me a decoy letter, to which he appended the forged signature of a fictitious personage, by which he induced me to send to him at his country-seat at Squan Village, N. J., one each of the two tracts named. For this offense he, in company with a deputy U. S. Marshal, took me from my editorial duties on the 12th of November 1877, and seized all the pamphlets of the kind I had on hand, and has never returned them, and had I not been fortunate enough to be able to give bail I would at once have been taken to prison. The grand jury of the U. S. Circuit Court upon the testimony of your agent readily found a bill against me, and I was informed by District Attorney Woodford that a conviction could easily have been procured against me and I sent to prison. A hint, or a bit of instruction from the authorities at Washinton caused my case to be dismissed, by which the intentions of your society and more especially of your agent were for the time being thwarted. But it was only for a time. He was very angry that my case had been dismissed, and declared with vehemence that he would have me in his power yet. Perhaps he will. Within fifteen months I have been arrested

three times for selling or mailing obscene literature. This is most cruel and unjust treatment towards one who is not in the slightest degree guilty.

Have you realized, Mr. Colgate, what a serious thing it is to be arrested on a charge of selling obscene literature? There is scarcely another charge in the whole catalogue so disgraceful, so odious, and so utterly ruinous to a man's character among his friends and acquaintances. How would you like to be arrested on an accusation of selling obscene and lascivious publications? How would you like to have your wife, your daughters, your near relatives and friends, and your numerous acquaintances read in the daily papers that you had been arrested on this charge by United States officers? How would you like it telegraphed all over the country that Samuel Colgate had been arrested and held to bail for dealing in obscene literature? Would \$20,000 be the slightest inducement to you to have such a foul blot, such a disgraceful stigma, thrown upon your character? I think not. But remember this has been done to me three times within the last fifteen months, and I think as much of my character as you do of yours. I have not dealt in nor handled obscene literature, and have been no more a violator of the law than yourself; in fact, not so much so, as I will proceed to show you and any person who may read this. I will here quote a section of the law of the United States, which your society, and especially your agent, caused to be passed. A similar law he also caused to be passed by the Legislature of this state:

“Every obscene, lewd, or lascivious book, pamphlet, picture, paper, writing, print, or other publi-

cation of an indecent character, and every article or thing designed or intended for the prevention of conception or procuring of abortion, and every article or thing intended or adapted for any indecent or immoral use, and every written or printed card, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or of whom, or by what means, any of the hereinbefore mentioned matters, articles, or things may be obtained or made, and every letter upon the envelope of which, or postal card upon which, indecent, lewd, obscene, or lascivious delineations, epithets, terms, or language may be written or printed, are hereby declared to be non-mailable matter, and shall not be conveyed in the mails, nor delivered from any post-office nor by any letter-carrier; and any person who shall knowingly deposit, or cause to be deposited, for mailing or delivery, anything declared by this section to be non-mailable matter, and any person who shall knowingly take the same, or cause the same to be taken, from the mails, for the purpose of circulating or disposing of, or of aiding in the circulation or disposition of the same, shall be deemed guilty of a misdemeanor, and shall for each and every offense be fined not less than one hundred dollars nor more than five thousand dollars, or imprisoned at hard labor not less than one year nor more than ten years, or both, at the discretion of the court.—*U. S. Statutes at Large, vol. 19, p. 90. Approved July 12, 1876.*

You will notice that it is a positive violation of the law to publish any kind of an advertisement giving information relative to any substance that may be used for producing abortion or preventing



conception, or telling in ever so vague a way where such a substance can be found. To be guilty of such a violation of the law subjects one to a fine of \$5,000 and imprisonment for ten years. To show whether you have not rendered yourself liable to this punishment, I will quote a few lines from page 7 of a pamphlet, being part of a report of Henry A. Du Bois, M.D., issued from your house, relative to the article of *vaseline* which you sell in large quantities, of which pamphlets you have sent out thousands. To my personal knowledge the pamphlets have come from your house, and they were sent by mail. They were ordered from your house, they were sent pursuant to order, the envelope having your business card printed upon it. Here is the extract :

“Physicians are frequently applied to to produce abortion. Recently, on the same day, two women came to me ; the reason assigned in the one case was that the husband was syphilitic ; in the other, that pregnancy brought on violent attacks of spasmodic asthma. Of course I explained that the child had rights as well as the mother, but it was all I could do to prevent one of these cases from going to a professed abortionist. In some cases of this kind prevention is better than cure, and I am inclined to think, from some experiments, that *vaseline, charged with four or five grains of salicylic acid*, will destroy spermatozoa, without injury to the uterus or vagina.”

Here are explicit directions for preventing conception, if not for procuring abortion, and you published definitely where the preparation could be obtained. You violated the law, as I said, in the

most positive manner, yet you escape, while you are trying to send me to prison for not breaking the law at all. If this is justice, it must be Christian justice, or Colgate justice, which will not bear investigation. But your society was not organized to punish such violators of the law as yourself, nor for the rich and influential, nor for prominent Christians, but for poor, friendless devils who are unable to make a defense, and who can easily be hustled off to prison. To show you and others what a wide difference is made in the treatment of Christians and Infidels, I will inform you that though the U. S. prosecuting attorneys readily admitted that the law had clearly been violated in your pamphlet, and ought to be prosecuted, when they came to learn that Samuel Colgate was the offender they utterly refused to prosecute the case, while they are very ready to prosecute me for violating no law whatever, and with difficulty have been induced to lay my case over for a single term that my attorneys might have time to prepare for my defense. Thus you see, Mr. Colgate, it makes considerable difference whose bull does the goring, whether Colgate's or Bennett's. This is a very good illustration of the kind of justice meted out by your Society for the Suppression of Vice; its president may violate the laws with impunity, but as for an Infidel publisher, he must beware, or he will be sent up ten years for the most frivolous offense; and then if the President of the United States has the fairness and honesty to pardon him and release him from his unjust imprisonment, the holy adulterers raise such a howl all over the land as to nearly deafen one. Had some Infidel or unpopular or irregular practitioner been

guilty of violating the law as you have done, your agent, Comstock, would long since have been after him, and the United States court would have summarily sent him to prison.

In your speech before your Society on the evening of January 29th, you said : "As a Society, we have yet to have the first report from any responsible and reputable physician, or druggist, or bookseller saying that their practice or business had been injured through the action of the Society. They do not complain of our society, of these laws, and no such report has come to our Society." There is very good reason why they do not complain ; your agent Comstock does not meddle with regular physicians, regular druggists, nor wealthy, respectable booksellers. He is very careful to let them alone, and to pounce down upon the poor, the friendless, and the irregular. For these he has no mercy nor forbearance. The "regular," aristocratic physicians may prevent conceptions, produce abortions, or do anything else they choose, and your agent will not disturb them. I have never heard of Comstock bringing a charge against a regular physician or a regular druggist. Druggists may import and sell contraband French goods with perfect impunity, and he will not disturb them. There is scarcely a druggist in the city but what keeps and sells those goods every day in the year, and still Comstock will not lay snares for them ; he will not send them decoy letters in fictitious names ; he will not set traps to catch them. He is not anxious to attack the fraternity of druggists ; they are too strong and could raise too much money to successfully oppose him. He looks for game more helpless and friendless.

It is the same with the booksellers. There is hardly a bookseller in the country but what sells the writings of Boccaccio, Rabelais, Montaigne, Fielding, Shakspeare, Sterne, Juvenal, Byron, and others, any one of which has a hundred times more of obscenity or indecency than "Cupid's Yokes" contains, but they are never disturbed. They can keep on selling these works, with hundreds of copies of the Bible, which, at least, has a thousand times more obscenity than can be found in Mr. Heywood's pamphlet, and they are all right; they will not be molested. They may even buy and sell "Cupid's Yokes" to their heart's content, and Comstock will not lay in wait for them. The largest booksellers in the city have repeatedly bought "Cupid's Yokes" of me, but your Society or your agent will not proceed against them. It is the Infidel publishers and the small-fry operators who have cause to fear Comstock's persecutions and prosecutions. And here may be seen at a glance just the kind of justice that actuates your Society.

I will cheerfully admit that much good has been accomplished in seizing and suppressing indecent and immoral literature, and that you spoke correctly in your speech when you said, "To-day it is impossible to find one of those books [indecent] in any store in this city, and obscene pictures and pamphlets are hardly ever published." While I would not deny the good that your Society has done in driving this literature from the market, I must remind you that the far greater portion of this was done before your Society was organized and before the postal laws of 1873 were enacted. Since that time your Society has expended some \$50,000, and

it has done in the last five years little else than to prosecute, annoy, and persecute people who meant to do no harm, who have broken no moral law, and have done nothing to injure their fellow-men. The charge of obscenity has been brought against scores of persons who had not a thought of being obscene, and whose desire to be moral and law-abiding was as strong, at least, as the average of church-members of the day. For every person whom your Society has arrested within the last five years on the charge of dealing in obscene literature who has really been guilty, ten or twenty have been needlessly arrested, have been subjected to heavy expense, have been cruelly disgraced and many unjustly fined and sent to prison. Of this class may be mentioned the cases of Dr. E. B. Foote, Dr. E. C. Abbey, John A. Lant, Sara B. Chase, Charles Mackey, Leander Fox & Son, Mr. Weil, A. Prosch, Charles F. Blandin, Louis Wengenrath, E. H. Heywood, and at least one hundred and fifty others. When it is realized how much anguish, wretchedness, broken-heartedness, and disgrace your agent has caused by his merciless persecutions, the amount of deception, subterfuge, intrigue, persuasion, falsehood, and even perjury has been employed to procure the arrests and convictions that have been made, it is quite enough to neutralize the good that has been performed from the same source, especially when it is borne in mind that obscenity could easily have been suppressed and the offenders brought to punishment by the regular police force of our city and at less than one-tenth the expense that your society has incurred. Should then the inquiry be made—

What great good has the society accomplished? the

answer would be : It has afforded a good fat position for Anthony Comstock and his lackey to live upon the contributions made by well-meaning people, where he can pocket four thousand dollars a year for being a terrible scourge upon his fellow-men, punishing them far beyond their deserts, and in doing such work as the police are perfectly competent to attend to.

There is a charitable opinion in the minds of many people that yourself and other members of your society, being honorable, high-minded men, are not cognizant of the methods your agent employs, and that you do not approve of them. But when it is remembered that you are well apprised of many of his methods and specific arts, and that at least a portion of his villainous conduct has been brought to your knowledge, the feeling of charity alluded to is greatly dissipated.

It is not pleasant for me to charge any person with wrong doing, and especially crimes that are punishable by imprisonment, but I am not, after all, afraid to speak the truth, and will not, when necessary, hesitate to do so. I beg to assure you that the charges I make are *true*, and are all susceptible of proof, and can be demonstrated to yourself, your society, and before a court of justice. You seem to ardently defend the conduct of your agent, and you speak of the work accomplished by him as being of the most satisfactory character. You cannot then think strange if I spend a few minutes in considering it. If he is culpable in his past acts, and you defend him in the wrong he has done you make yourself equal in his guilt.

The reverend speakers in your last meeting denied

that your agent used subterfuge, persuasion, and decoy letters to induce his victims to the commission of crimes, and insisted that the letters he writes—in which hypocrisy, falsehood, and persuasion are about equally blended—are simply “test letters,” not to induce people to commit wrong, but to ascertain who would do so. This assertion will not bear investigation. A few only of your agents’s cases will have to be examined to show that the claim is untrue.

Take, first, the case of Leander Fox & Son, who kept a book-store on Canal st., not far from W. Broadway. They were men of good reputation. Persons who knew Mr. Fox for many years have assured me of his sterling worth and integrity of character. There were few men who tried harder to do what is right. Comstock sought to make them his victims. He called upon them and asked for certain obscene works. They informed him that they did not keep them. He urged them to get for him the books he wanted, but they told him they never dealt in that class of literature. Your agent called several times on similar errands, asking for lewd and indecent books, and he was invariably told that they kept nothing of the kind, and never had done so. He kept up these importunities a long time, but not succeeding in entrapping them into purchasing vile books for him, he tried his favorite method of decoy letters. He wrote them in a fictitious name, ordering a book, or books by mail. One was “Ashton’s Book of Nature and Marriage Guide” (published and copyrighted by Benjamin T. Day), a work on Physiology, etc., but by no means obscene. It had been sold regularly by the trade for twenty years,

and was much of the same character as Dr. F. Hollick's works. Fox and Son not having the book in stock stepped out and bought it of some other dealer and mailed it to the address desired as innocently as you would ship a gross of glycerine soap to a customer. But for depositing that harmless book in the mail your agent caused father and son to be arrested late on Saturday afternoon—when obtaining bail is not easy—with a view of keeping them in prison over Sunday. To show how easy convictions are obtained, it is only necessary to state the fact that the case against Fox & Son being pressed to trial when their attorney, William Beach, was absent at Albany, both father and son, by Comstock's testimony, were found guilty of sending obscene literature through the mails, and were sentenced to prison for a year; and but for the interference of Thurlow Weed, who induced President Grant to pardon them out, they would have remained in prison the entire term, to the ruin of their business and the great unhappiness and disgrace of their family. It is a great injury to a man to thus tear him suddenly from his business; and few, who have not been arrested on a charge of obscenity, are able to fully comprehend the anguish of heart to the family and the deep disgrace attendant upon it. There is hardly any other charge so utterly damaging as this, and your society should be very careful that it does not so grossly injure a man as to bring the foul charge when it is not true. A man's reputation is dearer to him than money—is as dear as life—and it is extremely wrong to tarnish it unjustly.

Here is a case where Comstock induced two excel-



lent men to commit an offense, if an offense it may be called, which they would never have thought of committing but for his decoy letter, and by that villainous act of his they were deeply injured, disgraced, ruined, and their family rendered inconsolable. If the man thus unjustly persecuted is able to stand up under it, the wife, the sisters, and mother are often broken down with intense sorrow and grief at the great disgrace brought upon them. The soul agony and wretchedness that your agent has thus brought upon hundreds of good people is far beyond the power of computation.

The adulators of Mr. Comstock say he never induces a person to commit a fault who would not otherwise do so. I think I can prove this statement to be a falsehood. Let us take the case of Mr. A. Prosch, manufacturer of stereopticons on the corner of Division and Catherine streets, where he is still pursuing his business. He is an unexceptionally good man. During the sixty-five years he has lived he has borne an excellent character; and, to show how carefully he has lived, it is only necessary to state that he has never played a game of cards, he has never visited a theatre, never made use of intoxicating liquors or tobacco, and has uniformly been noted for his upright and honorable conduct. But in the spring of 1877 this good man had the misfortune to fall into the toils of your agent, and thereby came to great grief. Daniel Walford, a friend of Mr. Prosch, belonged to a temperance organization, and it was proposed to have a re-union with some kind of amusement for the society. Mr. Walford induced Mr. Prosch to attend the meeting and to take one of his stereopticons and give them

some views. He had a limited number of pictures, such as he used in exhibiting his instruments to his customers. Such as he had he took with him, and charged not a cent for the effort he made to amuse the company.

The entertainment passed off pleasantly. Gentlemen, their wives, and daughters, were present, and the pictures shown were such as not to offend any of them. But there was a single person there with a prurient mind, who, at the exhibition of some pictures of statuary, thought it would do for a case for Anthony Comstock to work up, and he took the trouble to have the information conveyed to your agent that an exhibition had been given where nude figures had been shown. This was enough for your virtuous representative. He sent his assistant, Britton, to see what could be made of it.

Britton called upon Mr. Prosch, and said, "I learn that at a social gathering of a temperance society you recently gave some stereoscopic views which pleased the audience very much. Now, I belong to a club of young men; we are soon to have a meeting, and we wish to see if we cannot get you to exhibit some of your pictures to us." Mr. Prosch replied that that was not his business. He made the instruments for sale, but did not follow exhibiting them. He had, on the occasion referred to, gratuitously shown some pictures as a matter of accommodation to a friend, and had never done so except on that occasion. Britton rejoined by assuring the old man that the club was very anxious to have him attend its meeting and show his pictures, assuring him that they would pay him handsomely for doing so. By continued persuasion of this kind the old

gentleman thought that if he could afford pleasure to the meeting and put a little money into his own pocket at the same time it might be well to do so ; and he promised to give the exhibition. Britton wished to see the pictures that formed the collection. These were freely shown, whereupon your employee remarked : "These are very well so far as they go, but our club wish something a little livelier, something a little more racy ; you understand. We are mostly young men, and we wish something rather rich and fancy. Can't you get something a little more to our taste ? We will pay you well for your trouble in finding the pictures, besides paying you for the exhibition." Mr. Prosch said he did not know whether he would be able to find such kind of pictures as your man indicated ; but, by being repeatedly urged and persuaded to do so, he promised to try and see what he could find.

Britton called in this way several times upon the old mechanic to see if the desired pictures had been procured, and urging that the old man should procure them. At length a picture or pictures was obtained that was thought might suit the club. Just what it was I do not know, but have been informed it was a scene from Pompeii or Herculaneum, and Britton expressed himself pleased. He, of course, communicated the intelligence to his chief, your agent, and called upon the old man, saying he was one of the club before whom the exhibition was to take place. The pictures were, of course, shown to Comstock, who, as soon as he looked them over and saw the one he deemed objectionable, rudely seized the old man, and in a brutal, imperious man-

ner, said, "You are my prisoner. I am Anthony Comstock. Go with me to prison."

The old man was, of course, greatly surprised. He was working at his lathe in his shirt sleeves, and was not hardly in condition to go through the streets in the plight he was. He said if he must go to prison he wished to put on his coat and boots. Comstock would not allow this, but forced him through the streets in the way he was as though he had committed robbery or murder. An employee of the old man followed with the coat, and, though the weather was raw and cold, Comstock would not let Mr. Prosch put it on. His manner was exceedingly coarse and brutal all the way to the prison, and it was not until the old man was placed in the hands of the city police that a kind word was spoken to him and he was allowed to put on his coat. In this way your pious agent showed his Christian spirit.

It was in the after part of the day that Mr. Prosch was arrested—too late for him to procure bail that evening, and he passed the night, for the first time in his life, in a prison cell. He was in great mental agony at the great disgrace that had thus suddenly overwhelmed him, and he passed the night in restlessly walking the floor of his prison. Not succeeding in procuring acceptable bail, he remained in prison the following day and also the second night. The blow was a heavy one to him.

It was still heavier to his invalid wife. The disgraceful charge upon which her husband was arrested was carefully kept from her as long as possible, and the fact that he had been taken to prison at all was endeavored to be concealed from her; but, by dint of importunity, she learned that Mr. Prosch

was in prison and finally the nature of the charge was made known to her, and the shock nearly killed her when she learned the foul offense with which he was charged. She has described to me, with tears in her eyes, the intense agony she suffered. To think that that good old man, who had not, during his entire life, knowingly committed an offense of any kind, should, in his old age, be dragged to prison on the charge of obscenity! She could not divulge the fact to her nearest friend, not even to her own sister. She could not breathe it to any one. She thought she would die with the crushing grief, which so prostrated her that she came near death's door. She did not believe she could possibly live through another such trial.

Friends of the accused man took an active interest in his case to see if something could be done for his relief. You were visited and the facts were presented to you. It is believed that you felt shocked at the cruelty and inhumanity of your agent. The result was, Mr. Prosch obtained bail and his case was never called before the Court—was never tried. It is believed that your influence led to this result. But you still employ Comstock to continue in his villainous career. You still hold the position of President of his Society. You still freely contribute money for such services as he performs, and you still praise him for the great labors he executes.

I will next call your attention to the case of Chas. F. Blandin, whom your agent and his employee did induce to commit an offense for which they cast him into prison. Blandin lived in Boston and had uniformly maintained a good character. He removed to this city in 1877 with a view of following his pro-

fession here as a lawyer; but, finding business dull, he worked for a while at soliciting orders for a stationery and printing-house. This business took him to stores and offices, and in an evil hour he called at the office of your agent, Comstock. His accomplice, Britton was in and was very affable and communicative. He informed Blandin that he wished to procure some fancy pictures, and handed him what purported to be his business card, which read, "Joseph B. Andrews, buyer of rich, rare, and racy books, photographs, etc., Philadelphia," Britton represented himself as Andrews, and said he was very anxious to obtain some fancy pictures. Blandin assured him that he knew nothing of such goods, that he had never seen any, and knew not where to obtain them. Britton enjoined him to be on the lookout for them, and if he could find anything in the line to let him know. Blandin promised to do this, deeming Britton a friendly, good sort of fellow.

Blandin thought no more of the matter until some two months after being on a visit to Boston, a friend casually showed him half a dozen of what are called fancy photographs, the first Blandin had ever seen. The promise he had made to Britton immediately came to his mind, and he begged one of them as a loan to show his New York *friend*. The request was granted, and after returning to this city the unsuspecting Blandin called upon your designing employee, Britton. Not finding him in, he left a note that he had been there, and gave the street and number of his office. Britton soon returned the call, but found Blandin out. He in turn left a note for Blandin to call at a certain hour at the office of your society, 150 Nassau street. Unfortunately he called,

and found both your agents, Comstock and Britton, in. He informed them that while in Boston he had been shown some fancy photographs, and remembering how anxious Andrews was to see or obtain some, he had begged one, and had called to redeem his promise. The picture seemed to please your agents, and they wished to obtain a thousand such, inquiring very particularly where they could be obtained. Blandin replied that he could not tell them, that the one was all he had and all he expected to have, that he had only borrowed it, and that it was not for sale; he could not tell where more could be found. They detained him longer than he wished to stay, and plied him with numerous questions. At length he reached out his hand for the picture, as he wished to go. Britton declined to return the picture, but instead placed thirty cents in Blandin's hand. The latter said he wanted the picture, not the money; that the picture was not for sale, and did not belong to him. He simply wanted it to return to the man of whom he had borrowed it.

At this juncture your agent, Comstock, stepped from an inner room to which he had retired, brandishing a club, and, showing his badge of office, laid his hands roughly on Blandin, saying, "You are my prisoner. My name is Comstock;" and without parley, or a word of kindness, or a particle of pity, hurried him off to prison, where the unfortunate man, being unacquainted with any one who would be accepted as bail, was forced to lie thirteen weeks with felons before his trial came off. Here is a case in which was enacted the fable of "The Spider and the Fly," your agents taking the part of the spider. Blandin had been over-persuaded to find fancy pic-

tures and bring them there. A note had been left at his office inviting and pressing him to call, and then, as soon as he was in the power of your agents, he was hustled off to prison without being able to communicate with his friends, or even to leave word at his office to tell what had become of him. He was not a dealer in improper pictures; he never had seen one, and would not have thought of touching one of them and taking it to your society's office had he not been urged to do so by your employee. This is clearly a case where your society induced a man to violate the law in order that he might be made a victim of, and thus add one more to the list of bad characters you boast of having arrested.

On the testimony of Comstock and Britton, Blandin was easily convicted of selling an indecent picture; but the jury, not believing that he intended any wrong, recommended him to the mercy of the Court. His sentence was made the lowest prescribed by the law—\$100 fine and three months' imprisonment. But even that is extremely severe on a man who has designed to do no harm, but simply to accommodate one who professed friendship. To be imprisoned three months with thieves and felons is no light matter, and doubtless Comstock or yourself would appreciate the fact were either of you forced to undergo it.

Blandin was defended by B. F. Russell, an attorney who had known him for ten years, and who, knowing him to be a moral young man, made an effort to secure a pardon. He obtained the signatures of the judge, the jury, and the foreman of the grand jury, asking the Governor for Blandin's pardon, and went to Albany to present it. Governor



Robinson believed a serious wrong had been done to Blandin, and sent his son to this city to investigate the matter. The son found the facts as Russell had represented; and though your agent, Comstock, opposed a pardon with all his power, and brought out the credentials of your society, it was of no use. The Governor pardoned him, thus rebuking the conduct of your society, which you and several well-paid clergymen so loudly approve. But Blandin's prospects were ruined, and he disgraced for life. Comstock can point the finger of scorn at him and say, "He is one of my convicts." Your society counts this innocent man as among its victims in the cause of morality.

Another instance, showing the way your Society does its work, is that of Louis Wengenrath, confectioner in the eastern part of Brooklyn. He was widely and well known as an honorable, law-abiding man, and his honor would be untarnished to-day but for your agents. Britton called on him often and made slight purchases, and at length requested the confectioner to procure for him certain indecent devices in sugar, which confectioners have sometimes sold. Wengenrath assured him that he had sold nothing of the kind and had none. Britton urged him to buy some for him, and he would pay him handsomely for his trouble. And, to further induce the good-hearted man to procure the articles, Britton told him that their mutual political friends, Gale and Ely, wanted some also. These requests were frequently urged, and at length Wengenrath took the trouble to hunt up the articles, as requested; but no sooner had Britton become in possession of them than Comstock and himself caused the

poor man's arrest, and he was compelled to go to prison and stand trial for selling obscene goods. The proof against him was clear, and, though he was able to show a good character, he was convicted and given the lightest punishment the law prescribes—three months' imprisonment and \$100 fine.

Here is another case of great injustice by your Society, visited upon a well-meaning, peaceful man, who, but for the inducements thrown out by your agent, would not have thought of doing wrong. But the worst remains to be told. While Wengenrath was in prison awaiting trial and undergoing sentence, an intimacy grew up between his wife and his attorney, Archer, and there is little doubt but what they were criminal together. The attorney's visits were continued even after Wengenrath's term of imprisonment was over, and the latter had good reasons to believe that improper intimacy had taken place. He ordered Archer to discontinue his visits to his house, and upon the latter's telling him he would come as much as he pleased, and upon the wife taking sides with the attorney, the husband became deeply incensed at the wrong that had been done and made a deadly assault upon Archer, doing him so great an injury that his life was despaired of, and the poor confectioner was again thrown into prison. Thus his business was broken up, his wife alienated from him, his happiness gone, and his reputation ruined, and all in consequence of the decoy held out by the man your Society employs to perform that kind of service.

At an indignation meeting over the wrongs committed by your man Comstock, held last June in Science Hall, James D. McClelland, Esq., attorney

of this city, made a statement of some things he knew about the modes and results of the business performed by your man Comstock, and gave several facts which had come under his own observation. Among others he related one of an unfortunate man whom Comstock by a decoy letter had induced to send a syringe through the mail, whereupon he was thrown into prison and his wife and children left to suffer. On the trial, notwithstanding the hard swearing of Comstock, and the severe rulings of Judge Benedict, McClelland divided the jury, causing them to stand six and six. He proved by eminent physicians that the syringe was a valuable instrument and innocent of harm. But that seemed to amount to nothing with the judge. A new trial was obtained which resulted in a division of the jury and it was not till the third or fourth trial was had that the poor man was convicted for what he supposed he had a perfect legal right to do, and he was sentenced to two years' imprisonment for an offense no greater than you yourself have committed. And during that imprisonment the wife and children knew what it was to suffer. The wife could get work but a part of the time, and her children often went hungry. To keep her children from starvation she pawned one article of jewelry after another, one keepsake after another, until everything of value was in the pawnbroker's shop. What could the poor woman do to keep her children from starvation? Her landlord threatened to turn her out doors and to prevent it he suggested that she yield herself to him. In her desperation and to save the lives of her children she consented. A few months afterwards the attorney saw this unfortunate woman arraigned

with low and lawless prostitutes in the police court. He was shocked to see her in such a condition and he took the occasion to ask her what it meant. With tears running down her face she told him of the struggle she had made to keep her children from starving as long as she possibly could until everything of value was gone, when she yielded to the importunities of her landlord and prostituted her body to put bread in the mouths of her little ones and keep a shelter over their heads, and how, step by step, she had descended until she was where she was—utterly beyond hope. “Ah,” said the attorney, with eloquence and impressiveness, “if there is a God—if there is a future world of retributive justice and a place of torment—that man Anthony Comstock will have to answer for the human wreck and suffering he has produced !”

He further stated that the cases of conviction of which Comstock loudly boasted had cost the hottest tears of anguish and the keenest pangs of sorrow known to the human heart ; and the work had been accomplished by despicable tricks, the basest falsehood, the vilest arts of the decoyer and informer, and treachery of the blackest kind. “More than that,” said he, with great earnestness, “Comstock and his accomplice have been guilty of *perjury* in prosecuting the hapless victims whom they have decoyed and thrust into prison.”

These are pretty hard charges, Mr. Colgate, to be made against your agent and employee and against the work of your very Christian society, but they are made by a responsible attorney of this city, whom you or any other person may call upon any day, and who can prove in a court of justice the

truth of every word he uttered. It is, unfortunately, *too true!* TOO TRUE! TOO TRUE! This attorney has watched your agent's conduct closely, and he believes him to be one of the worst men he ever knew—although his business has caused him to become acquainted with many very bad men; one utterly lost to every feeling of pity, mercy, or compassion; one wholly unscrupulous, unprincipled, and relentless; one who takes positive pleasure in dragging helpless persons to prison, in ruining their prospects for life, and in utterly destroying the happiness of their families and relatives.

Let me call your attention to a few cases where your agent and your Society have prosecuted and persecuted excellent and honorable physicians who have had the independence and public spirit to give physiological truths to the people not particularly approved by the aristocratic medical schools and colleges, which form as powerful a ring or monopoly as exists in railroading, banking, insurance, office holding, and theology. It is getting to be pretty well known that a physician, however skillful, who attempts to do an independent business and does not acknowledge the power and supremacy of the authorized medical schools is tabooed, frowned upon, and crushed. If he attempts to give medical information and physiological truths to the masses without the approval of the big professors and medical aristocrats, he stands little better chance of finding a clear field for the dissemination of his knowledge than an unauthorized teacher in theology, in either the Catholic or Protestant churches, who fails to receive the sanction of the bishop, the Presbytery, the Synod, the Council, or the Conference. Comstock

seems to be just as ready to prosecute and imprison in favor of orthodoxy in medicine as in theology, and some of his bitterest persecutions have been in this direction. He has said that physiology belonged only to the medical schools and should not be sent indiscriminately to the people. He has said that works on physiology should not pass through the public mails; these works he has pounced upon as being *obscene*; he has so charged them, and, under his miserable obscenity laws and by the aid of the United States courts, he has prosecuted the authors and dealers in them, caused them to be sent to prison, and heavily fined. I will but briefly mention two or three cases.

Dr. E. C. Abby is a resident of Buffalo, N. Y., and is a gentleman of intellectual ability and moral worth. He graduated in in 1861, thus having been a member of the medical fraternity for nearly the fifth of a century. He is a member also of the Masonic order and enjoys an excellent reputation among a wide circle of acquaintances. A few years ago he decided to publish a work on the sexual system and its derangements. Sexual diseases had been made a specialty with him, and he thought he possessed information which the world ought to have. He accordingly wrote it and had it published. It was not accepted by the medical colleges of the country, nor did they approve of such information being placed before the people in a popular form. Before the work was put in type, however, he submitted the manuscript to the U. S. District Attorney in his district, by whom it was pronounced legal and not in conflict with the law. After it was printed he submitted it to some of the ablest medical coun-

sel in the state of New York, as well as the best legal talent, including the Hon. Daniel F Day and others, who pronounced it an excellent work, calculated to do much good, and unexceptional in a legal point of view. He had not the slightest wish to put forth an improper work, and he took extra pains to get the opinion of competent judges before presenting it to the public. Not a man condemned it, not one thought it immoral, indecent, or obscene. A copy of the work was laid before U. S. Commissioner Fillmore, son of ex-President Millard Fillmore, and he saw nothing in it to condemn. But your man, Anthony Comstock, did see something in it that he could not approve of; it was giving information to the people that he had sworn should not be laid before them. He was determined that nothing treating upon the sexual part of our being should be allowed to pass freely to the masses. He knew it was not a work sent forth from an orthodox medical school and he determined that it should be suppressed. His detective was set at work. Decoy letters were sent, and a copy of the work thus procured through the mail. Dr. Abbey was arrested on a charge of obscenity, and his books seized as obscene publications, and this upon the mere dicta or whim of your Mr. Comstock. He seems to be the censor of the American press and all the publications of the country. Whatever he regards as obscene must be so regarded by all, and who he says must go to prison must be sent there *nolens volens*. The liberty of having such an officious ignoramus to decide what the people of this country may read and what they may not, what they may send through the mails and what they may not, is hardly what our forefathers

fought for when freeing themselves from the tyranny of Great Britain.

The wrong done to Dr. Abbey by seizing his books and holding them without shadow of law, was continued nearly three years. When he was brought before Judge Wallace of the U. S. District Court, he readily admitted having deposited the books in the mail, asserting at the same time that he was proud to do so, regarding it emphatically as his right and duty. The jury that tried him were rather illiterate farmers fresh from their farm-yards, and were hardly a competent body of men to judge of the merits of a work on sexual diseases. By the prosecuting attorney reading to them a few isolated passages, here and there, they were made to believe that the valuable volume was indecent and obscene, and as the case was given to them late on Saturday night, they were anxious to go home and to not be compelled to remain in the court-house over Sunday, so they pretty easily agreed to a verdict of guilty against the doctor. It was a great mistake of opinion and was subversive of the very principles of American liberty. The Doctor was earnestly desirous of benefiting his fellow-beings, and an ignorant detective and ignorant jury pronounced him guilty of crime. His sentence, however, was light, and was never carried out. Dr. Abbey, after being subjected to immense annoyance, expense, and disgrace, was allowed to be a free man again. But Comstock can point his finger at this man and say "he is a convict."

Another case is that of Dr. E. B. Foote, Sr., of this city, author of "Plain Home Talk and Medical Common Sense," "Science in Story," and other



valuable medical works. The first work named has been sold to the extent of hundreds of thousands, and has gone into all parts of the country. It has given great satisfaction from the valuable information it imparts and for the good it has done. Dr. Foote's name is cherished in not less than a hundred thousand families, and his remedies are held in high estimation. He is, in every respect, a very worthy man, as I know from an intimate personal acquaintance. I have met with few men in my life who had less disposition to harm their fellow-men or who had really accomplished more good to his suffering countrymen. I much doubt if he ever wronged a person in his life. But he is not a physician of the regular allopath school, he is not recognized by the regulars of the city, and they have been jealous of the popularity he has gained and of the success he has achieved. Comstock was just the man to bring him into serious trouble. The Doctor had a very small pamphlet gotten up to answer the numerous questions that are propounded to physicians by their patients every day. When the questions, or a part of them, were asked, instead of being obliged to answer them all by writing, he inclosed one of these small pamphlets in a sealed envelope and sent it as first-class mail matter. In this way nobody was harmed, and the most valuable information transmitted to those by whom it was desired. The pamphlet contained not a word that was improper, not a sentence that breathed an impure spirit. The information it contains is valuable and such as ought to be possessed by every adult throughout the land.

Comstock wrote a decoy letter in the name of Mrs. Semler, Chicago, asking certain questions, or

calling for the little pamphlet, and it was sent. For this simple act, which every physician in the land has a perfect right to perform, the United States Government, at the beck and call of your Society and at the immediate instigation of Anthony Comstock, arrested this man and held him under heavy bail, the same as though he had committed a heinous crime. His case, after being continued two or three terms, was tried in the United States Circuit Court in June, 1875, where, by the willing testimony of Comstock, the pleading of a salaried attorney, and the severe rulings of a judge who, it would seem, should be more intent on securing the great principle of individual right than trying to convict every case which comes before him, this excellent man was convicted of sending obscene matter through the mails, for which the judge, who should have been a merciful judge, fined him \$3,500. The costs of the case, attorneys' fees, etc., made the expense of the suit over \$5,000, and the damage to the Doctor's business was more than \$25,000, while the poignant sorrow and intense grief which, by this cruel prosecution, was carried to the hearts of a loving wife, an aged, fond mother, and a devoted family cannot be estimated by dollars and cents, and no amount of money can ever heal the wounds thus ruthlessly inflicted.

A greater outrage was never committed on a worthy citizen. A skillful and conscientious physician, for prosecuting his perfectly legitimate business and for transmitting under the sanctity of a sealed letter such information as any physician in the land would be perfectly justified in giving, was treated like a criminal, his family thrust into the

deepest grief, and his prospects for life nearly ruined. Still the vile Comstock, who, in his whole body, has not the honor and true manhood contained in the Doctor's little finger, denounces this worthy man as "a convict," thus trying to pile insult upon injury.

It is mournful to see a Society like yours, which claims to be a moral, Christian society, organized for the suppression of vice, lend itself to the commission of such flagrant wrongs as this case presents, and it is still more mournful to see the great Government of the United States so willingly lend itself, its courts, and judges to hunt down innocent men simply because your Society points them out and denounces them as criminals. If there is any justice in this country, and if wrongs are ever righted, the Government, or the members of your Vice Society, should be made to repair the injury done to this man. I hope some time in the near future to see this matter tested. When such huge wrongs are committed, somebody ought to be responsible.

Physicians in St. Louis, Indianapolis and other places have been treated by your agent in a similar manner, but want of room precludes the mention of their cases in detail here. I may with propriety briefly allude to the arrest of Dr. Sara B. Chase by your agent for selling a simple female syringe, designed expressly to promote cleanliness and health, and similar to what thousands of druggists all over the country are selling every day; how he wrote decoy letters to her in the name of a fictitious Mrs. Farnsworth, how he visited her with a lie in his mouth; how he coarsely arrested her, confined herself and attendants in one of the rooms of her house while he and several men overhauled her writ-

ing desk, private papers and letters, her private closets and under-clothing, and then forced her like a criminal to prison, seriously damaging her reputation in the city and ruining a prosperous, legitimate business. A greater wrong was done to this lady by your agent than he will ever be able to atone for; the vindictiveness with which he followed her up even after the grand jury dismissed her case, by trying to thrust his testimony before other grand juries, even in opposition to the judgment and wish of the prosecuting attorney, received the just condemnation of the Judge as well as of the *Tribune* and other city papers.

In the domain of art, Mr. Comstock has shown little more discretion or gentlemanly bearing than in other directions, but the same coarse, overbearing, tyrannical demeanor to every one who has the least love for liberty and self-supervision. His conduct in reference to the Hans Makart picture is still fresh in the minds of the public. The picture was a copy of the celebrated painting which attracted such a large share of attention in the Paris Exposition of the past year. The subject of the picture is the triumphal entry of Charles V. into Antwerp, and two or three partly nude, but perfectly chaste, figures are presented. This picture had been on exhibition at the picture store of Wm. Schaus, and another one at Westerman's book store, where thousands of admiring beholders have studied them with pleasure. When, however, Mr. Hope, a Fulton st. merchant, bought the picture and placed it in his window your man Comstock took the notion into his head that it was an obscene picture and that it must be suppressed. He ordered Mr. Hope, in a peremptory

manner, to remove the picture from his window or he, Comstock, would arrest him for obscenity. Thus the picture, upon which, as a work of art, hundrede of thousands in Europe and America had gazed with a high degree of pleasure, your agent pronounced an indecent picture, and, on pain of arrest, commanded that it be removed from public observation. It is not strange that the papers of this city, and in fact all over the country, cried out against this vandal outrage ; and it is well that the active man of your Society learned a little discretion for once, and did not arrest Mr. Hope.

On one occasion Mr. Comstock is said to have called at Messrs. Knoedler & Co.'s, 22d st. and 5th avenue, and bought a photograph of a modern French picture on which nude figures were represented ; he demanded a bill of sale, and then, in his usual authoritative manner, ordered Mr. Knoedler to sell no more of those picture or he would arrest him. It is needless for me to inform you that the publications of this house are of the highest character.

At another time Mr. Comstock called upon C. T. Hooper, picture dealer, in Nassau street, and threatened arrest and seizure on account of the exposure of a large, fine-line engraving of "Printemps," by Cot, a French artist of great ability ; and also one of "Fauns and Satyr," by Bougereau. The first picture is from the original in possession of John Wolfe of Fifth avenue, which occupied a place of honor in the Salon of 1873 and also was the principal attraction in the Loan Exhibition of November last. Mrs. A. T. Stewart owns a copy, ordered from the artist by her late husband, and a well-known collector in Philadelphia has secured a copy. The

"Fauns and Satyr" is also in the possession of Mr. Wolfe. The photographs and engravings of them have been sold very extensively and are to be found in many of the best homes in this country and England. Mr. Hooper, knowing his rights in the premises, ordered Mr. Comstock from his store and forbade further interference from him. It would be well if every one Comstock has attacked and attempted to browbeat had been inclined to treat him in the same way.

In a similar imperious manner has he suppressed the sale of photographs of "Powers' Greek Slave," upon which hundreds of thousands have gazed with rapture and the original of which is now in the residence of Mrs. A. T. Stewart. Pictures of other statuary have also been pounced upon by Mr. Comstock under the charge that they were "obscene."

He has made himself very meddlesome with photographers, interfering with their legitimate business, seizing and carrying off their stock and apparatus, without the least show of right or justice, because he found there copies and negatives of classic statuary.

The case of Mr. Weil is remembered by many. This gentleman was a photographer, pursuing a legitimate and honorable business, on Broadway, near Twelfth street. He was a quiet, well-disposed citizen and indicated no inclination to violate either the laws of morality or of the country. Comstock or his assistant visited his gallery and asked for fancy pictures. Mr. Weil informed him that he kept nothing of the kind and had never made anything of the sort. Comstock wished to know if Mr. Weil would make some fancy pictures for him if he, Com-

stock, would furnish the negatives and was answered emphatically, "No." Comstock in peering around the gallery discovered a picture Mr. Weil had taken of his own little boy in undress; this Comstock pronounced "obscene," and made it the provocation for seizing a quantity of Mr. Weil's negatives and other stock and carrying them off and submitting him to not a little trouble and expense.

The recital of similar cases could be continued at great length, but enough has been repeated to show you and any fair-minded person that Mr. Comstock is an unfit censor of the fine arts, and that his manner is coarse, domineering, and offensive. He is not the person to perform the work of a strictly moral, upright society.

It is toward publications of Freethought and what is called Freeloze that Comstock has shown a greater amount of enmity, injustice, and cruelty than toward any other class. His first attack in this line was upon Mrs. Woodhull and her sister for publishing in her paper an account of the "Brooklyn Scandal," which two or three years later every daily in the city and hundreds of papers all over the country published far more freely and with perfect impunity. He caused their imprisonment for many weeks; stopped their paper, and subjected them to the loss of many thousands of dollars. Whether they were popular or not, whether their views were correct or not, is not pertinent to the case; they had their rights in this country, and it was cruel and unjust for your agent to wrong them and oppress them.

John A. Lant was another of his victims—a poor printer, who came here from Toledo, O., and who published a small Radical paper, called the *Toledo*

*Sun.* For publishing a few paragraphs of matter, in perhaps questionable taste, but not immoral or obscene, Comstock caused his arrest, conviction, and sentence to a fine of \$200 and eighteen months' imprisonment. It was indeed a trivial offense for which to tear a man from his wife and little children who depended upon him for their daily food, and to immure him in prison with thieves and felons of all kinds.

Ezra H. Heywood is one of his later victims. His offense was mailing a copy of "Cupid's Yokes," a pamphlet of twenty pages, devoted to an argument on the relations of the sexes, but which does not contain an indecent or improper word. By unheard-of rulings, and by the action of a deeply prejudiced court, he was convicted and sentenced to imprisonment for two years. This was unquestionably one of the greatest outrages ever perpetrated upon an American citizen. Mr. Heywood is a graduate of Brown University, and is a gentleman of refined feelings, strictly moral character, and far from being sensual or debased. His strict honesty is vouched for by all who are acquainted with him. He is radical in his views on capital, labor, finance, and interest, as well as on the questions of marriage and divorce. He has published several pamphlets on these subjects, and in them he has given his honest convictions, and with the very best motives. But for mailing a copy of one of these pamphlets to a fictitious personage, in response to a decoy letter, sent by your man Comstock, he was most cruelly and wrongfully forced from his wife and little babes and treated like a felon of the deepest dye. And this in free Columbia—proud America—the land of



the free and the home of the brave! Can it be true that American freedom has degenerated to this, that a man cannot argue on any subject in the world, and give his convictions on the same? Has not a man a right to advocate a fallacy, even? Has it come to this, that a man must be sent to prison for telling what he thinks, and for giving reasons for what he believes? Yes; American liberty has descended just to that, under the influence of your Vice Society and the power vested in the hands of its agent, Anthony Comstock.

In his pamphlet on marriage, divorce, and the relations of the sexes Mr. Heywood's views may not be the correct ones. But who is going to decide what a man's views must be on social questions any more than on political or theological? Must not every man, in this country be left free to arrive at his own conclusions on all subjects; and are the American people going to submit to being fined and imprisoned because their views on any subject do not just tally with what some theological school may hold to or some rich, aristocratic society may prescribe? Mr. Heywood sees great wrongs in society as at present organized; he sees a vast amount of unhappiness, and wretchedness in the old marriage relation; he sees that a change of some kind is needed before men and women will be as happy as they ought to be. He believes there is a better way of adjusting these sexual relations than has generally been pursued. He thinks he advocates a real remedy; but he may be mistaken. The question is a live one and is bound to come to the front for attention in spite of Anthony Comstock or the reports of your Society. It is a subject upon which much must

be thought and said. Many will have their views and many will necessarily have to express them. The proper way will be to let every man have the freedom to give his views and show his reasons for them. Those that are sound may be accepted, those that are found unsound may be rejected. Let all be free to express their minds and make their suggestions, whether wise or otherwise, and don't send them to prison for doing so.

Two indictments are now resting upon myself for selling and mailing this identical pamphlet, "Cupid's Yokes;" for this, in two weeks or thereabouts, I am to be arraigned like a felon before the United States District Court, and for this a prison cell is awaiting me; for this you, your agent, and your Society are endeavoring to crush me and ruin my business.

In August, 1878, I attended a convention of liberal-minded people held at Watkins, N. Y., and I took with me an assortment of my various publications with which to supply my friends. Near my table Miss Josephine S. Tilton, sister of Mr. Heywood's wife, had an assortment of her brother-in-law's pamphlets endeavoring to obtain a little money to keep Mrs. Heywood and her little babes from starvation while the father was serving out his term in prison. I, of course, sympathized with Miss Tilton in her laudable endeavors. When she was necessarily absent from her table, and some person wanted one of the pamphlets she had for sale, I handed him the same and gave the money to Miss Tilton upon her return. One young man made oath that I sold him a copy of "Cupid's Yokes." Probably I did, and I had a perfect right to do so. For this I was arrested with three others and held

to bail. For this offense the grand jury of the county found a bill against me; and for this I am yet under bonds, the case not yet having been tried. I have the authority of Comstock's father that I am indebted to the son for this arrest, and that, at the son's suggestion, the branch of the Y. M. C. A. in Watkins commenced prosecution against me. One thing is certain, the arrest and prosecution was planned and urged by the clergy and leading church members of Watkins.

I felt that I had done nothing but what an American citizen had a perfect right to do and that I had been wronged and outraged in the name of law. I resolved that I would maintain my rights; and though I took no special interest in "Cupid's Yokes," and had, previous to that time, sold but a very few copies of it, I would exercise my right, and sell it, and send it to any of my patrons who wished it. I announced in my paper that I would do so. I accordingly sold many copies of the pamphlet. Here was Comstock's opportunity. Backed by instructions from your Society—for his defenders say he begins no attack upon any one save by authority—he wrote a decoy letter to me in the name of G. Brackett, Granville, N. Y., sympathizing with me in the work in which I am engaged, and ordering a copy of "Cupid's Yokes" and two other books. The order was filled in good faith, precisely as any other bookseller would have done. For this you and others seek to deprive me of my property, my liberty, and my rights as a citizen. I sold a little work far less objectionable than hundreds of others, and one with which my own feelings are not fully in sympathy, as every bookseller in the country

does. There is not a dealer in books in America who fully coincides with all the books he sells, but he sells them because his patrons want them and because he has a perfect right to sell them. I have just done this—no more and no less. Thousands of people have read the pamphlet who have been unable to find the first word of obscenity or indecency in it. Many think it a very meritorious little work, while others disagree with some of its sentiments and teachings, but not on the ground of any indecency of language. Many experts in literature have read it carefully, and have been unable to find anything in it calculated to injure anybody, and nothing for which a person should be sent to prison for reading, for owning, for selling, or for mailing. It would seem that a jury could hardly be found in this city who would send a man to prison for selling so harmless a little production. Among the many thousands who have read the little pamphlet, I do not believe one has received the slightest injury. I have never heard of a single case. It was not written to excite passion but to elicit thought. It is not a pamphlet the young would read, being dry and prosy. But when it is remembered that your Society boasts that of the two hundred and fifty cases that have been prosecuted but twelve have escaped conviction, it is a discouraging outlook for your humble servant. I feel, however, that I have committed no offense against the laws of morality or the statutes of the country. I await my fate with full confidence in my innocence and buoyed up with the hope that I may have a fair and just trial and that the heavy hand of oppression may not be placed upon me because I have had the

honesty to acknowledge to holding unpopular opinions and have been true to my convictions.

In mentioning the cases of arrest and prosecution by your society, or by your agent, I have named but a small number of them. I might have called attention to the cases of Charles Mackey, James Sullivan, John Manning, Hunter & Co., David Massey, Dr. J. Bott, Mr. Kendall, Dr. William Morrison, Edgar W. Jones, Edward W. Baxter, Madam Restell, and two hundred or more of others who have experienced the great unhappiness of being arrested and persecuted by your agent, but a consideration of all these cases, even briefly, would consume too much time and room. Some of them doubtless were not innocent of all offense, but the most of them had not committed such wrongs as made the prison the best place for them, and very few of the number were guilty of real obscenity. In most cases, their offenses were unduly magnified, and their punishment was out of proportion to their offenses.

As a specimen of your agent's true character, allow me to make a brief allusion to the very disreputable business, which he was guilty of, of inducing with money and persuasion three frail young women to exhibit their nakedness for an hour and a quarter before himself and five other men. This was done at 224 Greene street, on the 14th of June, 1878, as was proved by sworn testimony in one of our courts of justice. It was a deeply disgraceful affair, and it is difficult to think you or your society should have ever ordered such a shameful transaction. But he says, the Rev. Joseph Cook says, and I believe you also said, that Mr. Comstock commences operations against no person except by the advice and author

ity of your Society. If that statement is true, you and your brother members in your Society must share with Comstock in the damnable disgrace connected with that despicable affair. At all events, this much is true, the facts of the dirty business have been brought to your knowledge, and you still commend him and his conduct, both in public and private. It is difficult to see how you can escape the ignominy which justly rests on him. Had I been guilty of such vile conduct, I could not blame you for seeking to send me to prison, and could not say I did not richly deserve it. It certainly was a thousand times worse than selling a copy of "Cupid's Yokes."

As an instance of the hypocrisy and foulness of Comstock's character, it is only necessary to call your attention to a dirty game of his played in the autumn of 1877. In the *Waverly Magazine* for November 10, appeared an advertisement of this kind: "To SPORTS.—An elegant book will be sent on receipt of fifty cents. Address J. G. Phillips, Box 49, Squan Village, N. J." The advertisement was shown to me as Comstock's. I was the more inclined to think it Comstock's by its hailing from Squan Village, Comstock's country residence. It was from Squan Village that he sent a decoy letter to Heywood; it was from Squan Village that he sent his decoy letter to E. W. Jones; it was from Squan Village that he sent a decoy letter to Dr. Wm. Morrison; and it was from Squan Village that he sent a decoy letter to myself. I decided to test the matter as to whether it was Comstock advertising. I induced a friend to send for one of the books. He

did so, giving his middle name instead of his surname. He sent a registered letter.

In a short time the registered letter receipt was returned, bearing the signature of J. G. Phillips, and soon came to my friend's address a copy of the New Testament—a very cheap London edition—and on the wrapper was a small card giving the address of 150 Nassau st.—the headquarters for your Society and Comstock's office. This was followed by a part of a very filthy book called "Pleasing Memoirs," with a cut of the most indecent and obscene character. Remember, the book was ordered in a name that had never been given to any other person and had not been used on any other occasion. The registered-letter receipt came to that address, the Testament, bearing the number of Comstock's office, was sent to that address, and the nasty, obscene book was sent to the same address. These facts unmistakably connect the sending of each with Comstock. Besides, I sent a person over to Squan Village to learn of the postmaster there who was the owner of box 49. He learned that that box was Comstock's, and that Anthony Comstock, J. G. Phillips, E. Edgewell, S. Bender, and Ella Bender were all one and the same person. This sending of obscene books by the active agent of your Society for the Suppression of Vice is most disgraceful and reprehensible. He is indeed a pretty sort of man to be inspector and judge over other people's morals and to be able to send them to prison on his unsupported testimony.

I have said but little about Jos. A. Britton, alias Cohen, alias Andrews, alias Levy, Comstock's aid and assistant, and who for five years has been in the employ and service of your society. I only repeat

what is well known when I say he is lost to all that is honorable, manly, and virtuous, that he is a gambler, that he visits places of vice and degradation, that he takes women of low character to drinking places, that he has attempted on many occasions to sell vile and infamous books, that he is not only a notorious liar, but has several times committed perjury. These are somewhat heavy charges, Mr. Colgate, against one of your agents, but they are true and can easily be proved. You have only to test the thing if you wish the proof to be forthcoming. There are many in the city who understand the young man pretty well. If you are curious to know more about him than you do, I would recommend you to inquire of M. Sullivan, the paper dealer, and Dr. Mitchell on Frankfort street. They can, if they wish, give you damaging facts as to the man's vile character. His conduct at New Canaan, Conn., about a year ago, where he went to play the part of a spy, and where he told falsehoods, got drunk, and associated with females of low character, are well remembered. Still he is a member of a Christian church in this city, and is an acting, salaried agent of your Society for the Suppression of Vice, to do your dirty work.

Comstock is no better. Like master like man. He is guilty of more crimes than ought to disgrace the blackest character of any state-prison convict. There is believed to be nothing mean, low, and dishonorable that he will not resort to to get an unfortunate man into deep trouble. He is perfectly unscrupulous and relentless. There are a number of men in this city and elsewhere who are ready to make oath in any court of justice that he perjured



himself in securing their convictions. This is the man who is trying to send me to prison; this is the man you uphold and defend, and this is the man whom such clergymen as Joseph Cook, Parson Newman, and the Rev. Mr. Courtney exalt to the position of a saint, and some of them even liken to Jesus Christ.

It may be thought I speak extravagantly, but every word is true. Every charge can be sustained by proof in any court in this city. It is very easy for you and Joseph Cook to say these charges are false and that you have advised him not to reply to them. Probably it is the easier and the wiser course. There are many things easier to keep silent about than to disprove. If I have libeled your agent it is not difficult to make it appear by bringing me, on a charge of libel, before a court of justice. If that is done, and I do not succeed in proving one of the blackest characters against him that ever disgraced a human being, then I am much mistaken. And this is the man whose unsupported word has sent many a person, better than himself, to an ignominious prison and damned their reputation for life. This is the man who has committed greater wrongs upon individual rights and personal liberty, probably, than any other individual in the United States. Still you employ him to do the very contemptible business he is doing; you approve of what he has done, and thereby make yourself a sharer in his guilt. In my humble opinion, yourself and the others who hire him and pay him to deprive people of their rights ought to be made amenable for the outrages he commits. If a man keeps a vicious dog which kills other people's sheep, and attacks and

tears even little children, and the fact of the dog's conduct is brought to his knowledge, law and justice hold that man accountable for the outrages his dog commits. It ought to be so in this case.

It may be thought I am vindictive, but I trust I am not governed by so mean a spirit. I feel that the truth ought to be told about the man your Society has under pay for doing the meanest acts a being was ever guilty of, and I am resolved I will speak out if I go to prison to-morrow in consequence. That man has done me irreparable injury. I was peaceably and honestly pursuing a legal and legitimate business. He preferred false and disgraceful charges against me. He dragged me off to prison, or as far towards it as he was able to take me. He caused false and damaging charges to be published against me in the papers of the city and to be telegraphed all over the country. He has seized my goods, without right or justice. He has carried them off and never returned them. He has tried to destroy my business. He has ordered my printers, on pain of imprisonment, to print no more papers for me. He has threatened the News Company with prosecution if they sold my papers. He has threatened a news-dealer selling my publications—Paine's Works, Ingersoll's Lectures, etc.—with arrest if he offered them for sale again. He has falsely accused me of forgery. He has falsely accused me of obscenity. He has followed me with vindictive hate. He is trying to deprive me of my property, my liberty, and my reputation. He has visited upon me repeated arrests, and in a few days I am, at his instance, to be brought before one of the highest courts of the land to defend myself as a criminal

against his false and disgraceful charges. Is it strange that I feel impelled to speak the truth about him? Is it strange that I hold up his real character to public view? I am forced to do it in self-defense. It is he who began the conflict, not I. I am only defending my inalienable rights.

I understand the disadvantages I labor under. He is called a *Christian*. I am called an Infidel. He has at his back your Society, composed of rich and honorable (?) men, the Young Men's Christian Association—representing millions of dollars—the Christian church, and last of all, and most to be deplored, the Government of the United States. I have a few friends, without influence. It is a foregone conclusion on the part of your Society and your agent that I am to be crushed. The false pretext of obscenity is to be pressed against me, and I am to be sent to a felon's prison. This is the programme that has been marked out and it remains to be seen whether justice has departed from this country or not. If I could believe that Joshua stopped the motion of the heavenly bodies, that Elijah was taken up bodily into heaven in a whirlwind and a chariot of fire, that three young men were cast without harm into a fiery furnace seven times hotter than ever, if I could believe that Jonah swallowed the whale, and all the rest of it, or would only pretend that I believed all these, I would not be troubled by your man Comstock. I could sell "Cupid's Yokes" and the "Open Letter" to my heart's content, and no United States' marshal would be sent after me to drag me to prison. But for being true to myself, and taking the unpopular side of theological questions, I am to be hunted down like a dog and thrown into a loath-

some prison. You, Mr. Colgate, are aiding in this pursuit against me. My enemies are numerous and powerful. May I escape their toils, and remain a free man yet a few more years when my body will be consigned to mother earth !

Yes, it is the saddest part of this grim farce that our Government is made a party to it, and that its officers should, at the beck and call of such a man as Comstock, hunt down and ruin well-disposed people. Your agent, backed by your Society, the Y. M. C. A., and the influence of the Christian church, aided by a bagful of smutty pictures, procured the passage of what is called the Comstock Postal law, by which certain mail matter is declared not to be mail matter, and not to be carried or delivered by any postmaster, deputy, or letter-carrier ; thus making the people's mails subject to censorship and inspection on the ground of morality, decency, etc., and this is applicable to every postmaster, clerk, and letter-carrier who handles mail matter ; for how can they tell that matter is not mailable, or not deliverable, unless it is inspected.

In this very particular your agent accomplished a greater wrong than he has been able to do in any other way. He subverted the rule under which our Government was established and under which it prospered for nearly one hundred years. His law has given power to post-office clerks and officials to inspect the mails for its morality, or its immorality, and to throw it out though duly and legally stamped. It makes a direct attack upon the freedom of the press, for any law which establishes a censorship of the products of the press is a positive attack upon it, and may ultimately crush it. It has made the

ending by mail of certain matter punishable by heavy fines and imprisonment, when all the other avenues are left open for its transmission. It gives to judges and juries the power to send persons to prison for an offense that has not been defined, and which can be construed and stretched to fit such a case as mine. In view of this fact you and your agent felt impelled a year ago to announce to your society and thereby to the public that "Freethought and Freelove publications would soon be stamped out." It was because you were able to count upon the Government of the United States, in the capacity of a police court, to second your efforts that you thought you could crush and imprison any one who does not enunciate such doctrines as you and your Society see fit to demand.

Yes, it is a sad fact that the great and proud Government of the United States has constituted itself a detective and police force to hunt down those who are sending improper books and pictures through the mails, and those who are recommending means to prevent conception, whether by the use of *vaseline*, syringes, or any other article. Is that really the business for which this Government was founded? Would it not be enough to make Washington, Jefferson, and Adams smile with a ghastly, grim smile could they see Government employees hunting through the mail-bags to see whether the matter the people stamp and deposit there possesses the proper moral and decent qualities to constitute *legal mail matter*; and also Government officials and agents dragging off to prison some man or woman who had sold or recommended a syringe, an ounce of sulphate of zinc, or two ounces of vaseline? I tell you, Mr.

Colgate, the enactment of that law was a great mistake. The duties of the general Government do not lie in that direction at all. The punishment for all offenses recognized by state laws belong exclusively to the states. The province of the general Government does not legitimately consist in playing the spy nor hunting down and punishing individuals for any opinions they may hold. Attorney-General Devens was quite right in saying, when writing to a friend, touching this case of mine, "This charge against Bennett should be tried in the courts of the state. The general Government has nothing to do with it," or words to that effect. It is most true. The punishing of obscenity properly belongs to the states, the same as larceny, libel, forgery, perjury, arson, manslaughter, and murder. The general Government has nothing to do with either. It is not responsible for the morals or the opinions of individuals.

Still, Comstock's greatest victories over the rights of persons have been in the United States courts. You know yourself, and the fact has been included in the annual reports of your Society, that more than ninety per cent of the convictions in Comstock's prosecutions—unjust ones, too—have been in the United States courts. Its marshals, attorneys, commissioners, and judges have been dragooned into the service of Comstock and his dirty work until the courts of our great country have been justly styled "The American Inquisition." And a certain class of men like Joseph Cook think it belongs to the United States to prosecute obscenity cases because the mails may be used in its service. He said, with a great flourish, the other night, when

your Society held its fifth annual meeting, and he was the principal speaker, "There are no state mails! How can the state prosecute these cases?" The state can prosecute the circulation of obscenity, however effected — whether by mail, express, railroad, steamboat, horseback, muleback, in the pockets of men and women, or in any other conceivable way. The state equally furnishes no express companies, no freight lines, no steamboats, no printing establishments, no stores, no individuals to produce or circulate obscene publications, yet it surely has the ability to punish obscenity where any of these agencies are employed in issuing or circulating it. Until the states are proved incompetent to punish these offenses the general Government had better keep its "hands off."

And I call upon you, Mr. Colgate, to bear me witness in the statement that the great bulk of really obscene publications—fully nine-tenths of it—was driven from this market before the Comstock postal laws of 1873 were passed and before the courts of the United States were suborned into the obscenity crusade. It was easily accomplished and with very little expense to the state. No heavy trials, no long imprisonments, no great oppression to individuals were necessary. A few seizures and a few simple arrests were all that was necessary, and very little really obscene matter has been in the market since. You made this truth clear when you said in the last public meeting of your society, that "*no obscene books are being printed or circulated.*" But this fact, My Dear Sir, as I said, is not due to the United States postal law, to Judge Benedict, to the United States courts, to your Society, nor to the

expenditure of the \$40,000 or \$50,000 which your Society has used in prosecuting one hundred and fifty comparatively harmless individuals and in making five times as many more intensely wretched and unhappy.

It does seem to me, Mr. Colgate, that there has been no real necessity for the existence of your Society, nor for keeping two agents employed at high salaries to arrest people for dealing in obscenity, when you yourself admit there is little or none to deal in; when there has not been for several years; and if there were, the regular police force of the city and country are fully able to combat it. Ten or fifteen years ago there was a good deal of the vile stuff sold in this market, but this state of things grew out of a general laxity and indifference on the part of those who should have been more watchful; but when a slight effort was made to get rid of the offensive trash, how easily it was accomplished, and without any United States laws or United States marshals or courts. Your agent, it is true, yearly puts out a report of the tons of obscene matter he seizes as he did in the Rochester case in November last; but you must yourself know that these representations are untrue. They are all about as false as that in reference to the Rochester advertising doctor. His "millions of obscene circulars" had not an obscene word in them and contained not even one obscene allusion. He professed to sell a preparation to prevent conception. You have done the same. It would be just as true, and equally as just, for Comstock to have seized a million of your pamphlets as obscene publications, and have published to your Society and to the world that five cart-loads of



obscene pamphlets, costing \$1,000 had been seized from a John-street firm dealing in obscene literature. Had such a course been pursued towards yourself, you probably would have been better able to appreciate the cruelty and injustice of that kind of business than you are at present. You are asked to notice that there is not a vast amount of difference between the offense of the Rochester doctor and that of yourself. You are advertising and selling an article recommended, when combined with a certain acid, for preventing conception by destroying the spermatozoa, while the Rochester man claims to do the same thing by checking or preventing ovulation. If his process or claim is any more obscene or immoral than the one you advertised, I am unable to see it. He may be more of a charlatan than yourself or Dr. DuBois, but charlatanry is not a felony.

Many sensible people are able to comprehend the propriety of checking over-population, and the two large additions to poor men's families, by prudential preventive measures. Celibacy, continence, and chastity are effective in this direction; and there are also other means prescribed entirely harmless in their nature, but all are criminal according to Comstock's law, and by that law the United States officers are required to hunt down and imprison persons who publish and send through the mails a book or an advertisement that gives the slightest information as to how such a desirable object may be effected.

Much of the loud claims which Mr. Comstock has made about vast amounts of obscenity seized, and dealers in obscenity arrested and convicted, when sifted down to the real truth are much like this

Rochester case, totally without foundation in truth. The big stories about the tons of obscene publications with which our schools and seminaries are deluged, which Comstock and Joseph Cook delight in telling to old women of both sexes, are nearly all untrue. The charges of this kind which Comstock last year brought against the Brooklyn schools were pronounced by the superintendent utterly false. The same is true in nearly all the cases with which the public ear has been tired. The facts have been grossly exaggerated. But even if some fool should decide to spend thousands of dollars in getting up vile publications to send gratis to schools and academies, or if some villain should be wicked enough to carry out such a senseless scheme, how easy it would be for the teachers of the schools to frustrate the diabolical work by examining the mail matter of their pupils before it is turned over to scholars. This is so easy of accomplishment that it seems unnecessary to attack and break down the very principles of a free press and free mails under the pretense of protecting school children. The little children of course have their rights, but American citizens have theirs also ; and it seems a great pity that the rights of the entire country should be destroyed upon false premises and false representations. *The Methodist* was correct when it said that an infringement of the rights of the people and of free mails was a greater evil, even, than the circulation of vile literature, and that "the remedy is worse than the disease." This question never should be lost sight of, whether any supposed benefit that is gained by the sacrifice of the highest principles of liberty, and the

people's dearest rights, may not cost more than it is worth. It is bought too dear.

It is, My Dear Sir, quite a debatable question whether Vice Societies in England or in this country have proved a blessing to the people. They certainly have been the means of depriving many persons, not intrinsically bad, of their dearest rights and privileges, and have caused the deepest and most poignant sorrow to hearts not deserving of it. The remarks of Sidney Smith upon the original Vice Society in London, from which yours was modeled, are worthy of being quoted here: "It is hardly possible that a society for the suppression of vice can ever be kept within the bounds of good sense and moderation. If there are many members who have really become so from a feeling of duty, there will necessarily be some who enter the society to hide a bad character and others whose objects it is to recommend themselves to their betters by a sedulous and bustling inquisition into the immoralities of the public. The loudest and noisiest suppressors will always carry it against the more prudent part of the community; the most violent will be considered as the most moral, and those who see the absurdity will, from the fear of being thought to encourage vice, be reluctant to oppose it. . . . Beginning with the best intentions in the world, such societies must in all probability degenerate into a receptacle for every species of tittle-tattle, impertinence, and malice. Men whose trade is rat-catching, love to catch rats; the bug-destroyer seizes on his bug with delight; and the suppressor is gratified by finding his vice. The last soon becomes a mere tradesman like the others; none of them moralize

or lament that their respective evil should exist in the world. The public feeling is swallowed up in the pursuit of a daily occupation, and in the display of technical skill. . . . An informer, whether paid by the week, like the agents of this society, or by the crime, as in common cases, is in general a man of very indifferent character. So much fraud and deception are necessary for carrying on his trade—it is so odious to his fellow-subjects—that *no man of respectability will ever undertake it*. It is evidently impossible to make such a character otherwise than odious. A man who receives weekly pay for prying into the transgressions of mankind, and bringing them to consequent punishment, will always be hated by mankind, and the office must fall to the lot of some man of desperate fortunes and ambiguous character. If it be lawful for respectable men to combine for the purpose of turning informers, it is lawful for the lowest and most despicable race of informers to do the same thing; and then it is quite clear that every species of wickedness and extortion will be the consequence.”

Moncure D. Conway, in a discourse recently delivered in London, on “Liberty and Morality,” and touching this same subject, used this language: “It would appear that to these the circulation of many thousands of a book they call vicious is of little importance compared with making a sensation and parading their own spotlessness before the public; and beyond this it is to be feared that a still baser influence has been at work to degrade this association of (originally, no doubt) well meaning though weak-minded people. *There is money in it*. A good deal of patronage and wealth has gone into

It in the past, and its agents are highly paid ; and if this stream of money and patronage is to continue to flow and gladden the host of agents, they must keep up a show of activity. They must always be attitudinizing purifiers of society. If the nests of crime and vice are trampled out, and the funds begin to fall low, they must try and make their subscribers think there are nests where there are none ; and knowing well how unpopular Freethinkers are, how few friends they hav in high places, they found among them a book which repeated the details of ordinary physiological and medical books—a book whose pages, with all their faults, are nowhere of biblical impurity. It must have brought their secretaries and their lawyers and their secret-sevice agents a golden Pactolus from orthodox purses to thus prove that the society might do injury to Freethinkers under cover of attacking immorality. The old privilege of the orthodox to imprison their opponents—the privilege so loved but lost—must seem about to come back again when it has been decided that facts familiar in the libraries of medicine and science cannot be printed by a Freethinker in a form accessible to the people without imprisonment. They know that many of these Freethinkers value their freedom highly enough to go to jail for it, and they are, no doubt, hoping for more victims and a flourishing business, with plenty of vice to suppress.”

There is little doubt but that the love of money has more to do in inspiring your agents to activity in making arrests and securing convictions than has a love of virtue. Before Mr. Comstock fully embarked in his crusade against obscenity, and while he was still engaged at selling dry-goods for Cochran

& McLean, upon his making known to a friend his purpose to prosecute venders of indecent literature, and when he was asked why he had decided to engage in a business that required so much deception, intrigue, decoying, and cruelty, he is reported to have replied, "There is money in it." His own brother-in-law is also reported to have said the same thing of him. Said he, "Anthony never went into that business for any love of morality or virtue, but for the purpose of making money." Indeed, pecuniarily, he has done exceedingly well at his vile trade. \$4,000 a year, with perquisites amounting to several thousand more, is exceedingly comfortable these hard times, and in view of this, it may easily be understood why he is so anxious to continue his heartless work. But when it is remembered at what a cost of heartaches, anguish, wretchedness, and sorrow he has won his thousands, it ought to be enough to make the possession of the money burn his very conscience and cause an honest, sensitive, merciful man to cast his ill-gotten gains into the sea.

I would gladly persuade you to dissolve your organization called the "Society for the Suppression of Vice," which has proved itself a society for the suppression of constitutional rights and liberties, and to leave that kind of detective work and police service to the regular police department, which, as I have already said, is fully competent to grasp with the evil of obscenity. If I could be successful in this, I would consider that I had been instrumental in conferring a great favor upon the unfortunate and oppressed. It is dangerous for societies and classes to organize themselves for the purpose of looking after the morals of others, and

for throwing them into prison for holding opinions unlike their own. Such societies will be exceedingly liable to grow into engines of oppression and cruelty, as I honestly believe has been in the instance of your pet society. If the motive to do good, with you and those associated with you, is so great as to compel you to seek the avenues where evil exists that it may be put away, let me call your attention to the appalling fact that there are said to be 10,000 drinking-houses in this city where drunkards are regularly and continuously made. There are said to be thousands of houses of ill-fame and of assignation where female virtue is bartered away for money, and where the most loathsome and injurious diseases known to the race are engendered. There are gaming houses, and swindling establishments in great numbers. In these and other directions great chances exist for doing good. If your Society really wishes to cover itself all over with glory instead of ignominy, let me suggest that you turn your attention in some of these directions, and no longer continue to oppress and imprison the unpopular and unfortunate for committing no crime at all. Why spend \$8,000 or \$10,000 a year to suppress an evil that you admit has scarcely an existence when there is such an appalling amount of positive evil on every side?

But if you will continue your Society and will persist in hunting for obscenity where it is not to be found, let me, at all events, urge you to discharge your present agent and employ one who has some capacity to be a censor of literature and the press; who has a shade of mercy in his composition, who has a slight conception of honor, truth, and justice.

If your representative is to have so much power placed in his hands to wield over the heads, fortunes, and lives of human beings, do seek one that has a few qualifications for the business besides the voracity of a wolf, the ferocity of a tiger, and the cruelty and savageness of a hyena.

Why not act for once on the sensible suggestion of the *N. Y. World*, made on the day following your last annual meeting. It said: "The Society for the Suppression of Vice, as appears from a report of its anniversary meeting of last night (Jan. 29), which we print elsewhere, is beginning a new year. Now, therefore, is the time for its most excellent managers to revise its lists of employees. The work to be done by them is delicate and open to misconstruction; they should be selected for their tact, discrimination, disinterestedness, freedom from malice, coolness of temper, judicial impartiality, and, above all, for the anxiety to suppress vice in the least sensational way and by the least self-aggrandizing methods."

The greatest evil effected by your Society and your agent, as I said, was the influence exerted by them in the passage of the postal law of 1873, styled the Comstock law, which, to my mind, is clearly unconstitutional and is in positive opposition to the principles of free speech, a free press, and free mails incorporated into our Government by the fathers who framed and adopted our glorious Constitution. It introduced the system of censorship and espionage into our postal department, which, when fully understood, must ever be repugnant to the better portion of the American people. It is not necessary for me to call attention to what influences of the



church were brought to bear in inducing the enactment of this law, or to the disgraceful manner it was carried through the expiring hours of the Forty-second Congress, notorious for the enactment of subsidy laws, salary grabs, doubling of salaries, etc., etc. ; and this, too, without deliberation or consideration, with hundreds of other bills, and when a large portion of the members were absolutely in a state of intoxication. We have had too many instances of much ill-advised and worse than useless legislation being crowded into a short space of time and with improper motives. This law was not called for by any considerable portion of the American people ; it was passed without the knowledge of the people, and it was done even on the Sabbath day, which fact, with many, would make it illegal. It is not for that reason that I complain of it, but for the violence it does to the vital principle of American liberty under which this country flourished for a hundred years until a Comstock and a Vice Society gave it a fatal stab in that unfortunate and ill-advised law. I will not detain you by giving at length any views I may entertain respecting it. I have done so on other occasions. For an exhaustive argument upon the law, let me refer you to that written by Mr. T. B. Wakeman of this city, and published by myself. Let me here, also, give a brief quotation from the daily *Sun* from remarks by the editor upon this specific law :

“ We do not believe in the constitutionality of the law under which this conviction [Heywood's] took place. The Government has nothing to do with the moral or intellectual quality of the matter transmitted through the mails. It has no right of

discrimination. If it may discriminate for a good purpose, it may discriminate for a bad purpose. The power is fraught with too much danger of abuse to be safely intrusted to the Government.

“In early anti-slavery times a determined effort was made to exclude from mails in the slaveholding states every denunciation of the sum of all iniquities, human slavery. The people protested against the espionage put upon the mails, against the interference with the freedom of the press. We condemn the attempt to interfere with the mails now, though it be with a very different intent, because it violates the same great essential principles of liberty.”

Permit me also in this connection to give a letter from that able writer and biographer, James Parton, on the same subject:

NEWBURYPORT, MASS., Sept. 29, 1878.

*My Dear Friend:* I think those Comstock laws, as they are properly called, ought to be totally repealed, and for these reasons:

1. Because they *are* Comstock laws, and not the deliberate judgment of Congress.

2. Because they are useless. The forbidden articles can be sent everywhere by express.

3. Because it is not possible to put into human language a definition of the word *obscene* which shall let the Song of Solomon, Rabelais, Juvenal, and Tom Jones pass, and keep out works intended and calculated to corrupt.

4. Because the control of the Government over the mails is obviously limited to what you well style “postal reasons.” Dynamite may be excluded; sealing-wax may be excluded; liquids may be excluded, because they endanger the fulfillment of the contract with all the other senders of mail matter. But the Government is not called upon to sit in judgment upon the moral character or intellectual quality of the parcels intrusted to it.

5. Because the laws in question are so liable to abuse by a narrow-minded or provincial officer.

They enable the prim and prudish village to judge and condemn the metropolis.

6. Because the state laws and municipal laws, previously and now existing, are sufficient for the detection and punishment of all real offenders against decency and good morals.

With regard to the constitutional argument, so ably and powerfully presented by yourself, I can only say, being no lawyer, that it seems to be unanswerable. It came upon my mind with convincing power, and I have never had a doubt since. These laws are wrong every way, and pernicious in many ways. You know how I hate and loathe the books and papers that circulate among boys, which can have no other than a corrupting effect. I could join, heart and hand, in hanging a wretch who, for a little money, would either write, or publish, or sell such works. And yet it seems to me that the *espionage* of the mails by an illiterate person is even a worse evil than that. It menaces the very citadel of liberty.

Yes, I go for immediate and unconditional repeal; and this has been my feeling ever since reading your masterly speech delivered in Faneuil Hall last summer. Very truly yours, JAS. PARTON.

*To T. B. Wakeman.*

When I was arrested under this law, November 12, 1877, when I knew I had committed no wrong, I realized that the law was a bad one, and should be repealed. I was instrumental in circulating blank petitions to Congress asking for its modification or repeal. These were signed by large numbers of freedom-loving people of the country. It was estimated that the whole number of signatures amounted to 70,000. While this petition was before Congress, Mr. Comstock and yourself visited Washington and went before the Committee to prevent the repeal or modification of the law. You also took

that occasion to apologize for your own violation of it, in the matter of the vaseline pamphlet, by a plea of ignorance. The plea, perhaps, was a good one, but it has not been admitted in scores of cases where poor unfortunates have been arraigned and imprisoned for the alleged violation of the law they did not know had an existence. But of course it makes a great difference as to who makes the plea of ignorance. For a rich and popular man like yourself, it may be very effective, but for a poor, friendless person arraigned by your Society, it is wholly without force.

As to the efforts of yourself and Comstock before the Committee, they were efficient, while the prayer of the 70,000 was disregarded. The law remains.

Right here I wish to do a little act of justice to myself and the signers of that petition. It has been represented by Comstock, Joseph Cook, and others, that the signatures on that petition were false or bogus, and especially that the names of leading merchants in this city had been forged to it. This charge is wholly false. The names to that mammoth petition were genuine. No petition was ever sent to Congress more honestly or more earnestly signed. I can produce the sworn affidavits of numerous persons in all parts of the country who took an active part in obtaining signatures, some to the number of 500, 800, and 1,000, that the signatures were genuine and from an intelligent and honorable class of citizens.

I will make an explanation regarding a circular in reference to the law under consideration, drawn up by myself, to be addressed to those who were presumed to feel interested in having the Comstock

law changed. I wished that that circular should bear the names of some of the leading publishers, druggists, etc., in this city. I caused the circular to be put in type, with the names of the desired firms duly inserted. I had proofs enough taken to give a copy to each person whose name I had attached. Preparatory to having it stereotyped I called in person upon each man or firm whose name I thus used—showed them the circular with their name attached, and explained the character of the paper. I left a copy of the circular with them, as well as a copy of the petition. I asked no one to sign the circular, but expressed the desire that they would allow their names to remain on. Those who assented, or who did not object, I let remain on, but those who objected I removed. This is the exact truth of the matter; but your agent, Comstock, Joseph Cook, and others have accused me of forgery, but with how much justice, I leave for yourself and a candid public to decide. This much, however, I will state before dropping the subject. Comstock visited several of the persons whose names were upon the circular, and, in his brow-beating, overbearing, “bull-dozing” manner, threatened them with prosecution if they did not deny authorizing their names to be used on the circular; and I lament to say that terror of the man was so great that some who had positively given me permission to use their names “went back” on their word and denied to him that they had given such consent. Some men lack independence and courage. This is also an instance of the terrorism which your agent has employed in tyrannizing and lording it over the citizens of this town. He feels that he has a power-

ful society at his back ; that the Christian church sustains him ; that the Government is enlisted in helping him carry out his vile purposes, and with these at his elbow he can play the tyrant with impunity.

While correcting misrepresentations, let me say a few words about the martyr-blood which Comstock has shed in the holy cause of purity and for which he has been lauded to the skies and almost canonized as a saint. Pitiful recitals have been made about his being attacked by murderous venders of obscenity, and that the deadly attack made upon him was because of his devotion to morality and virtue. This is all gammon. Nothing of the kind is true. The man who inflicted the wound upon the cheek was Charles Conroy, a man with one hand—the left. Conroy was not a desperado. Comstock was probably the only man he ever struck, and the wound was inflicted under circumstances of great provocation. Conroy was not arrested on a charge of selling obscene books. He may once have done something in that way, as scores of dealers did ten years ago, but for a long time he had done nothing of the kind. Comstock arrested him for receiving letters under an assumed name—a thing which thousands of persons have done without a thought on the part of anybody that they ought to be punished for it, and which is in violation of no law, state or national. Comstock arrested him without a warrant, and hustled him into a carriage with just as much right as I would have to arrest you and carry you off against your will. While in the carriage Conroy told Comstock that he (Conroy) had committed no crime and that the arrest was illegal. Comstock replied by saying that

if he failed to convict him on that arrest he would follow him up on other charges until he got him, into prison. Conroy knew that he had broken no law and that the arrest was an outrage upon an American citizen. He was trying to make an honorable living for his wife and child and he keenly felt the wrong that was being done him, and while brooding over it on the way to prison his mind was worked up to a state of desperation. He knew the relentless character of his persecutor and the utter groundlessness of the arrest. As the prison was neared, in his agony of mind he struck his enemy one blow on the cheek with his pocket-knife, and, had he followed it up with other blows, or had he severed the jugular vein of the man who was so cruelly wronging him, many would say he had done perfectly right, and would have justified him for the act, and the world would have been well rid of an unmitigated nuisance.

As it was, the one-armed man was tried, not for receiving letters in an assumed name, but the charge was changed to that of "atrocious attack on an officer." For this Comstock appeared against him, and he was sentenced to two years' imprisonment in the state prison in Trenton, N. J. When the time had expired, Comstock was on hand, and, before Conroy left the prison steps, had him arrested on the original charge of receiving letters in a fictitious name, appeared against him in the United States Court at Trenton, and secured his conviction and a sentence of another year's imprisonment. This is probably the only instance in the United States where a person has been imprisoned a year

for receiving letters in an assumed name, though thousands are doing so daily.

This is the whole truth about the martyrdom of Comstock which Joseph Cook and other clerical gentlemen are so fond of expatiating upon, making a hero of the man who unjustly and cruelly committed a great wrong upon a poor cripple and friendless man. Conroy was the wronged man, not Comstock. But the event served Comstock a very good turn. The sympathies of his Christian friends were aroused to the giving point, and from \$5,000 to \$10,000 was given to remunerate the martyr Comstock for the immense perils he had encountered in "protecting school-girls," and promoting the cause of purity. If justice had been done, Conroy's family would have received a part of that money to feed them and house them while the husband and father was serving out his three years' imprisonment for breaking no law but for vindicating his personal wrongs and for trying to make a living. Conroy is a poor man to-day, and has had hard work to obtain food for his wife and children. Comstock, his persecutor, gets \$4,000 a year for crushing people, with an extra present of twice the amount. This is Christian justice with a vengeance.

In this connection let me allude to a false statement made by Comstock in his last yearly report to your Society. He talks about a conspiracy being entered into between an Infidel editor, a doctor, and an ex-pugilist, and a convict. I am the editor, C. W. Selden is the doctor, James Sullivan the ex-pugilist, and Conroy the convict. The charge of conspiracy is utterly and wickedly false. I had not seen either of the persons named for months, and



we never entered into a conspiracy at any time any more than A. S. Barnes, Wm. E. Dodge, Parson Newman, and yourself have entered into a conspiracy to steal the post-office building and carry it off. Comstock is a liar of the most unscrupulous character.

But I fear I am detaining you too long. There are many things more I would like to say, but I must draw to a close. My object has been to place myself right before you, as the President of the Society which is oppressing me, and before that portion of the public under whose eyes these pages may fall. All I want is simple justice. I wish, for the remainder of my life, to peaceably enjoy freedom of thought, freedom of speech, freedom of the press, and freedom of the mails. In these I have a birth-right inheritance by virtue of being an American citizen and I am extremely unwilling to have them wrested from me. I love my liberty and I do not wish to part with it.

I cannot conceive that I am amenable to you, to Anthony Comstock, or to anybody else for my opinions and convictions. I hold I have a perfect right to hold such views upon all subjects as to me seem reasonable and right, and that no individual or society possesses the right to send me to prison for doing so. You have your own views peculiar to yourself, and no man possesses the right to imprison you on that account. My rights under the law are equal to yours. Unbelievers have precisely as many rights as believers. Presbyterians, Baptists, Methodists, Catholics, and Episcopalians, all have a right to maintain their opinions, to publish books, pamphlets, and papers in defense of them,

and those who are unbelievers in all creeds have equally the same right. In the United States there are hundreds of thousands of intelligent men and women who exercise the liberty of thinking for themselves and of arriving at their own conclusions regardless of priests, churches, or confessions of faith. There is the same justice in the people of America who think more or less as I do having books and papers to read in harmony with these views that there is for a Presbyterian, a Methodist, a Baptist, an Episcopalian, or a believer in any others of the numerous creeds in the world. It is very wrong for one creed to try to crush another. And you only evinced a spirit of injustice and intolerance when, a year ago, in a public meeting of your Society, you congratulated them that Freethought publications were in a fair way of soon being stamped out. The only just way is to allow equal rights for all forms of belief, and to give a fair chance to all to decide for themselves which form of belief is right.

I will repeat, that in what I have said in these pages I have endeavored to speak the truth and the truth only. I am sure all the main statements are correct and that they can be proved to be so in any court of justice. That I may have partially erred in some of the minor details is quite possible. My sources of information may not in all cases be perfect. But I have aimed to make no statement that is untrue. Other facts relative to the official conduct of your agent are being brought to light which, on some future occasion, I may deem it my duty to publish. I certainly wish that a spirit of fairness and justice may govern my impending trial, and that a spirit of intolerance

and bigotry may not overrule the principles of justice and truth. The proceedings of the trial will be accurately reported and published, that the world may know in what manner the New York Society for the Suppression of Vice and the Government of the United States join hand in hand in the last quarter of the nineteenth century to crush an independent and unpopular individual who has the honesty and candor to do a little thinking for himself and to choose to not float with the popular current—one who is conscious that he has not committed a wrong, and who claims that he has only exercised the rights of an American citizen.

As I have said several times already, I am aware that some of my views are unpopular. I cannot think as many of my fellow-citizens do on theological points, but this is no reason why I should be deprived of my liberty or my rights. Jefferson said, in his time, that it was neither possible nor desirable for all men to think alike ; then it certainly is wrong to punish any one for honest thinking. Many may be correct in their views, and many again may be mistaken, but let us all remember that “even error may be left free where truth is free to combat it.” If aught is of God it must stand, and puny man cannot overthrow it. If any deem it their duty to punish me in behalf of God, they are undoubtedly over-officious. If he wishes me to be punished, he is undoubtedly capable of doing so without the aid of Anthony Comstock or any one else. I am perfectly willing to trust myself in his hands.

Throughout my past life I have endeavored to be a law-abiding citizen, and to duly support the Government under which I live. I have been a humble

individual but I have added several thousand dollars to the revenues of my country. On two occasions I have paid into the revenue \$1,000 at each time, and on many occasions sums of \$500, \$300, \$200, \$100, and smaller amounts, aggregating many thousands of dollars. I am inclined to think Comstock has never added \$50 to the revenues of the country. But this may possibly be a reason why he should now be empowered to oppress and crush me.

I have lived to become an old man. My life is largely spent. My active days are nearly over. I have seen three score years and can hardly expect to see more than ten more of active life. I have endeavored to do my duty in the past, and have no fears for the future. I will be glad to pass the remainder of my days in peace and quiet and in the enjoyment of my liberties. I earnestly hope for a fair trial in the coming effort of your Society to deprive me of my property and my liberty which awaits me. I am not conscious of having done wrong to any one or to any body of men. Whether my remaining days are long or short in the land, I hope to be found faithful in my duty and to spend my latest strength and breath in defense of eternal truth, justice, and liberty.

I am very truly yours, D. M. BENNETT.

141 Eighth St., New York.

February 22, 1879.

**POSTSCRIPT.**

DEAR SIR: The intense anxiety I feel in consequence of the near approach of my trial, and the peril in which my liberty and dearest rights are placed must be my apology for continuing the remarks heretofore addressed to you. It is, perhaps, not strange that I should feel uneasiness at the danger which threatens me, or that I should have fears that I am about to be unjustly deprived of that which to me is as dear as life itself—my liberty, my property, my reputation.

I am informed by those who have had opportunities to know something of the facts in relation to the intentions of your Society and its coöperators, in my case, that it is your purpose to “crucify” me so to speak, and to “grind me to powder.” There are sufficient grounds for believing that a very unfriendly feeling exists in reference to me—that I am regarded as a rock of offense that must be removed.

I think I am somewhere about the two hundred and sixtieth person arrested by your Society on the pretended charge of obscenity, and when your agent makes the statement that of the cases that have been tried only some twelve have escaped conviction, it can be seen at a glance that I have grounds for anxiety. But being conscious of my own entire innocence of the charge upon which your Society caused my arrest and prosecution, I await the result with calmness and trust. If I am deprived of my liberty, and my property is taken from me, it will have but a temporary effect on the part of the powers of intolerance and bigotry, and will not shake my confidence in the ultimate triumph of Liberal principles in our land—free speech, free press, and free mails.

I trust you have read the little pamphlet, “Cupid’s

Yokes," which I sent you—for mailing a copy of which I am to be tried for my liberty. If you have perused it carefully, I think, though you found it to contain some sentiments which perhaps neither you nor I approve, that you also found it an earnest and candid effort on the part of the author to advocate the views which he believes closely connected with human welfare, and that the little work was not written to inflame the passions or to increase crime. You can see at once that it was not written for the young, that it is a dry, argumentative production that would never attract the attention of a young person, and that no young person can have been injured by it. You at all events must have seen that it does not contain one indecent word in its composition, and that its language is good.

I think you will admit there is something wrong in married life in our country—that there is a vast amount of unhappiness and wretchedness on the part of those who by law and public opinion are compelled to live together. It is a sorrowful truth that there are hundreds of thousands of men and women trying to live together as life companions who are utterly uncongenial to each other and who render each others' lives bitter and unhappy. Hundreds of thousands of children are now being reared by parents who are almost constantly quarreling, if not resorting to harsher means of showing their dislike for each other. This is indeed a very bad school in which to rear children, and it is deeply to be deplored that the evil alluded to is so great as it is. Marital unhappiness is one of the greatest misfortunes that exist in our land. It is an ailment for skillful physician to cure and earnest reformers to remove. Many remedies will of course be recommended. Let no embargo be placed upon those who prescribe a remedy even though it may not always be of the best and wisest character. Let all be heard who have advice to give and suggestions to make for the lessening of this great evil, and even though they may be mistaken, send them not to

prison, deprive them not of their liberty because they have expressed their convictions. Let Mr. Heywood's propositions be listened to and accepted by those who think them sound and truthful.

I trust you also read the little pamphlet—"Parker Pillsbury's Letter to Ezra H. Heywood"—contrasting the condemned portions of "Cupid's Yokes" with selections from the Bible. If you did, you must have perceived that the Bible contains a thousand times more of indecent language and allusions than Heywood's pamphlet. If any one will read the little volume I have issued—"The Holy Bible Abridged"—containing only literal extracts from the Bible, they will be convinced, under the worst construction that can possibly be placed upon the Heywood pamphlet, that in indecency of language and sentiment it bears no comparison to the extracts from the revered book.

Parker Pillsbury was an able and ardent champion advocate for human liberty and toiled laboriously for years in behalf of the downtrodden. He is a man of unusual intelligence, perception, and honesty, and his opinions are worthy of close examination. I hope they did not escape your attention.

I trust, too, that you perused the arguments of Mr. T. B. Wakeman on the "Unconstitutionality of the Postal Laws" which your Society caused to be placed upon the statute books of our country and under which I am indicted and am to be tried. If you read the pamphlet with care, I think you must come to the conclusion that the enactment of that law was a marked departure from the principles which governed this country for nearly a hundred years, and that by doing this the provisions of the Constitution were violated. If you have not read the pamphlet, let me urge it upon you to do so. Every person in the country would do well to do the same. If they will do so a large portion must come to the conclusion that it was not a proud day in our country's history when that law was enacted and thereby

placed on the nation's statute books. I will be glad to furnish the pamphlet to all who wish it.

Let me also request you to read the remarks of Mr. Loring Moody, Esq., of Boston, upon the same subject and given in this issue of *THE TRUTH SEEKER*. You will find his arguments sound and worthy of your consideration. His comparison of the mails to the public highways seems to me very pertinent. He says, "The right of free mails stands on the same grounds as the right of free highways. With this difference in favor of the mails, every one pays for what he sends through them—man, woman, and child—while multitudes travel on the highways who pay nothing for their support. Yet," he asks, "who would dare to pry into or question the aims, motives, or purposes—whether they were designed to corrupt anybody's morals, or for what other ends—of any one traveling on our highways? or what writing, printing, picture, or other things he has got in his pockets? and what is the moral effect of such material? Yet how much crime surges along our highways! There goes a pick-pocket, a sneak-thief; here comes a house-breaker, bank robber; yonder is a murderer, with his soul filled with bloody intent. Indeed our highways are open avenues for every sort of vice and crime."

If Government does not set up a censorship and examining board over those who travel the streets and highways where they pay no toll, why should a censorship be set up over them when their letters books and pamphlets travel through the mails where they do pay toll, and which has to be paid before the parcels start upon their journey? If a criminal can travel over our railroads when he pays the stipulated fare, why cannot his letters and books travel through the mails when the fare is duly paid? If the streets, the highways, and railroads are not contaminated in the one case, why are the mails in another? Is it not wholly imagination that the mails are affected by what is sent through them, whether moral or immoral? Is there not just as much



reason and justice for Government to overhaul and examine who and what passes over the public highways as what passes through the mails, so far as morality or opinions are concerned?

Mr. Moody's comparison between mail matter and intoxicating liquors is worthy of attention. He states the fact that a vastly greater amount of injury is done by intoxicating liquors than by obscenity, and yet Government sanctions the traffic by exacting duties on what foreign liquors are brought into the country and by collecting the tax on what is manufactured here, and under this sanction the commodity which causes a wider range, and a more horrible class of evils than anything else in the world, is transported to any part of our country and not the slightest objection is raised on the part of any Government official. Now if this vile stuff can pass freely under Government protection through our custom houses, bonded warehouses, and revenue bureaus, nobody raising his hand to check the transit, why should so much ado be made about what passes through the public mails, which all alike—good and bad, pure and impure—help to support? I hope you will yet be able to see that this inspection of the character of the people's mails is inconsistent, uncalled-for, unjust, and unconstitutional.

Let me ask why your society should be so determined to send me to prison for the sending of a harmless pamphlet through the mails, when hundreds of the clergymen and thousands of the leading members of your churches are guilty of far greater crimes and many of whom are never brought to justice at all? I simply exercised the right of an American citizen and deposited in the mails a pamphlet which the first dealers in this city and all over the country have sold over and over again and which does not contain a tithe of the indecency found in other volumes which every bookseller in the country sells almost every day in the year; while your clergymen, your deacons, your class-leaders, and your leading church-members are on every hand

charged with fraud, adultery, fornication, incest, sodomy, bigamy, lying, hypocrisy, stealing, forgery, perjury, and even arsen, and murder. A month ago I cited in one issue of my paper nearly three hundred cases where clergymen had committed these crimes and I gave but a portion of those which the public prints have recorded, while probably not more than one in ten of their peccadilloes are suffered to come to public knowledge. You well know, yourself, that there is hardly a case of embezzlement, defalcation, high-handed swindling, on the part of savings banks, trust companies, insurance companies, manufacturing corporations, etc., etc., that some prominent church-member or Sabbath-school superintendent is not closely connected with it. It is not strange that one of our leading morning papers recently asked the question, "Did you ever know a broken savings bank that had not one or more church members among the trustees?" In view, then, of the large list of crimes that are being committed by the pious believers and teachers of Christian dogmas, a large number of whom are allowed to go scot free, it seems hardly a matter of justice that I should be sent to prison on a very questionable charge and where even no crime was intended and none committed. Justice should certainly not be lost sight of by the church party which claims to be in possession of all the morality.

As I have before remarked, this country has all along been supposed to be free for all shades of opinion, whether in religion, politics, morals, philosophy, science, or any other domain. It has been thought that a man has just the same right to be an unbeliever that another has to be a believer. On this ground I have the same right to be an Infidel that you have to be a Christian. You may be right in your views, or you may be wrong, and the same with myself. It is at least a debatable question as to which is the truest and best religion in the world and which is the truest philosophy. Now I am just as certain that my views are mainly correct as you

can possibly be that yours are. We differ very widely, and one of us, at least, must be mistaken. I am honest in my belief that the Christian religion is not divine any more than other systems, and that, besides lacking divinity, it also lacks originality. I find that every dogma, sacrament, rite, and ceremony of the Christian church which is generally supposed to have originated less than nineteen hundred years ago has existed in pagan nations from three thousand to five thousand years. In other words, I find that the Christian religion is borrowed—its God from Judaism, its dogmas from paganism.

I find that the legend or fable of gods cohabiting with females of the human race, thus producing an offspring half divine and half human, is at least a thousand years older than Christianity. The old idea of the virgin and child was held in Egypt, Chaldea, Syria, India, Thibet, and other ancient Oriental countries, nearly five thousand years ago.

The same is largely true of the doctrine of the trinity, immortality, heaven and hell, gods and devils, angels and demons, good and bad spirits, baptism by water, the Eucharist or Lord's Supper, the symbol of the cross, belief in a final judgment, confession of sins, fasting and prayer, monasteries and monks, belief in sacred writings, the crucifixion, the resurrection of the dead, the second birth, and everything else that goes to make up Christianity. They were known and believed by one or many of the older religions long, long before Christianity had its birth.

The fine morals teachings and beautiful sentiments ascribed to the reputed founder of your system of religion were promulgated and taught by the sages and wise men of old, five hundred years at least before Jesus is said to have existed. There is little of morals or philosophy now in the world that was not distinctly taught twenty-five centuries ago. Religions have seldom been new inventions or new creations. There are hundreds of systems in the world, but not one of them grew up independent of the

others. The younger systems were borrowed from the older, and those comparatively old from those older still. There is a striking family resemblance between them all, and one is just about as divine as another.

Now these things are so, or they are not; and the truth is susceptible of proof. These facts have not been sufficiently looked into by the great bulk of Christian believers. It is but due to the cause of truth that these things are brought to the minds of the people. It is far better to patiently and honestly investigate the origin, nature, and trustworthiness of the different systems of religion that have prevailed in the world, than for those of one system of faith to condemn, behead, hang and quarter, burn at the stake, or even send to prison, those who cannot see things as they do, and who cannot believe as required.

Let me make a proposition to you. Instead of sending me to prison because I do not accept the belief that you and others of your Society and faith think I ought, let us debate the points of disagreement between us and settle by history, argument, and reason which has the better grounds for his belief. I would much rather do this than go to prison. I will agree to be open to conviction and to embrace Christianity with all my heart if you can convince me that it is true. If it is susceptible of proof this will be much better for you and for your cause than to confine me in a dungeon, or load me with chains; for I think that treatment would fall far short of convincing me of the beneficence, mildness, and charitableness of your system of faith. Racks, thumb-screws, pincers, pulleys, stakes, beheading blocks, gallows, and dungeons have not proved to be very winning arguments and not well calculated to make new converts. A man would have to be kept upon the wheel or rack for a good many hours to convince him that it was a mild, charitable, and heavenly kind of treatment, and it is almost too far along now, in the nineteenth century, to encourage that kind of business. I would recommend to your

pious Society that you do not embark in any part of that heroic treatment too strongly. It is not likely to prove popular with the masses. Good arguments, historical facts, and strong reasons will prove far more convincing than iron boots, breaking of bones or damp, filthy prisons.

Yes, I feel a little argumentative, somewhat as the large boy did whose father was about to give him a severe whipping, or was, in fact, applying the rod vigorously to his back and shoulders, when a bright thought struck the youth, and he cried out, "Stop, dad, let's argy!" So say I. I prefer it to the whipping. If you do not feel like engaging in the argument yourself, I suggest that you select some able and learned clergyman—any one you please—who will discuss with me as to the truth or untruth of the Christian religion, whether it is of divine or human origin, whether the Bible is divinely inspired, and which is truest, Christianity or Rationalism; or any other subject akin to these. I am not a learned man. I went to a district school, only, till fifteen years of age, since which time I have been constantly hard at work, and have read but few theological works, or books of any kind, for that matter, but I am so well assured that I have the truth on my side that I will unflinchingly enter into a debate with any one of your ablest divines, or any professor of your colleges, upon the subjects named. And what is more, I will print every word your champion may have to say in defense of his religion. I will not only lay his arguments before 30,000 readers weekly, but at the close I will publish the same in book form without asking him to contribute a dollar to help defray the expenses, and will furnish the books at most reasonable prices to Christians or Infidels who may wish to purchase them.

Now, Mr. Colgate, I submit it to your better reason whether this will not be a wiser way to treat me than to take me from my family and my business and confine me in prison. If I am wrong in my belief, all you have to do is to convince me of that

little fact, and I will acknowledge my error with the best grace in the world. I don't want to be wrong. I had much rather be right than any other way. By sending me to prison you will virtually confess to the world and to coming generations that you fear my arguments and my influence; and that will not convince them that you are in the right. Again let me urge you to accept my proposition for a discussion, through my paper, with the ablest clergyman you can name, instead of sending me to prison. It is certainly worthy of consideration.

Let me assure you that persecution, whether by torture, death, or imprisonment, has not been an honor to Christianity. By imposing these cruelties she has not advanced her cause nor caused her name to be loved by her enemies; and now as the world advances in knowledge and science her cruelties in this line stand out with appalling clearness. For a thousand years the direst cruelties that have ever been inflicted upon the human race proceeded from the church. In a few hundred years, it has been estimated by one of the most learned writers of our time, Victor Hugo, that five millions of human beings were put to death by the church, and that, too, by the most horrid species of torture that human ingenuity could invent. These, combined with the millions upon millions that have been slain in Christian wars, the number who have lost their lives under the influence of this religion has been estimated from 75,000,000 to 150,000,000 human beings—ten times as many as have been slain by all the other religions of the earth combined. So while you and others imagine Christianity to be the most beneficent religion in the world, it has been by far the most persecuting, relentless, and bloody.

Even within the last hundred years the church has shown her persecuting hand not only in Europe but in these United States of America. If the scaffold, the stake, and the torture machines, with the increasing good sense and intelligence of mankind have been cast aside, truth compels the confession that

trials and imprisonments, social ostracism and sundry annoyances have still persistently been visited upon the heretic. I will mention a few of the cases that are historical, the accounts of which have been handed down to us.

On July 18, 1793, a Mr. Cook, a baker in Cambridge, England, was imprisoned for having, three and a half years previously, said that he wished "the churches were pulled down to mend the roads with."

On July 13, 1793, a Mr. Grimwood, an eminent manufacturer was indicted for having in his possession a copy of "Paine's "Age of Reason," but being a wealthy man and able to employ shrewd lawyers, they found a flaw in the indictment, and it was set aside.

Two days after at Chelmsford, Christopher Payn, bookseller, was charged before the quarter sessions with having sold a copy of one of Thomas Paine's pamphlets, but he got clear from a defect in the indictment.

At Knutsford and elsewhere several arrests and convictions were made for selling Paine's works.

At Nottingham, Aug. 1, Mr. Hall, printer of the *Newark Herald* was convicted and punished for selling Paine's "Address to the Addressers."

In the same month at Taunton, Messrs. Robinson, eminent publishers were sentenced to a fine of £100 for one of the firm and £50 each for the three others for selling the "Rights of Man."

A young man in Sutton was imprisoned a year, besides a fine of £20 for avowing himself a believer in the doctrines of Paine.

George Eden for a similar offense was imprisoned six months and fined. /

Messrs. Peart & Bilcher, booksellers at Warwick, were sentenced to prison each for three months for selling Paine's "Rights of Man."

On August 30, Thomas Muir, of Huntershill, was sentenced to fourteen years transportation for simply recommending the works of Paine to be read.

On September 13, Mr. Palmer, an educated gen-

tleman, for a similar offense was sentenced to transportation for seven years.

A Mr. Phelps, bookseller of Leicester, was imprisoned seven months for selling some of Paine's works.

On November 11, Daniel Holt, for publishing Paine's address was sent to prison for two years.

In December three indictments were preferred against a Mr. Spencer for selling the "Rights of Man."

For several years a persistent persecution by fines and imprisonment was kept up against various persons, in various places, for selling Paine's works.

In Bolton the town crier was sent around with a bell calling upon all persons who had any copies of the writings of Thomas Paine to bring them to the borough-reeve to be burnt, on pain of imprisonment if the order was not complied with.

This kind of persecution was continued from year to year. In 1812 J. D. Eaton, bookseller, was sentenced to prison in London by Lord Ellenborough for selling "The Third Part of Paine's Age of Reason." Shelley one of the brightest minds that England ever produced, felt so strongly that the freedom of speech and freedom of the press had been outraged by this unjust sentence that he wrote a letter to Lord Ellenborough upon the subject. It had the ring of a true lover of liberty and I take pleasure in reproducing the letter in this issue of my paper. I ask you to read it.

In 1827, ex-Rev. Robert Taylor, a man of great learning, for becoming a Freethinker and disavowing his former belief at Guildhall, was indicted, tried, and sentenced to prison for a year. In 1831 he was again arrested on a charge of blasphemy, was convicted, and sentenced to two more years of imprisonment.

In 1819 Richard Carlile, publisher and lecturer, in London, was indicted by a Christian court no less than six times for heresy and blasphemy. He was easily convicted, and was sentenced to imprison-



ment and a fine of £1,500 (\$7,500). While he was serving out his term, prosecution was also commenced against his wife, who was endeavoring to continue his business, and the Christian authorities seized upon the place, carried off Carlile's goods, and entirely broke up the business. After this the wife was sentenced to two years in a most comfortable cell. Upon the imprisonment of Carlile and his wife, his sister was brave enough to attempt to sell some of his books, but she also was arrested and sentenced to prison and fined £500 (\$2,500). After this a Mr. Wright and seventeen others raised some funds with a view of continuing Carlile's publishing business, but in the name of the religion of Jesus they were arrested and sent to prison for terms varying from six months to three years, with fines in addition. The imprisonment of Carlile and his wife and sister was rendered as unpleasant as possible by their Christian persecutors, and they were treated with far greater indignities than any of the felons confined for robbery or murder. When it was necessary for them to be taken out into the yard, they were led with ropes, like wild beasts. But this cruel persecution did not stifle Carlile's doctrines nor change his belief. After his imprisonment was over he sold far more books than ever before. But the enmity of the church was not lessened towards him, and in 1834 and '35 he was again imprisoned ten months for not paying church rates.

Among those now living who have been imprisoned in England for heretical opinions, is George Jacob Holyoake, a most gentlemanly and worthy man. In 1841, when he was less than twenty-five years of age, while engaged in lecturing upon co-operation, etc., a direct question was put to him as to his religious belief, which he answered with honest directness, but for this he was prosecuted and sentenced by Justice Erskine to six months' imprisonment as an encouragement for his truthfulness and candor. But he has lived to win the respect and admiration of large numbers of the best people of England.

The latest case was the conviction and sentence of Edward Truelove, publisher and bookseller, nearly seventy years of age, who, in the city of London, within a year, was prosecuted by the prototype of your Society, the "London Society for the Suppression of Vice," for selling a useful little work by the late Hon. Robert Dale Owen, of our own country, called "Moral Physiology." For this offense—or really no offense at all—the excellent old man was sent to prison for four months. His term expired a few months ago.

Mr. Charles Bradlaugh and Mrs. Annie Besant have been bitterly prosecuted by the same "Vice Society" for publishing and selling a small work written by Charles Knowlton, M. D., of Ashfield, Mass. They were convicted and sentenced to six months' imprisonment and a fine of £200. They, however, succeeded in obtaining a new hearing in a higher court, when, after much trouble, the indictment was declared defective, and they have escaped the ignominy and inconvenience of going to prison.

In this country, after passing over the persecution of the Salem witches, the Quakers—one of whom, Mary Dryer, was hung on Boston Common—and the Universalists, etc., etc., we come down to the persecution of Freethinkers. Abner Kneeland, a very upright man, was in 1833 arrested and prosecuted in the city of Boston because his belief in the nature of the Deity did not comport with the sectarian views of his persecutors, and he was sentenced to prison for sixty days.

Charles Knowlton, M. D., of Franklin Co., Massachusetts, a skilled physician and a Freethinker, author of "The Elements of Materialism" and a small medical work, alluded to above, called "The Fruits of Philosophy," was prosecuted and annoyed several times, but the jury were sensible enough not to find a verdict against him.

After this no person was sent to prison for opinion's sake until we come to the operations of your

Society, which seems to be endeavoring to revive the old spirit of persecution towards unbelievers ; but now you are doing the business under the pretext of suppressing obscenity, because you have succeeded in obtaining the enactment of laws making that a crime punishable with imprisonment and fine.

I do not by any means object to the punishment of obscenity, if it is honestly done ; but when the charge is only a pretext, and gotten up only to punish and persecute unbelievers not guilty of obscenity, the injustice is most reprehensible. The animus that actuates you and your Society can be easily understood when it is remembered that a year ago you publicly announced that Freethought publications would soon "be stamped out."

Let me assure you that any persecution that you may be able to bring to bear upon the Freethinking or Liberal element in this country will not avail to suppress it. Too many thousands of earnest people are imbued with honest convictions to be crushed by prosecution, fine, and imprisonments. It is hardly worth while for you to attempt it, for you must understand that by persecution you only spread that which you attempt to crush. Thus it has ever been and ever will be. You must of course remember that trite axiom, "The blood of the martyrs is the seed of the church." The more persecution, the more attention will be called to the opinions attempted to be suppressed. This is inevitable. Any book you attempt to suppress you only advertise and make it sell the faster.

There is a love of liberty inherent in the American heart which must make freedom of thought, freedom of speech, and freedom of the press, ever dear to the people. And though you succeed in crushing any particular line of belief for a while, it will surely revive again with more vigor than ever.

A man of your judgment and discretion should be able to see that persecution and oppression are not the means to combat an honest error of opinion and that they cannot redound to the honor of the oppressor.

You should understand, also, that what is now being done by your Society—oppressing and crushing honest thought and opinions—must become items of history, and will not only become familiar to those now on the stage of action, but to those also who come after us. May reason and justice guide you in your conduct towards those who cannot think as you do.

In conclusion let me briefly recapitulate and sum up. I have grown to be an old man. I have maintained through life a good reputation. I have not intended to wrong any one, and hope I have done far more good than harm to my fellow-men. I have committed no crime in the offense with which I am charged. I have not been guilty of obscenity. I have only exercised the rights of an American citizen. Your Society uses falsehood, decoy, and misrepresentation to accomplish arrests and prosecutions. It takes especial pains to oppress those of heterodox views, without other sufficient cause. You have yourself positively violated the law under which you caused me to be indicted, while my violation is only a constructive one, by calling obscene that which is not obscene, as thousands will testify.

My record through life has been good, while hundreds of your own clergy and prominent church members have made bad records and still have not been punished. The right of one class to punish another for opinion's sake is a very questionable one. The law under which I am prosecuted is of very doubtful constitutionality, to say the least. Persecution of myself for my opinions will not do you, your Society, nor your cause any good. This Government should protect every man in the enjoyment of his honest opinions. There are many worthy men—scientists, scholars, and thinkers—both in this country and in Europe, who hold anti-theological views similar to my own. I have meant no harm, have done no harm, and do not deserve punishment.

Under all these considerations I can only hope

that I may have a fair, honest trial, and that a jury of my peers will not come to the conclusion that I ought to be deprived of my liberty, or be stripped of my scanty effects.

“ But truth shall conquer at the last,  
For round and round we run;  
And ever the right comes uppermost,  
And ever is justice done.”

I am very sincerely yours,

D. M. BENNETT,  
141 Eighth St.

*New York, March 1, 1879.*

# A Circular Letter.

TO THE EDITORS, PUBLISHERS, AND THINKERS OF THE UNITED STATES, *Gentlemen* :

A jury were constrained to render a verdict against me on the 21st ult., in the Circuit Court of the United States of this District, under a charge and certain rulings of Judge Charles L. Benedict, which, in my view, deeply concerns the world of thought, and the freedom of the press, of speech, and of literature. The indictment was for mailing a copy of a pamphlet called "Cupid's Yokes," written and published by E. H. Heywood, of Princeton, Mass., which had been sent to Anthony Comstock at Granville, N. Y., under one of his decoy names, in the usual course of my book trade.

The charge in the indictment was that the book was "obscene," under the United States postal law on that subject, which Mr. Comstock caused to be passed in 1873. I defended on the ground that the law is unconstitutional, and also that the book is not obscene even under the wording and fair application of that statute.

1. To show this, my counsel offered to prove by forty or more expert witnesses, editors and literary men and booksellers of great experience and established reputation, that this work, for mailing the *whole* of which I was indicted, was not of "an obscene or indecent character," but a social polemic, and would not be classed as an obscene work in the trade or in literature or in the general use. The Judge at once excluded all such evidence.

2. My counsel then offered to prove, by experts of great knowledge and experience in the use of words and language,

the true meaning of the words "obscene" and "indecent," and that they did not apply to this little work. The Judge ruled out all evidence of this kind.

3. I then, by my counsel, asked to have the whole pamphlet, consisting of only twenty-three pages, read in evidence to the jury, so that they could see from the whole of it whether it was fairly classed as an obscene book or not. The prosecuting attorney then for the first time said that he would only rely upon certain passages which he would mark. Thereupon the Court ruled that not the whole book but only those passages should be read to the jury. The Court then excluded all of the book except the twenty-two short and isolated passages then pointed out by the prosecutor, and which were largely notes quoted from Plutarch and other standard authors.

4. My counsel then, in summing up, began to compare those twenty-two passages with similar ones in the common literature of the language, so as to show that neither in expression nor thought could they be classed as obscene, and that if they were so classed nearly every library, periodical, and newspaper in the land must also be condemned, from the Bible down to the *New York Herald*. The counsel was stopped by the Court, and all right of comparison was excluded and forbidden.

5. My counsel then proceeded to read the portions of the book in question which, in his view, helped to explain the passages objected to and make them innocent, if they were not so in themselves. The Court limited counsel in so doing to such context as *it* deemed proper for that purpose. For instance, the Court stopped the counsel and refused to allow him to read the concluding page of the pamphlet, which determines its scope and tendency, and which, in my view, renders perfectly harmless the isolated passages and notes objected to.

6. This being a *criminal* case, I claimed that the jury were "the judges of the law and fact" under the statute,

and should determine and apply the definition and purpose of its words. The Court held that the jury must take the law and "test definitions" only from the Court, and stopped counsel in his efforts to show the jury what the true meaning and purpose of the words of the statute were.

7. After these rulings the charge of the Court was, in manner, effect, and influence, an authoritative direction to the jury to bring in a verdict of guilty. It magnified the evil and extent of obscenity (of which there is very little), extolled the importance, necessity, and constitutionality of the law, and gave "test definitions," which the Court said it had used in previous cases, and which, at the request of the foreman of the jury, was sent in to them. This to me astonishing definition, therefore, took the place of the statute, which was not before the jury, and of course compelled conviction, as it had done, I am informed, in every previous case of the kind before that Judge. This "test" reads as follows:

**"The TEST of OBSCENITY is, whether the TENDENCY of the matter is to deprave and corrupt the morals of those whose minds are open to such influences, and into whose hands a publication of this sort MAY fall."**

**"LEWD means having a TENDENCY to excite lustful thoughts."**

**"Passages are INDECENT within the meaning of the statute if they contain obscenity, that is to say, matter having THAT FORM of indecency which is CALCULATED to promote the general corruption of morals."**

Under this charge and test, delivered in the most authoritative manner, the jury doubtless felt that they had no choice but to approve the marked passages as blameless in the point of conventional morality, in whosoever hands they



might fall, or to bring in a verdict of guilty, and of course they did the latter. What may not be corruptive to minds sufficiently corruptable? One of the jurymen held out all night, from 4 o'clock P. M. until 7 o'clock the next morning, as a protest against this test, which, as he said, would condemn nearly every library and newspaper in the land, including his own.

There certainly are few books and papers of a religious, polemic, literary, artistic, scientific, radical, or reformatory character, in which some isolated passages, or pictures, quotations, or advertisements may not be found that a jury sufficiently ignorant or bigoted may not deem, or be made to believe, to hav a tendency to corrupt *the morals of those open to such influences*, and into whose hands the publication *may* fall. The Bible would be the first book to be condemned under this test, as Mr. Parker Pillsbury has plainly shown in his pamphlet, comparing passages from it to those objected to in "Cupid's Yokes." Our general literature, past and present, would fare no better, as would have been shown in this trial had the Court permitted.

It is plain that Mr. Comstock's society, and similar societies now being formed throughout the land, armed with this test, and under such rulings, have a censorship over the press and the mails of the most insidious and dangerous character, and which they may enforce against almost any editor and publisher and author at will. What liberty there is left in literature is largely the result of their forbearance, or the refusal of prosecuting officers to listen to them. Mr. Lant, Mr. Heywood, and myself, all editors of Liberal newspapers, have been attacked under this law, evidently, and I may say *avowedly*, for the purpose of destroying our papers. This I offered to prove, and could have proved on this trial, to have been the object of this prosecution, but the Court would not permit it to be done.

The danger is none the less common because it is my ox which is being gored now. On social, moral, and even the-

ological subjects, the "freedom of philosophising" in our so-called "free" America, is no greater than it was with Socrates at Athens, Galileo in Italy, with Vanini in France, with Servetus at Geneva, or Shelley in England. The pretext in every act of persecution has always been in substance the repetition of the charge against Socrates, "that he was introducing new gods, and depraving and corrupting the morals of youth." Upon these pretexts, juries seldom have firmness and intelligence enough not to render the required verdict of "guilty," for they do not know what liberty of thought means or requires, and the Court always assures them, as did Judge Benedict in substance, and with fine irony in this case, "that prosecutions of this character have nothing to do with the freedom of the press."

Let me say on this point that my only object in selling this pamphlet was to vindicate the liberty of thought, and of the press, and of the mails. I have always announced that I did not approve of it, but as long as Mr. Heywood did, I declared that he had the right to mail it as a part of his right to publish it, and as a necessary part of the freedom of the press.

The reception which the opponents of this pamphlet have given it, is in my view the most mistaken possible. They have not tried to answer it at all, but have resorted to the brute force of legal persecution, under a false pretext of obscenity. This course has had the effect to increase its circulation from a few hundred to about thirty thousand. I do not know of any good and short answer to this pamphlet in print, but I would gladly print and circulate any such answer if the opponents of the views presented will furnish me with it. The object of the pamphlet is to show that a freer love between the sexes, controlled by self-government and an enlightened conscience, is desirable, and that our marriage laws and customs should be amended or abolished in the interest of a higher morality and purity, which this author thinks will be one day realized. A Christian phi-

lanthropist, a Baptist clergyman of Boston, a few years ago, gave us a very able little book (published by Campbell & Co.) in favor of polygamy. Rev. J. H. Noyes, of the Oneida Community, has for years circulated his pamphlets, advocating community marriage, or coinogamy. Now let those who are in favor of monogamy as it exists under our present marriage laws, sustain it against these assailants by facts, reason, and fair arguments, and not resort to Mr. Comstock's inquisition under the pretext of "obscenity," which, if it really exist, they thereby circulate a thousand fold. I promise, and shall be glad to publish and circulate any concise work in favor of legal monogamy that may be furnished me, provided it is as able and as free from obscenity as the works I have referred to.

That this pamphlet in question is not in any fair sense "obscene" will be apparent upon its examination. It does not belong to that class of works at all, but is a reformatory social polemic aiming, in the author's view, at a higher plane of morality. Few approve of its conclusions, but that it is not amenable to the "obscene law" has been attested by the thousands who have read it, including Hon. Charles Devens, the present Attorney-General of the United States, Hon. Elizur Wright, and over one thousand others who have with him signed or indorsed a defiance of prosecution on its account, and many others. The witnesses who appeared in court to testify to the same effect were some of our best citizens, well-known in the trade and in literature. When there is such an intelligent opinion to the contrary a prosecution on this ground seems to me ridiculous. In a case of real obscenity there is no such difference of opinion, and no real opposition.

In conclusion, what I ask of the Press and Trade and every Thinker is to do what each can to protect their own rights and liberties which have been assailed in perhaps their humblest member. To accomplish this it seems to me evident

(1.) That the laws and practices of the courts must be changed by Congress so that the seven instances of injustice I have enumerated above may never be repeated again even under this United States law.

(2.) That the power of arrest and prosecution for obscenity under any laws should be withdrawn from amateur criminal societies, formed and supported by clerical and sectarian influences, and be left to officers impartially responsible to the people as in other criminal cases.

(3.) That the bringing of these prosecutions in the United States Courts by means of decoy, when they could be better and more fairly brought in the *State* courts is a perversion of the purposes of the National Government and its criminal jurisdiction in order to get "the victims" of this society under a "test" where their conviction is certain and the penalty may be *ten* years in the state prison and five thousand dollars fine.

(4.) That these U. S. Postal Laws though declared constitutional by a *dictum* of the U. S. Supreme Court in a case in which the matter was not argued, are not really constitutional, and inevitably place the Press and the Trade under an espionage and censorship which can never be tolerated after it is really understood.

I believe that if you will examine into this subject you will come to these conclusions, and will I hope explain them effectively before Congress and the people so that the law that permits these outrages may be repealed or modified. It is for that end only that I have sold this pamphlet, suffered this prosecution, and been advertised as a "Free-lover," and "obscenist" from one end of the country to the other *falsely*. On the trial the only thing I was allowed to prove was that my character as a citizen, business man, and practical monogamist was A. No. 1. Indeed, the prosecutor admitted that.

I have sacrificed much in my reputation and in my means

to make this fight, for it seemed to fall upon me to make it but I pray you not to let me make it without your reasonable aid and approval.

D. M. BENNETT,

Editor of THE TRUTH SEEKER, Publisher and Bookseller.

141 Eighth st., New York, April 2, 1879.

### Letter from the Attorney-General.

DEPARTMENT OF JUSTICE,  
WASHINGTON, Jan. 13, 1879. }

*Elizur Wright, Esq., Boston, Mass., Sir:* I have received your letter of the 10th inst.

Any prosecution against Mr. Bennett in New York for selling the book published by Mr. Heywood must be a proceeding under the state law with which the United States authorities have no connection.

With regard to Mr. Heywood's case, the action of the President, as well as my own, has been misinterpreted if it is supposed that any approbation was given to the publication of the book. The evidence in the case was that Mr. Heywood's health had suffered severely by his imprisonment, and that the gravest consequences were to be apprehended if it continued. He had already been in jail six months. In regard to the book itself, while it seems to me a publication not desirable to be made, I am aware that there may be much difference of opinion upon the subject, and do not confound it with those obscene publications the effect and object of which is to excite the imagination and inflame the passions.

Very respectfully,

CHAS. DEVENS, Attorney-General.

## AGAIN IN THE INQUISITION.

[*From The Truth Seeker of June 7, 1879.*]

On Saturday, May 31st, at 11 A. M., according to the time previously appointed, we appeared at the U. S. Circuit Court rooms to hear the decision of Judges Blatchford, Benedict, and Choate as to granting us a new trial upon the points and exceptions argued by our attorney sixteen days earlier. Many of our friends who felt a lively interest in what this decision would be were present; and as the three judges marched solemnly in and seated themselves, if not on their thrones or the "bench," at least in luxurious chairs, doubtless many felt the awfulness and augustness of the power in the presence of which they had thus been brought. Perhaps some of them had hardly ever before been in the presence of such an amount of legal lore and judicial authority and dignity.

Judge Samuel Blatchford has been esteemed as a very fair and honorable judge, and many indulged strong hopes that his respect for personal liberty and his love of justice would prompt him to be just in this case, and disagree with the very unfair and tyrannical rulings and charge of Judge Benedict, and thus allow us a new trial, or at least to differ on some points—for which there was ample room—so as to allow the case to go up to the Supreme Court of the United States for the simple article of justice, often so hard to be found in the lower courts. But

those who hoped for this indulged their expectations in vain, as did those who indulged in the hope that Judge Choate would rise to a due consideration of the magnitude of the case, and at least interpose a word to save an old man from being ignominiously sent to prison for exercising the simple right of an American citizen in depositing a harmless pamphlet in the public mail. But those who looked for something of this kind from Judge Choate had more faith and hope than we had, for in his pinched-up, dyspeptic-looking physique we had failed to see the magnanimous jurist, the intrepid dispenser of justice. He had not a word to say in protest of the grim farce that was being enacted, whereby a citizen was being deprived of his liberty and his dearest rights.

From Judge Benedict nothing was hoped nor expected, and nobody was disappointed. He, as a matter of course, adhered to his own monstrous rulings, and he fully sustained the reputation that in the minds of many he has established—that since the time of George Jefferies a more infamous judge has not occupied a judicial position. With the stolid doggedness and cruelty of a bigot, with the relentlessness of a tyrant, with coarse sensuality—if not animality—and love of self strongly marked in every lineament of the face and in every movement of the body, nothing was to be expected of this intolerant Calvinist, this determined bigot, but that he would unyieldingly adhere to the narrow and unfair rulings and test which he had established as a precedent.

Those who had indulged a faint hope that the three judges would at least do so much as to divide

in their opinions, and thus let the case go up to the court of last resort, had not taken into full consideration the facts of the case and status of the judges. Judge Benedict for six years has been sending people to prison on the decoy system and perjured testimony of Anthony Comstock and his own narrow definition and test of obscenity, and in this appeal he was virtually on trial himself. Judges Blatchford and Choate, brother Calvinists and equally susceptible to the influence and pressure of the clergy and the church, which in this case were carefully kept back of the scenes, were of course not oblivious to this fact, and very naturally wished to do what they could to save him, and they did. The disposition that professionals feel to stand by each other in cases akin to this is well known. In cases of malpractice a physician hardly wishes to condemn a brother. It is the same with clergymen, the same with lawyers, the same with artists, artisans, and craftsmen generally. There is even a brotherhood among thieves, and they will fight, and sometimes lay down their lives, for one another.

Judge Blatchford delivered the opinion of the court. He said that, in the case of the United States against D. M. Bennett, on application on exceptions for a new trial, upon duly looking into the matter, they had unanimously come to the conclusion to deny the petition. The rendition of the opinion was very brief. He had written out at length an opinion upon the subject but deemed it not necessary to read it. It will go upon the records of the court in this case. We have been to the expense of having it copied. It is too long to introduce here, but we give it in the account of our Trial, which con-



tains all the proceedings in the case subsequent to the trial.

As soon as Judge Blatchford had rendered his opinion, District-Attorney Fiero requested that we at once be remanded for sentence. Our attorney, Mr. Wakeman, moved that a future day be set for the sentence to be pronounced. After some sparring between counsel and the judges, the time for the sentence to be delivered was set for Thursday, the 5th inst, at 10 A.M. The question then arose as to the bond under which we are held, whether it was sufficient to hold us until the sentence is pronounced, or whether we would have to go to jail and await the sentence. By producing the bond, and its being read by the judges, it was decided to be sufficient, and that we could be free till Thursday morning. We shall then be sentenced, but how severe it will be is a matter of conjecture. But taking into consideration Judge Benedict's past sentences and the enmity of the clergy, the Young Men's Christian Association, and the church generally towards THE TRUTH SEEKER and its editor, a light, merciful sentence need not be expected. The spectacle will probably be witnessed of a man of three-score years, who has committed no wrong either against the state or his fellow-man, being sent to prison with thieves and pickpockets.

An effort will be made by our attorney to get the case before the Supreme Court of the United States, but probably with no success. The Supreme Court does not sit again till October, and there is no probability that Judge Benedict will allow us to be at large on bail until that court sits. He undoubtedly would rather enjoy the exquisite pleasure of sentenc-

ing us to a term of imprisonment at hard labor for exercising the right of an American freeman. Even if the case can be carried to the U. S. Supreme Court it cannot reasonably be expected that the decision here will be materially changed. Every judge on the Supreme Bench is said to be an orthodox Christian, and to expect they will reverse the rulings of their Christian brethren here, or that they will be just towards an obnoxious, outspoken Infidel, is nearly as unreasonable as to suppose a pack of hungry wolves could be merciful to a hapless lamb that might fall into their power. As a court of last resort it is of little value when the rights and liberty of a heretic are at stake. The people of the land is the only court to which we can look with any hope of ultimate success. The American people have an inherent love of liberty and fair play, and when they become informed of the unjust, unconstitutional character of the law under which we are arrested and the unfairness shown us upon our trial, we believe they will largely and loudly protest against the injustice and wrong, and especially demand that the monstrous law under which we have been arrested and convicted be repealed. Every honest, liberty-loving man in the country ought to insist, unfalteringly, that that obnoxious law be removed from the statute books of the nation.

**What I Have to Say why Sentence Should  
Not be Passed upon Me.**

[Mr. Bennett prepared the following statement, and requested that he might be permitted to read it in court previous to being sentenced; but he was not allowed to do so.]

An aggravated wrong has been done me, in the forms of law, in my arrest and conviction in one of the highest district courts of my country. I have been arraigned here as a gross criminal and charged with an offense sufficient to send me to prison, at hard labor, with felons and law-breakers of various kinds. I have, in the sixty years that I have lived, striven to lead a good life, to be loyal and faithful to my government, and to do no wrong to my fellow-men. I feel confident that the charge upon which I have been convicted is no offense whatever. Every person in the country has a perfect right to deposit in the mail a copy of "Cupid's Yokes" if he wishes to. There is nothing in it that can possibly damage the mails or do the slightest harm to any person who may take it from the mails. Probably one hundred thousand people have read the pamphlet, and there is no account or complaint that a single person has in the slightest degree been injured by it. The greater part of those who have read it, though they may not indorse the doctrines of the author or his manner of presenting his arguments, give him credit for honesty and sincerity, and pronounce the work

*not obscene.* That is the position I occupy. I do not indorse the pamphlet, and believe the author to be mistaken; but a man has a right to be mistaken, in this country, and to defend an absurdity, and even an error. There is no law preventing a man's advocating an immorality if he does it in proper language.

I fully believe that the statute under which I am convicted is wholly unwarranted by the Constitution of the United States, which confers upon Congress no power to establish a censorship of the mails or an espionage over them. It is a new thing for the government to undertake to regulate the morals and opinions of the people, and to say what books they may read, or what quality of literature they may send through the mails. It is a new thing in this country for the spy system to be established in our post-offices and for every postmaster and clerk to become a censor of the press, empowered to open and look at the moral quality of the people's mail, after the same has been stamped as the law demands, and then decide whether it is of the right moral grade to be forwarded. This is the very nature of the statute the passage of which was procured by Comstock, and under which I have been arrested and convicted. I am satisfied that hundreds of parcels that I have deposited in the mail in this city, though duly and legally stamped, have been stopped. In endeavoring to find out something about it, I went to several of the officials of our post-office to see what I could learn. I asked Assistant Postmaster Pierson if Anthony Comstock had a right to enter the post-office and examine the outgoing mail and throw out such parcels as he saw fit. Mr. Pierson replied in

the affirmative, and said Mr. Comstock, as secret special agent of the postal department, had the right, any time he chose, to examine second and third class mail matter and throw out what he found to be not suitable to be forwarded. This accounted for the hundreds of complaints I had received from all parts of the country of pamphlets and books not being received when I knew they had been duly stamped and mailed ; and since being forced to mail certain of my books and pamphlets outside of the city I have heard no complaint about their not going through. I am positive that my mail matter has been tampered with and that it has been done at the instance of Anthony Comstock ; and, in confirmation, I have the avowal of Mr. Pierson that Comstock has the power to overhaul the mails if he wishes to do so.

I have never been a dealer in obscene books, and have never deposited one in the mail. The only obscene book I have seen for many years was mailed by Anthony Comstock to a person of my acquaintance, of which I possess the positive proof. That book, or part of a book, was of the most indecent character, both as regards the text and the cuts. It was but a small part of the stock which Comstock possesses in large quantities, and takes special pleasure in exhibiting to his friends, and in using to procure such legislation as the statute under which I am convicted.

A few words as to the relative characters of my accuser and myself may not be amiss. The only thing I was allowed to prove on my trial was that for over forty years I had borne an unblemished character, and that I had been known as a truthful,

honorable, moral man. The prosecution admitted this to be true. I have always endeavored to do my duty, and to wrong none of my fellow-beings. But what is the character of my accuser and persecutor? From early life he has been known as a low, unprincipled person. Those who knew him as a boy testify to the mean, contemptible, and low tricks he was guilty of. As he became a youth it was the same. I have proof, as good, perhaps, as there is in the state of Connecticut, of some of young Comstock's dirty conduct. I can prove that he confessed or boasted to his companions of a species of bestiality by holding a vile and unnatural commerce with a dog! And had he, upon his own confession, been tried by what is called the Mosaic law, as given in Leviticus xx, 15, he would have been put to death; and by the laws of modern times he could be imprisoned. This was but a precursor of Comstock's subsequent life. If he or any of his pious friends wish to take issue on this statement the proof can be forthcoming.

He is a man of low, vulgar character. His conversation among his intimate acquaintances is often coarse and low; he has often carried on his person the most vulgar and immoral pictures and books, and these he has exhibited to his friends with peculiar gusto. That he is not a man of the purest moral character can easily be shown. Little episodes in his life, where something like liaisons with the opposite sex are concerned, may yet be brought to light. Instances of this kind, notably at Buffalo, N. Y., and Corry, Pa., may at some future time be tested to. The time for this is not now.

His career since he became the conservator of the

morals of the people has been one of hypocrisy, decoying, trap-setting, inveigling, enticing to crime, perjury, and the grossest falsehoods, as can be proved over and over again. At a public meeting of clergymen in Boston, May 30, 1878, he was questioned by the Rev. Jesse H. Jones in this wise: "1. Mr. Comstock, did you ever use decoy letters and false signatures? 2. Did you ever sign a woman's name to such decoy letters? 3. Did you ever try to make persons sell you forbidden wares, and then when you had succeeded, use the evidence thus obtained to convict them?" To each of these questions Comstock answered "Yes." Then the gentleman replied, with firmness of manner, that he considered Comstock had been guilty of conduct that would disgrace a Boston policeman.

This Comstock is the man who, on the 14th of June, 1878, with a sum of money, hired three frail young women at 252 Greene street to exhibit themselves in a perfectly nude condition before himself and five other men, nearly as sensual as himself, for an hour and a quarter or more, and then dragged them off to prison for doing the thing he had hired them with money to do. These facts were proved on the trial of the girls in Judge H. A. Gildersleeve's court, Sept. 24th and 25th 1878, when the girls were discharged by the Judge upon the ground of the direputable means that had been employed to induce the commission of the offense. But the arrest and the costs connected with it cost Malam De Forrest, who kept the house, but was not present when the exhibition took place, the sum of \$2,500.

Comstock has used great persistency and cunning in trying to induce artists to make indecent pictures

that he might be able to arrest them and cause their ruin and disgrace. There is any amount of proof of this that may be desired, After the villainous treatment I have received from him I feel justified in telling some few of the facts in his vile career.

To the deception, falsehood, and forgery the man employs must be added the perjury he has committed in securing his convictions. He committed perjury in my case, which I could have proved by three truthful witnesses could I have been allowed to do so. I believe he has committed perjury in nearly every case he has prosecuted. I will have little trouble in proving perjury upon him in twenty of the convictions he has secured, and for the doing of which his pious backers and employers have paid him for several years the fine salary of \$4,000 per year.

This is the man who has been able to control our state and national legislation and procure the passage of statutes that are a disgrace to our civilization and our time. This is the man whom the authorities at Washington have appointed to be a private detective and censor of the people's mails. This is the man whom a Christian society of this city has employed to persecute and prosecute radicals in theology, medicine, etc., who do not bow in allegiance to the powers and rings which set themselves up as orthodox. This is the man who has sought me out, put me to great trouble and expense, and has procured my conviction, and who has been able to send me to prison with thieves and robbers and felons of all kinds, while he is the petted champion of his pious employers. This is the man who, backed and sustained by Judge Benedict, a salaried



judge of my country, who is supposed to be a minister of justice, is able to boast, as he did at the time of my trial, that he is always sure of a conviction in Judge Benedict's court, and that he "always wins here." When the contrast is noticed between the success that Comstock meets with in the United States courts in Philadelphia, St. Louis, Chicago, Indianapolis, Buffalo, and in the state courts in this city, where he finds little or no success, and the court presided over by Judge Benedict, it is easily seen why he can boast of Judge Benedict's partiality towards him and his cases. Yes, this is the man whom Judge Benedict patronizes and assists by rulings and charges which, to say the least, are most extraordinary. If Benedict sustains Comstock he participates in Comstock's guilt and condemnation. If Judges Blatchford and Choate commend Judge Benedict's course in sustaining Comstock, they must be held as participators in his culpability. It is indeed to be feared that the reputation accorded to these Judges of fairness and loyalty to liberty has not been as deserved as it should be. Comstock admitted in this room, immediately after the jury had retired, that he had prosecuted me here in revenge for what I had said about him; and that he would not have commenced this prosecution against me had I not "pitched into him" the way I had done. Said he, "I did it in self-defense." Thus I am to be sent to prison because I was almost the first man to publish the truth about this contemptible human being. But I did not begin the contest with him. He was the aggressor upon me. What I have done has been forced upon me by his persistent attacks upon me with the determination to degrade and

ruin me. So long as the conflict was single-handed and equal I was perhaps able to hold my own with him. Even with his friends Parson Newman, Joseph Cook, the Rev. Howard Crosby, Dr. John Hall, the Rev. F. Courtney, Samuel Colgate, and Joseph Britton to aid him I was not utterly annihilated; but when he is able to bring Judge Benedict and the courts, and the power of the United States Government, against me it is too much for me. With such backers of Comstock, with such heavy odds against me, I must yield and go to prison. But it is the victory of might and not of right. Alas! it is a sad day for the liberties of the people and their institutions, when such a man as my accuser, aided by such a trio of judges, is able to tear a man from his family and business, and for committing no crime to degrade him, send him to prison with felons and abandoned characters, simply because his opinions do not agree with the orthodox standard set up by the church. It is an outrage which every lover of liberty ought to condemn.

The cruelest and most unjust thing in my arrest and conviction is the miserable pretext upon which it has been done. This trouble has not been brought upon me because it was really thought that I was a dealer in obscene literature, but because I boldly advocate heterodox views, and take the liberty to do my own thinking, and not hire a clergyman to do it for me. This pretext has been disavowed, but it is a useless disavowal. The prosecuting attorney, in the outset of my trial, made the announcement that no attack would be made upon any theological views I might hold; but the falseness of this claim was shown when subsequently he several times alluded

to some of my heterodox writings, with the evident intention of prejudicing my case with the jury, who were mainly members of Christian churches, the foreman being superintendent of a Sunday-school. The fact that I am editor and publisher of an Infidel paper, and the publisher of books of the same character, was not kept in the background. It was because I am an opposer of the system of Christianity that I have been arrested and convicted. The desire and influence of the clergy and the Young Men's Christian Association, and the Christian Vice Society, that I should be convicted, has been marked. I have been a troublesome opponent which they wished to have removed. To be assured of this effort on the part of my theological enemies to secure my conviction, attention only has to be called to the efforts in the Young Men's Christian Association to work up a case against me, and the enmity of certain clergymen expressed towards me. For what else did the Rev. Joseph Cook lend his presence to his friend Comstock at my trial? For what else does the Rev. John Hall, the Rev. F. Courtney, the Rev. Howard Crosby, and Parson Newman hobnob with Comstock, and defend his vile conduct, and speak in the most unfriendly manner of myself? This Howard Crosby broke friendship with a gentleman of my acquaintance because that gentleman is a friend of mine and defends the position I occupy. In a letter to that gentleman he has written most disparagingly and unfriendly respecting myself. For what other reason did Samuel Colgate, President of Comstock's Vice Society, and an active member of an orthodox church, lend his aid and influence during my trial and in opposition to me?

What did it indicate when Samuel Colgate—that man of unlimited piety, and vaseline, and soap, President of Comstock's Vice Society, and his main backer and sustainer—on the 31st of May, after, by the unanimous opinion of the three judges, my petition for a new trial upon exceptions and errors presented by my counsel, was denied me and a day set for my sentence—what did it indicate, I say, that the bigot Colgate should visit the sneak Comstock at his office, at 150 Nassau street, to chuckle over my defeat, and congratulate themselves that the three judges aided them in crushing the “old Infidel?” When Colgate emerged from the office of that pink of purity and perfection, a pleasant smile was seen to pervade his countenance, and he looked happier than he had looked for a month. He rejoiced at my defeat, and he meditated on the certainty of my going to prison with positive joy. John Calvin did not feel greater joy and self-complaisance when the edict was enunciated that Michael Servetus should be burnt at the stake. The joy of Colgate is participated in by the brilliant and high-salaried clergy of this city and thousands of their imitators all over the country. There will be a general rejoicing when Bennett, the Infidel, is behind the prison bars. May their happiness be unalloyed! The support of Colgate during the trial was so conspicuous that the prosecuting attorney, Fiero, availed himself of the mention of it to influence the Christian jurors against me. His assertion that no objection was made to me on account of my religious views was probably as truthful as the repeated assertions by the Judge that the question of the freedom of the

press was not involved in this case. It was *directly* involved.

It is hard to realize that in this land of boasted freedom, fought for by the brave Washington, who did not believe the fundamental doctrines of Christianity to be true; a land whose freedom was largely won by the patriotic pen of Thomas Paine; the land whose Declaration of Independence and whose glorious Constitution were mainly the work of Thomas Jefferson, who was as thoroughly an unbeliever as myself; the land presided over by John Adams and Abraham Lincoln, who were also unbelievers; this land which, in its organic structure, recognized no form of religious faith; a land whose fathers and founders laid it down as a fundamental principle that every man and woman in the country should ever enjoy the privilege of worshipping God according to the dictates of their own conscience—to worship one hundred gods or no god at all, as they preferred; a land where heathens, Mohammedans, Christians, and believers and unbelievers of every grade, shall stand on a perfect equality, and each be as free and as fully protected by the government as the other—it is hard, I say, to realize that in such a land, within one century from the establishment of its government, a man should be sent to an ignominious prison because his belief does not tally with the ruling class, and because he dares to proclaim what he honestly does believe. It is, indeed, a retrograde movement which should not be looked for in the last quarter of the nineteenth century. It is a departure from the original programme of "perfect freedom for all creeds, all forms of belief," which was the

boast of our country for many decades, most saddening to contemplate.

That it is not obscenity in my case, and that "Cupid's Yokes" is only a pretext made use of to secure my imprisonment, hardly need proof. It is a palpable fact that every library of any size in the country, whether public or private, and almost every dwelling, contains far more that is indecent or salacious than anything to be found in "Cupid's Yokes;" that the writings of standard authors in English, German, French, and Italian, and sold by every book dealer in the country, contain infinitely more that is objectionable than Mr. Heywood's little pamphlet. Every copy of the Jewish and Christian Bible contains a hundred times more of vulgarity and indecency than all the copies of "Cupid's Yokes" that were ever printed. When it is understood that there are publishers in this city who within the last sixty days have sent out by mail a scientific and medical journal infinitely more objectionable and more indecent than "Cupid's Yokes," and that this fact was brought to the knowledge of the district attorney who prosecuted me with such vigor as to be cruel, and yet he takes no action in the matter, it may be regarded as an absolute fact that it is not obscenity that makes my Christian enemies so incensed and vindictive towards me as to pursue me behind the prison bars; but because I have the temerity to tell unwholesome truths about the decaying system of religion which fetters the minds of my fellow-countrymen, and tyrannizes over them at the annual cost of \$200,000,000. If I paid a liberal price for a pew in some fashionable up-town church, and paid generously towards making up the

yearly salary of the preacher and the fashionable choir; if my paper would talk about Jesus and the wonderful properties of his blood, and the great importance of having faith that he was sent into this troublesome world to suffer, to mourn, and to die that a small moiety of the human race might taste the joys of pardon, while the great bulk of the family of mankind are cast into the eternal and unquenchable fires of hell, I would be thought all right by this Christian community; and though I mailed, in my book trade, scores of copies of "Cupid's Yokes," I should never be molested; Comstock would not pursue me with venom, hypocrisy, and hate; Chancellor Crosby would not speak so vindictively of me and show so plainly that he wished me behind the bars; Joe Cook would not utter falsehoods about me, Samuel Colgate would not use his money and influence to prosecute me and ruin my business, and Judge Benedict would not now have the pleasure nor the opportunity to consign me to a prison cell. It is perhaps a misfortune that I have not the flexible and elastic faith which my Christian opponents count so great a virtue, and that I cannot use the hypocrisy that many do and pretend to believe what I do not. In that way I could easily float on with the popular tide, and receive patronage and adulation from those who are now doing all they can to destroy my business. But it is not easy for all to be hypocrites. I shall avow my honest convictions whether it sends me to prison or not.

My conscience approves me for what I have done. I feel an assurance that I am correct in the position I occupy. I do not regret what I have done, for I

have been true to my honest convictions. I have been true to what I deem right and just. In the sincerity of my soul I believe I am a better man than those who have imprisoned me with the hate and venom of demons. I believe I am a better and truer man than Anthony Comstock ; I believe I am a better and truer man than his aid, Joseph Britton ; I believe I am a better and truer man than Samuel Colgate ; I believe I am a better and truer man than Joseph Cook ; I believe I am a better and truer man than Howard Crosby ; I believe I am a better and truer man than William P. Fiero, who did his utmost to place me to disadvantage before a Christian jury ; I believe I am nearly as good and true as Charles L. Benedict, who was a most efficient prosecutor in my case. As unenviable as my position is here to-day, counted among Comstock's convicts, soon to be sent by the judge who prosecuted me to be numbered with imprisoned felons and to wear the prison garb, I would not change places with either of those named. In the light of coming history, in the just verdict of the men who will come after us, I would far rather be D. M. Bennett, the condemned heretic, than to be either of his cruel Christian persecutors.

I am not the first man, by many thousands, who has been sent to prison for being honest with himself and true to his own convictions. From the days of Socrates, four hundred years before the Christian era, who was deprived of his life because his views did not correspond with the views of those in power, and on the miserable pretext that his teachings were corrupting the morals of the young—or, in the language of Judge Benedict, because the



“tendency” of his teachings was to “deprave and corrupt the morals of those whose minds are open to such influences, and into whose hands” such teachings as those of Socrates “may fall”—from the time of that unfortunate philosopher to the present, bigoted intolerance has ever triumphed over real worth. Tyranny, power, and bigotry are very apt to feel great concern about the morals of their vassals and of the rising generation. This is often the pretext which they use for visiting dire vengeance upon those over whom they are able to raise the heavy hand of oppression. It was so in the case of Jesus, who was put to death because his views did not suit those in authority. So it was with Bruno ; so it was with Vanini ; so it was with Servetus ; so it has been with thousands upon thousands who, in inquisitions more bloody but not more cruel or unjust than this, have received their terrible sentence, as I am about to receive mine, either to be consigned to a dungeon, sent to the rack, the wheel, the scaffold, or the stake. I repeat, I do not recoil at being numbered with that class of noble men. I do not blush with the crimson of shame for what I have done; and I count it an honor that it is my destiny to suffer in behalf of free thought, free speech, free press, and free mails.

I look for no mercy from this court. I ask not for its clemency. I look for it to carry out the miserable farce it has thus far enacted, and to visit upon my defenseless head its direst vengeance and tyrannical power. My confidence is in the liberty-loving people of America. They have a strong love for justice and fair play. They are the “court of last resort,” to which I fervently look for the correction

of the great wrong that is being done me in this court.

I devoutly hope that the freemen of America, when they see the great injustice that is being perpetrated under this vile Comstock statute, the numbers of comparatively innocent people who, with the co-operation of a tyrannical, bigoted, and heartless judge, have under it been consigned to an undeserved prison, will decide that this odious law and its odious executor shall be superseded by a better law and a better man. May our fair—and should be free—country not long be cursed with such iniquitous laws, and not suffer the great infliction of having heavy-handed and merciless judges to execute them!

I shall endeavor to be resigned to my fate, and strive to let the glorious example of the noble souls who have suffered in a similar way cheer me on to reconciliation and hope.

D. M. B.

[From *The Truth Seeker* of June 7, 1879.]

### THE SENTENCE.

THIRTEEN MONTHS AT HARD LABOR AND A FINE OF  
\$300.

The fifth inst. being the day set for sentencing the editor of this paper, he repaired to the court at the appointed time to hear his doom. He was not disappointed. At 10:20 Judge Benedict took his seat, and asked if there was any motion before the Court. District-Attorney Fiero arose and said, it being the time specially set for sentencing D. M. Bennett, he now moved sentence. Abram Wakeman, counsel for Mr. Bennett, asked that the sentence be postponed on the ground that, as the matter was to be brought before the highest court of the land, and as it was among the possibilities, if not probabilities, that the verdict of this court would be reversed, it would be an act of great injustice should the prisoner be compelled to lie in prison pending the decision of that tribunal. He argued that the law was unconstitutional and was likely to be reversed, as had other laws of the same nature.

In reply to Mr. Wakeman's motion, the district-attorney said he had carefully considered the arguments of Mr. Wakeman, and he could not reconcile it with his sense of duty to concur in the motion. He therefore pressed his former motion for sentence.

Judge Benedict said that as the constitutionality of the law had been once passed upon by the Supreme Court; he was constrained to deny the motion of counsel, and was proceeding to pass sentence when Mr. Bennett asked leave in the name of fairness and justice to say why he should not be sentenced. Waving him imperiously aside, although Mr. Bennett repeated his demand, he said: "You have been indicted by a grand jury, tried by a jury, and found guilty of violating a statute of your land. The Court has heard the arguments of your counsel and given the case serious thought. The sentence of the Court is that you be confined, at hard labor, for a period of thirteen months, and to pay a fine of \$300. The sentence to be executed in the Albany Penitentiary."

The court then adjourned.

A large number of Mr. Bennett's friends were in the room, and among them were many with moist eyes. After the sentence they crowded around him eager to shake hands with him before he was taken away, and assuring him of their love and sympathy and active exertions in procuring a pardon. Mr. Bennett was the calmest one among them. He had the right on his side, and with this to sustain him, he said, should not shrink from even prison walls. He had committed no crime, and he would a thousand times rather be in his place than in that of his Christian persecutors.

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He was allowed to go, in the custody of two marshals, to the office of his attorney, to transact some business, after which he was taken to Ludlow-St. Jail, where he was placed in a miserable cell. His

first meal in the prison consisted of a piece of bread and cup of tea. Afterwards, on agreeing to pay his board, he was removed to cell 36, a larger and more comfortable one. Here he remained seven and a half weeks, in pursuance of orders from the attorney-general in Washington, while the President was considering his application for release, which, in the latter part of July, was refused. Petitions bearing the signatures of nearly 200,000 good and true people were forwarded to Mr. Hayes, being the largest petition ever laid before an American executive. But against the wishes of the ministers of the country they were of no avail, and Mr. Bennett was forced to go to Albany Penitentiary. He was there placed at hard labor in the shoe shop, where at this date, Oct. 20, 1879, he remains. He was taken to the penitentiary Monday, July 26, 1879.

With his incarceration the outrage on freedom of conscience and constitutional rights was consummated. What effect it will have in the future remains to be seen.

## THE PETITION FOR PARDON.

[The following is a copy of a letter addressed to the President by D. M. Bennett, and of a petition for the latter's pardon signed by nearly two hundred thousand citizens of the United States.]

*To His Excellency. R B Hayes, President of the United States :*

SIR, Whereas I, D. M. Bennett, Editor of a weekly newspaper called THE TRUTH SEEKER, author of several books, and a publisher and bookseller of many years' standing in the city of New York, was at the March term (1879) of the criminal branch of the United States Circuit Court in the city of New York, Judge Charles L. Benedict presiding, tried and convicted on a charge of depositing prohibited matter in the United States' mail, to wit., a pamphlet by E. H. Heywood, of Princeton, Mass., entitled "Cupid's Yokes, or the Binding Forces of Conjugal Life," the same being an essay on marriage and the relations of the sexes ; and on the 5th of June following was sentenced by Judge C. L. Benedict to thirteen months' imprisonment at hard labor and to pay a fine of \$300; now, therefore, I, D. M. Bennett, a law-abiding citizen of the United States, who, in the more than sixty years that I have lived, have endeavored to live a good life, to be loyal to the Constitution, and to do no injury to my fellow-men, beg leave to submit to you the following considerations why I should be pardoned:

1. The statute under which this arrest and conviction were effected is in contravention of the spirit of American liberty, the Constitution of our country, and the policy which successfully governed it nearly one hundred years. It infringes the freedom of the press by establishing an espionage over, and interfering with, the circulation of printed matter in the mails. The Constitution does not confer upon Congress the right to set up indirectly a censorship over the press, nor to take cognizance of the moral, political, or religious quality of the matter that passes through the mails, and does not authorize a law requiring that letters, papers, or books to be mailable must conform to any prescribed rule, nor to any stereotyped set of opinions. The United States government, until recently, has not deemed it its duty to take care of the literature, the opinions, and the morals of the people.

2. The passage of this statute was originally obtained in the Forty-Second Congress, not after reasonable publicity, but principally by the semi-secret influence of a certain theological society and the exhibition of indecent books and pictures. The enactment of the statute was not called for by any considerable number of the American people, as they had lived for a century without anything of the kind. The proposed statute was not publicly discussed, either in the press of the country or on the floors of Congress. The millions of the people of America knew nothing about such a bill being before Congress; it was hurriedly passed, and without debate, in the expiring hours of the session, when some two hundred and sixty bills were rushed through in a few hours, and several of them such bills as are

largely thought to be no credit to an American Congress. I believe that to this day nine-tenths of the people of the country either know not that such a law is upon the statute books, or are entirely ignorant of its character and consequences.

3. I have not indorsed and do not indorse the opinions of the pamphlet for which I am convicted. I believe the author of it is strictly honest and sincere in the expression of his convictions upon the subjects treated and that he has a perfect right as an American citizen, under the Constitution, to write and print and circulate his convictions by mail upon any subject, and is answerable for any abuse to the common law of the states. But while I regard the pamphlet as crude and in bad taste, and as presenting its arguments in a harsh and somewhat objectionable manner, I do not regard it as obscene, either in a general sense or even within the intent of the statute under which I was indicted. Thousands of American citizens, including authors, artists, editors, publishers, lawyers, physicians, and people of every grade of education and intelligence in the various walks of life, have read it, and while they may not indorse it, nor agree with its sentiments, they pronounce it not obscene. The pamphlet is classed merely as a social polemic written in language as unobjectionable, in the view of the author, as he could employ in treating the subjects discussed. Nor did I sell the work secretly nor clandestinely as obscene books are usually sold, but openly, as I sold all other books I have kept in stock. I have sold it repeatedly to the largest publishers and dealers in the country, but never to dealers in obscene literature, who have no call nor use for it.



4. My accusation and arrest were induced by a spirit of revenge and hatred, by the decoy informer, Comstock, and is one of a long series of persecutions by him. Instead of bringing the case under the state law, as he could readily have done, for there was no concealment, he used the United States mail and a needless decoy-falsehood, merely to get the case under a United States law and a judge where he boasts he never loses a case.

5. The rulings upon the trial were such as to work manifest injustice. I was not allowed to present my case upon its merits. The testimony of authors, scholars, and expert judges of literature to show in what light the pamphlet was held by them, and that they do not regard it as obscene, was ruled out. The testimony of publishers and book dealers, to show what are the usages of the trade, and that the pamphlet in question is not to be classed with lewd and indecent books, was ruled out. An effort to show why I sold the pamphlet—to vindicate the liberty of thought, and of the press and of the mails—was ruled out. The effort to offer evidence to show what was the animus of the instigator of the prosecution, and of the numerous threats he had made in reference to me, and of the vindictiveness he had exhibited in pursuing me, was ruled out. The effort in rebuttal to show that he had perjured himself in the evidence he gave—which could have been done by three truthful witnesses—was ruled out. The effort of my counsel to read the pamphlet in evidence to the jury to let them judge whether it is obscene or not, was ruled out. Only such few disjointed or disconnected parts as the prosecuting attorney had marked were permitted to be read,

though the entire pamphlet was included in the indictment. The reading of the last page, even, which contains the gist and summing-up of the entire pamphlet, was ruled out. In short, everything was ruled out that my counsel deemed important to a fair presentation of my case. His efforts, in summing up, to show that the condemned passages compared favorably with much of the standard literature of the day, were also ruled out. The effect of the law, as ruled by the Court, was only to secure the *complete ignorance* of the jury in regard to the subject before them, and to excite prejudice and terror, as though some terrible offense had been committed.

6. The charge of the judge, after his rulings had excluded all possible defense, had the effect to coerce the jury against their better judgment. A part of the jury have affirmed since the trial that a verdict of acquittal would have been rendered but for the remarkable definition of the judge, under which there was no alternative but a verdict of guilty. This definition of obscenity as a "test" was unauthorized by the statute or any fair use of the word, and was practically a re-enactment of the statute by the Court against certain "tendencies." The same ruling applied to general literature would utterly condemn thousands of volumes by standard authors; nearly every publisher of daily and weekly newspapers, nearly every publisher of books, and nearly every bookseller in the land would be sent to prison. The Bible is certainly "non-mailable" under it. Finally:

7. This prosecution has been waged against me, not because I sell obscene books more than other bookdealers of the country, but because my theolog-

ical views do not harmonize with current opinions. The charge of "obscenity" was the merest pretext, as I can abundantly show. I believe myself to be as honest in my convictions as any man in the country, and it has been my object to lead a good and useful life. I verily believe I have violated no moral or statute law, not even the statute in question. In mailing this pamphlet I only exercised my right as an American citizen, and I did it to vindicate that right. I cannot regret that I have endeavored to defend the freedom of the press and the freedom of the mails. These I will sustain and defend to the close of my existence.

Believing the *Executive* of the United States will not allow any laws to be stretched in order to oppress and degrade one of its humblest citizens on account of his theological, political, philosophical, scientific, or social opinions, and believing that I have not, in what I have done, transcended the rights guaranteed by the Constitution to every citizen in our country, I respectfully ask the President to give my case due consideration and to extend to me an early pardon.

Dutifully yours,  
D. M. BENNETT.  
141 EIGHTH STREET, NEW YORK.

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*To His Excellency, Rutherford B. Hayes, President  
of the United States:*

SIR: We, the undersigned citizens of the United States, regard the conviction and sentence of D. M. Bennett, editor of THE TRUTH SEEKER (for sending by mail the pamphlet called "Cupid's Yokes" in the regular course of his book business, to a decoy name used by Anthony Comstock), as a grievous wrong

upon him committed under the forms of law, and as an outrage against the freedom of the press and the constitutional right and privilege of every citizen.

We, therefore, respectfully petition that a pardon may be issued to him without delay.

And as good citizens, we will ever pray, etc., etc., etc.

# FROM BEHIND THE BARS.

## LETTER I.

CELL 36, LUDLOW ST. JAIL, N. Y. CITY.

DEAR READERS OF THE TRUTH SEEKER : This is the first time I have addressed you from a prison cell. In fact it is the first time in my life that I have ever been an occupant of a prison. I so conducted myself, previous to my meeting Comstock, Colgate, Britton, and Benedict, that my fellow-men did not think it needful to shut me up in a dungeon or within prison walls. It was not till after I entered my seventh decade, and it was proved that I had committed the glaring crime against God and man of having clerks in my employ who deposited in the public mail of the United States a copy of Mr. Heywood's pamphlet, "Cupid's Yokes," that it was thought necessary to separate me from my fellow-men, place me behind iron bars, and turn several ponderous locks upon me.

It took such virtuous, benignant, and heavenly-minded men as Anthony Comstock and Charles L. Benedict to discover the innate wickedness of my character, the total depravity of my heart, and to determine that for thirteen months at least I must be made a prisoner of state—be shut up with pick-pockets, counterfeiters, swindlers, burglars, robbers, thieves, and murderers—that all the pious Christian papers of the land might raise a holy howl and say: "Lo, behold ! how great a sinner, how base a crim-

inal has our dear Saint Anthony [the sneak] and our sweet and apostolic Charles L. [the tyrant] now caught !”

You have already learned how I was arraigned for sentence on the morning of the 5th inst., and how my attorney, Mr. Wakeman, requested that the sentence might be deferred until the fall term of court, that my case might be taken before the Supreme Court of the United States so that certain points involved in it might be examined and decided by that highest court in the land, without compelling me to be confined in prison during the intervening four or five months ; and how the very learned and very active Assistant District-Attorney, and the very august, merciful, and self-sacrificing Judge could not see any reason why they should consent to any such arrangement and not carry out the behests of the aristocratic clergymen of the uptown pulpits, who really were the power behind the bench and who were pressing for my incarceration. It seemed not difficult for them to decide that my case should not be taken higher than their court, and that I should not have my liberty till fall.

#### THE SENTENCE.

So the sentence was pronounced, and the request usually granted to prisoners to say a few words before sentence was imperiously denied me. As a felon I was told I must be confined at hard labor for thirteen months in the Albany Penitentiary and pay a fine of \$300. It was milder than I expected. I had not thought that a Judge who could fine my excellent friend, Dr. E. B. Foote, Sr., the sum of \$3,500 for imparting by mail, in a sealed envelope,

legitimate medical and physiological advice—and this but part of the fine intended to be imposed; who sent old Simpson to prison at hard labor for ten years with the mild fine of \$5,000 for mailing a playful card of *double entendre* that had not an indecent word upon it; who fined another man \$5,000 cash, for mailing a somewhat scurrilous postal card; who has sent several persons to prison for two years or more for selling and mailing a simple syringe—such as every druggist in the country keeps for sale—and various offenses of no greater magnitude—in view of all these precedents, I did not expect that I, who had mailed a copy of “Cupid’s Yokes” and publish THE TRUTH SEEKER, would get off from such a merciful Judge with less than nine or ten years’ imprisonment at hard labor and a fine of \$4,000 or \$5,000.

Ah! there is nothing like having a kind-hearted Christian Judge when one is caught at doing such a very wicked act! I hereby tender to Judge Benedict my very lowest bow that he did not make my sentence thirteen years instead of thirteen months. He must have been in an unusually genial mood that morning. His dinner the night before must have set well on his stomach, and his champagne did not disturb his cerebral organization to an alarming extent. He must have had a good season of prayer at family worship before he left home in the morning. To some such benignant influences, or because my planet, Jupiter, was at mid-heaven at the time of my birth, or is now in good aspect with Sagittarius, Libra, Taurus, and Pisces in the moon’s fifth house, and Saturn retrograde, or possibly because I have had the prayers of so

many holy and devout Christian clergymen, from Howard Crosby down to Peter Dwyer, that angels might gather around me and protect me from all harm, all severity, all oppression, and all judicial tyranny, do I owe my good fortune. Some of these occult influences must have acted upon Benedict's truly benignant mind and decided him for once to let the native goodness of his heart have full play and do the magnanimous. I shall remember the genial Judge for at least a score of years, and will write his obituary notice with pleasure.

#### MY AMIABLE ACCUSER.

And what can I say for the intensely pure and heavenly-minded Anthony, whose mildest faults are simply hypocrisy, decoying, falsehood, forgery, and perjury? But these ought to be winked at in one who is so pious as he is, and thinks so much of walking in the footsteps of his Lord and Master, and who pleases so acutely Deacon Samuel Colgate, the soap and vaseline manufacturer, the well known President of Comstock's Vice Society, the very reverend Chancellor, Howard Crosby, President of the Society for the Suppression of Crime, who likes first-rate to take a good glass of brandy himself, but who utterly abhors to see a poor man take a schooner of lager, and would spend twenty dollars to decoy some unsuspecting individual of the Teutonic persuasion to sell a glass of whiskey to some false-hearted sneak (like his employer), that the Teuton aforesaid, supposed to have no license, might be cast into prison, or be mulcted of a few hundred dollars that he had accumulated, a nickel at a time.

Other friends of the dear pet of the Y. M. C. A.



should not be forgotten, to wit: Rev. Dr. John Halk, "the humble follower, the meek and lowly;" the Rev. Frederick Courtney, who despises the vain and alluring things of this world, and who constantly keeps his eyes upon the white throne around which the 144,000 are gathered with a meek lamb in the foreground, and the very truthful Flavius Josephus Ananias Cook, who has such a supreme regard for the truth that even a small lie no bigger than a grain of mustard seed would choke him, and inflame his throat to an extent worse than a double attack of diphtheria, the measles, mumps, and secondary syphilis all combined—the man who, though he might chop down a dozen cherry-trees of a morning before breakfast with a nice new little hatchet, could not possibly, that is, "hardly ever," tell the least little fib about it or anything else—except possibly it might be the Liberal League Congress at Syracuse. But ah! how this good, truth-loving man does admire his dear brother in Christ Anthony Comstock. They truly have such an affinity for each other in life that it seems cruel that they should be parted in death. How I would like to see them yoked together—of course with the "yoke that is easy"—and be employed for a million or two of years in hauling obscenity on a hand-sled from the Equator to the North Pole. How lovely would be the sight! How congenial the companionship! how appropriate the employment!

## TO RETURN.

But I fear I am digressing a trifle. I was speaking of my friend Anthony. True, there are some who say he has a penchant for salacious and inflam-

atory pictures and books, and that he has, at great expense of time and mental labor, acquired a larger cabinet of this class of curiosities than any other man on the globe. It is said, too, that he has a spécial fondness for nude females, railroad women, syringes, and New Canaan dogs, but one cannot believe all they hear nowadays, so to make sure of these points I would refer my friends to Mr. Joseph Britton, Tract House building, 150 Nassau St., first lieutenant and confidential clerk to the heavenly-minded A. C. aforesaid. Should he be out on official business, trying to entrap some unwary citizen, just step down to 55 John St., and call upon Bro. Samuel C., and ask him if he has still any of that vaseline left in which a few grains of salicylic acid has been blended—according to the directions on page 7 of his instructive pamphlet, which he mailed so many thousands of. When found make a note of it, and send half to Judge Benedict, and the remainder to the very fair editor of the *Daily Witness*. They will doubtless understand it, and it will be handy to have it in the house.

But I am running astray again. The fact is I am locked up here in a small cell, and there is no such thing as a "Consensus of the Competent" this side of Boston—and the head center of that is about to take a trip to the Azores—that I can consult as to what I should say, and I am left to my own fallible "individualism" as to what my pencil shall write. Oh, for a Consensus! Why don't the authorities supply one to occupants of all well-regulated prisons like this? Was it ever thus? and will it ever thus continue?

I would speak of the greetings of friends. It will

be noted all along that since my incarceration I have lost professional dignity and use the personal pronoun I, instead of the editorial WE. I am not sure that I shall ever feel that there is enough of me left to say *we* again. But ah! my readers, it felt most grateful to me when I turned away from the hard-cheeked, hard-hearted, and remorseless Judge Benedict, after he had pronounced sentence upon me, and scores of warm personal friends pressed forward and grasped me by the hand—in the palm of one a check for twenty-five dollars (this was Bro. E. B. Stimson of 31 Spruce street). I felt acutely then the friendship so warmly evinced by so many true friends. It afforded full compensation for all the cruelty, oppression, and inconvenience which Comstock, Colgate, Benedict & Co. had taken so much pains to inflict upon me.

And I know there are tens of thousands more friends all over this fair land who would at the same moment have gladly taken me by the hand, owned me as an honored brother, and cheered my pathway to and within these gloomy walls, and who would have given me the assurance, though I was condemned and imprisoned by one of the highest courts of my country for simply vindicating the glorious right of freemen—free speech, a free press, and free mails—that they were with me, that they respected me and would sustain me to the last. The friendship and support of such a host of noble, true-hearted friends vastly outweigh the petty meanness and malice of my Christian persecutors who are trying so hard to degrade and ruin me. The friendship and remembrance of such friends will survive

long after the venom of my enemies shall have been dissipated and rendered innocuous.

#### AFTER THE SENTENCE.

When Judge Benedict had performed his last act, I was then in the hands of the Marshal and his deputies. I was allowed to remain in the court room in conversation with friends for about an hour. Within the time Anthony Comstock made two or three visits into the room, his countenance beaming with heavenly benignity and regret because the sentence was not six times as heavy. If it could have been death at the stake, with a slow fire, he doubtless would have felt a greater amount of satisfaction. But Greene street is still left to him, and he well knows how to get \$14.50 worth of that kind of consolation ; or he can buy a dog.

The next step was in company with two deputy-marshals, my wife, and a few friends to go to the office of my attorneys, corner of Nassau and Fulton streets, and talk over a few matters, and about 1 P.M. I expressed myself as ready to be taken to prison. My faithful, loving wife wished to see where they were going to put me, and accompanied me here, the keys being turned upon her as well as myself. It was the first time a prison key had ever been turned upon either of us: We were directed up a stairway and shown into a narrow, forbidding-looking corridor with small and cheerless cells on one side with nothing in them save a hard, unclean cot. My bosom companion reluctantly left me in such a miserable place, but there was no help for it. She needs must hurry home and send me a few articles I wished.

## PRISON EXPERIENCE.

Thinking that I would begin at the lowest grade, and take the worst cell and fare they had to offer me, I entered the cell which the keeper in silence opened for me. It was very small, and contained nothing but a miserable cot. I laid me down on the hard bed to rest a little, for the excitement of the day had wearied me somewhat. On the bed were neither sheets nor pillow covering, and under the coarse blanket all was dirty and offensive. The smell arising from it was far from agreeable. It smelt as though a defunct African had remained on it forty-eight hours after his soul had taken its flight, but I thought I could stand it till morning and I knew it was better than a moldy dungeon where thousands, better than myself, had passed weeks, months, and years of their lives. Yes, I laid myself down upon the top of this hard, foul cot, and meditated upon the crookedness and villainy and piety that had brought me here. Soon I heard my name called, and rising and looking out into the corridor I saw my faithful superintendent Eugene Macdonald approaching, making the first call upon me, and bringing a few needed articles. "What," said he, as he cast his eyes around and took in the gloomy scene, "is this the place where you are to stay? My God, this is terrible." "O," said I, "I think I can put up with it this one night. Perhaps to-morrow I will get something better." Soon another of my assistants, E. A. Booth, called with some articles my wife had sent me. After their departure I retired to my narrow cell—for a locked gate across the corridor prevented my taking my

company into it and we could talk only through the barred gate—and soon five o'clock came, and two prisoners brought around the supper, which consisted of a piece of bread some two and a half or three inches square and some tea in a tin cup, the bottom of which was somewhat rusted. This is the prisoner's supper; the breakfast is bread and a cup of coffee; the dinner is bread, potatoes, and some kind of meat. Each meal is taken around by two prisoners to the cells. The meal was simple but I dispatched it without trouble. I thought to myself, "Well, I am a prisoner of state and I must expect to take prisoner's fare."

At 5.30 the turnkey locked the door to my cell and then I was safe till 7 in the morning. Fourteen hours seemed like a long night, but I thought I would try and get used to it. I reclined again on the iron cot and said, "Now for a good long rest." I had been in that position hardly half an hour when the turnkey unlocked my door and said I was wanted down in the jailer's office. Upon descending, the Sheriff's son said to me that he and his father were friends of my attorney and they wished to make everything as pleasant for me as possible, and that by conforming to the rules of the prison and paying \$15 per week for board, etc., I could have far better accommodations and be allowed to see my friends as late as ten at night, etc. I answered that I intended to take board in the morning, but as I had had my supper I would retain the cell assigned me for the night that I might be acquainted with the different phases of prison fare.

## A PROMOTION.

He thought I had better have a larger room that night as it would be all the same; and remembering the odor from my bed I was not hard to be persuaded, so I paid for a week's board, and cell No. 36 was ordered to be prepared for me, with clean sheets on the bed. I spent a little while in conversation with some of my fellow-prisoners who are also boarders at the table, but retired early. While my new cell is three times as large as the first, it is not very large, nor did I find it extravagantly furnished; an iron bedstead and a hard mattress and a wood-seated chair was all the furniture; no table, no wash-stand, basin, or pitcher, no carpet, no looking-glass. In size the cell is about 8 by 10 feet, between solid brick walls, with three thick stones for the floor and three others for the roof, the former also being roof to the cell below me and the latter the floor to the cell above. There are two stories of cells above me and one below. My pillow was stuffed hard with hay, and I fear my head hurt it before morning, for something ached. But I passed my first night in prison rather pleasantly. My sleep was sweet and my conscience undisturbed.

My cell was unlocked at 7 A.M., and at 8 the breakfast for boarders was ready. Some eight of us sat down to a well-supplied table in the dining-room. I found my fellow-boarders and fellow-prisoners communicative, and they looked as much like successful business men or members of Congress as prisoners. Some of them looked dignified enough for senators or judges—far better looking men than Judge Benedict and probably equally as honorable.

## THE JAIL.

This is the New York County Jail, and is more a prison of detention than one of permanent punishment, though I find some have been here four years. There are less than a hundred prisoners here in all, and are in for various offenses, prominent among which are counterfeiting, forgery, swindling, etc., etc., etc. Many are awaiting trial, and many are expecting bail. I see nearly all are hoping to get out before long. One good-looking fellow, who has been here nine months, was granted a discharge a few days ago. The cry went the rounds, "Bob is discharged!" and all seemed to rejoice with him. Bob's own face looked radiant with pleasure. He was to step out into the world again and be a free man. Freedom is what every human being craves; what all animal life desires. A man may lock himself in a room, with the key in the door or in his own pocket, and he cares nothing about it; but when he is locked in by another, and the key is in another man's pocket, and on the outside, it puts a different face upon the whole thing.

I found I was the only prisoner in the row of seven cells in the L where I am. Two or three are unoccupied, and as many are used by the assistant jailers or keepers, I felt like being a little aristocratic and exclusive. I was informed on Friday that as I was a United States prisoner, in accordance with the rules of the institution, I must be kept apart from the other prisoners, and must not converse with them, nor mix with them; that I must not go down stairs; that my meals would be brought to me. My only change is to walk on the balcony,



or corridor, three feet wide, upheld by iron brackets, and running in front of the seven cells aforesaid. This seemed like a violation of the contract made when I paid for my board, but I deemed it prudent to say little about it. If being a United States prisoner is such a serious affair that I would be liable to contaminate my fellow-prisoners, why, I suppose I must put up with it. Hebrews x, 31, says, "It is a fearful thing to fall into the hands of the living God;" but, in my opinion, it is a far more fearful thing to fall into the hands of the United States Government when those hands are manipulated by Anthony Comstock and Judge Benedict. I would sooner encounter a whole batallion of gods, with a liberal sprinkling of devils thrown in for good measure, than be left to the tender mercies of those two fiendish, orthodox, Calvinistic Christians.

#### HOW LONG TO REMAIN IN LUDLOW.

I know not how long I may be allowed to remain in these quarters, or how soon the Marshal may see fit to order me up to the Albany Penitentiary. I prefer to remain here, of course; it is nearer to my business, and here I can see my assistants from day to day, and direct matters in my establishment, and see my wife every day except Sundays, and a limited number of friends as well. Besides, this is considered one of the mildest prisons in the state, while the Penitentiary at Albany is called one of the severest prisons in the country. Every man has to toil ten hours a day in silence, the prison garb has to be donned, only one letter a month can be written, the diet is very unattractive, and the greatest strictness and severity are exercised.

And here the Christian mildness of **Judge Benedict** was exemplified. If he had made my sentence twelve months instead of thirteen I could have served my time here, but, by adding one month more, it becomes obligatory that I serve my time at hard labor in a severer prison. That is what made the heartless old brute of an inquisitor add on that odd month and make it a baker's dozen.

#### IN THE MEANTIME.

In the meantime I am enjoying myself as well as the nature of the case will admit. It is pleasant for friends to be allowed to look in and see me, and to receive letters and write letters daily. It is far better than breaking rock in the hot sun, or making shoes or horse-collars. I return thanks to the friends who have called to see me and cheer me with their attentions. I know many more would have called had it not been so troublesome to gain admittance. A pass first has to be obtained from the U. S. Marshal's office in the Post-office building, and these are not easily obtained, for complaint is already made because so many passes are asked for. And then the hours of admission to visitors are from 9 A. M. to 4 P. M. "But even this shall pass away." Time works wonders.

I will say my meals are brought to me with due regularity and benignity by Luke, a dark-skinned gentleman of the African persuasion, who for several years was body servant of the late and well-remembered Wm. M. Tweed, accompanying him on his last trip to Europe, and waiting upon him up to the time of his death in this prison several months ago. The "Boss" had three or four rooms, richly furnished, on

the ground floor, making his expenses here some \$200 per week, but he obtained his money much easier than I do mine and had vastly more of it, so I have not the slightest idea of imitating the ring master's scale of expenses. In passing I must say of Luke he appears a very amiable young man, who remembers his former master with feelings of tenderness and regard. I am free to say I think far more highly of the dark-skinned Luke than I do of Anthony Comstock or his pious employers. The same remarks will apply to his Honor (?) Charles L. Benedict.

#### A MARRIAGE IN JAIL.

It must not be supposed that we have nothing here in jail to break the monotony of the tedious days and nights. Why, we had a wedding here only a few days ago. A certain gay Lothario, who was better at making promises than at keeping them, was able to beguile a trusting damsel under the assurance that he would marry her, obtained certain indescribable favors from her, and placed her in a deeply interesting situation most painful for a single body to contemplate. But basely did the false one repay her for her generous trust, and when she reminded him of his promises to marry her he laughed her to scorn. Such is the baseness of man's heart. There was but one course for the injured girl to pursue. She had him arrested under the seduction act, which in this state is pretty severe. He was brought here and placed in a very unpleasant cell and locked in. He declared he would stay there a year before he would marry the girl, but one of the young keepers, feeling that the girl had been greatly wronged, plied his friendly feelings in her

interest. The prisoner was told that he might have to be kept in close confinement for three years or more, and the best thing he could do would be to marry the girl to whom he had made such positive promises. "No;" he "would not do it," but after a few days in the desolate cell, with the provisions in inconveniently limited quantities, with other things of an annoying character, the resolution of the false young man finally gave way and he said he would marry the girl. She was sent for, as also was a chaplain, and the knot was legally tied, and away they went together as happy as could be expected under the circumstances. Similar occurrences take place here not unfrequently. Alas, for man's villainy and woman's credulity !

#### A CASE OF GREAT MEANNESS.

There has been but one female prisoner here thus far, since my advent, and that is a lame old Irish-woman. She is nearly seventy, and so lame with rheumatism that she can scarcely walk or even stand without leaning upon two sticks. She is a widow, her husband having departed this life six years ago. She is without children, brothers, or sisters. She has lived in this city fifty years, and for a share of this time kept a little shop for selling milk, bread, and kindling wood. Years ago she did well and laid up a little money, but her husband's sickness and burial cost her a good deal, and then she was soon taken down with rheumatism, and has been seriously afflicted with it for five years. This cost her much money, and interfered with her business. Of course it ran down, and the profits came to nothing. The man who supplied her with milk for the last two and

a half years claims she owes him four hundred dollars, but she says the sum due him is not the tenth part of it. She paid him as long as she had a dollar to pay with. In fact, she gave him her bank book and let him collect the last dollar she had in the world. Still he brought suit against her and obtained judgment, and because she did not attend the trial, and answer the summons of the court, and appear before it, from sheer inability on account of rheumatism, she was arrested and committed here for contempt of court. What kind of a court must it be that would send a feeble old woman, helpless from rheumatism, to grow rapidly worse on these stone floors, and without a dollar in the world, and for contempt of court? Verily there are some courts for which one can feel little else than contempt. I begin to think my case was not the only hard one, and that the old lady was treated even worse than myself, and that Comstock and Benedict are not the only mean men in the city.

The old lady occupies the cell next to mine, and when our doors are open I visit her, and hear the facts of her case, and when she is lonely she hobbles into my cell for company. I wrote to an acquaintance of her unjust imprisonment, and to come and get her out. She came in late Saturday evening last, and hopes soon to be liberated.

#### SUNDAY WORSHIP.

Among the privileges we have in jail is preaching on Sunday afternoons. It was so convenient for me to attend that I could not find a good reason for not attending. I hardly went to church last Sunday; it came to me. It was held immediately before my

cell on the next floor below, so all I had to do was to stand by the iron railing and look over, or sit in my chair when the old lady was not using it (for she had no chair allowed her).

The outer walls of the prison are some ten feet or more from the cell walls, and the area between extends from the lower tier of cells to the roof, embracing four tiers of cells. The meeting was held on the lower floor, thus giving the prisoners on the four corridors a chance to hear. Rev. Carter, Episcopal, comes in on Sunday afternoons and talks to those of the prisoners who wish to hear about the only name under heaven whereby they can be saved. A dozen chairs were set on the marble floor below. These were mainly filled with prisoners, and as many more hung over the railings above and listened indifferently. The portable organ on castors was rolled from the library into the main corridor. A young lady who came with the clergyman operated the instrument and sang well, and for an hour or more we had a good deal of worship. The rector read with not a little unction the first chapter of Genesis. He went through the Episcopal service, which consisted of numerous readings of prayers and psalms, in which the small audience took part. He knelt several times on a thick cushion, sometimes on one knee and sometimes on two. He took his text from John xx, 29: "Jesus saith unto him, Thomas, because thou hast seen me, thou hast believed : blessed are they that have not seen, and yet have believed." He extolled faith without proof, and applied it principally to accepting the doctrine of the Trinity, which he admitted was a great mystery and perfectly unexplainable, but still there was

great virtue in swallowing it in its entirety. It was by no means an able sermon, and was open to extensive criticism. The prisoners here are all Christians.

There, kind readers, if I have not told you enough about my short experience, I will try and tell you more as my experience enlarges.

#### A POSSIBLE PARDON.

I learn that Comstock says he is going to Washington to counteract what he calls my misstatement respecting himself, and doubtless to do all he can to prevent a pardon being obtained for me. He will doubtless go well armed with letters from such Reverends as Crosby, Hall, Courtney, Cook, and others, asking that I be not pardoned out. A very broad hint was given at the meeting of Comstock's Vice Society in Boston that fewer pardons must be granted to such criminals as Heywood and Bennett. The religious *Daily Witness* talks in the same way, and advises the President to grant no pardon in my case. Thus it may be seen the fight is not over yet. The forces of Christian bigotry are arrayed against the advocates of mental and personal liberty. It is to be a big fight, but may the right side win. That it will all result in a final benefit to the cause of truth and human liberty there is slight room to doubt.

D. M. B.

## LETTER II.

CELL 36, LUDLOW ST. JAIL, June 16, 1879.

DEAR READERS OF THE TRUTH SEEKER: Another week has passed away, and I am becoming rather more used to prison life than when I first engaged board in this hotel. I cannot say that I am specially fond of this sort of life, and do not think there is much probability of my becoming strongly attached to it. When the doors are opened for me to leave I shall hardly beg the prison keeper to let me stay a month or two longer. Still I eat well, sleep well, and do not appear to grow thin in flesh. Probably a justified conscience is in my favor. Knowing that I have committed no wrong I have no regrets or pangs of remorse in regard to the charge upon which I was convicted.

I regard myself as an injured individual, but I cannot find it in my heart to say of my enemies, "Father, forgive them, for they know not what they do." To do that would be to utter a falsehood of the blackest dye, for they knew perfectly well what they were doing. The programme was carefully laid out before they commenced work with me. I was condemned and sentenced before arrest or trial. The case was pre-arranged and prejudged. Besides it would not be right to ask that they be forgiven. They have committed far too great an injury to be forgiven. To forgive such villainy would be to wink



at crime and to condone the blackest of offenses. They ought not to be forgiven, and shall not be so far as I am concerned. It is doubtful if posterity will forgive them. It is too great an outrage upon the rights of a citizen to be disregarded or to be lightly passed over.

#### HOW I OCCUPY MY TIME.

I read the morning and evening papers, and keep posted as to the news of the outside world. I entertain my friends, who call upon me pretty freely during the middle part of the day, and am glad to keep myself informed as to what is transpiring in the domain of *THE TRUTH SEEKER*. The faithful wife, the attentive superintendent, and other attachés call regularly and keep me well advised of what is transpiring in my immediate sphere.

Among the visitors on one day were B. F. Underwood, Mrs. Laura Kendrick, and Mr. B. F. Tucker, of Boston. The first is on his way to Pittsburgh and vicinity to fulfill lecturing engagements, and right where he was arrested by Christian bigots three or four months ago. That is the only way to fight the battles of freedom—to go right where the enemy are, and where they exhibit their pitiful meanness and venom. The truth must always vanquish error when brought into close conflict. Mrs. Kendrick came to deliver a lecture before the Liberal Club on Friday evening last, and returned in time to attend an indignation meeting in Boston yesterday on the unjust imprisonment of Bennett. A rousing meeting was expected.

## NEW FACES HERE.

Many new-comers have taken quarters at *Hotel de Ludlow* within the last few days. Some are hard-looking cases and some look as though they should be rooming at a different kind of a hotel from this. Having very limited intercourse I do not become as much acquainted with the character of the different cases as I otherwise would. I still remain a tabooed character. If any of the ordinary prisoners are seen speaking with me for more than a minute they are shouted at and made to understand that if they thus break the rules of the prison they will be locked in their cells. I am thus made more sensible than ever before what a dangerous character I have become.

Several prisoners also have left since the last report. Some have been tried and discharged, some have been sent to other prisons. Among the departures that of Mrs. M——, the aged crippled Irish woman, is mentioned with pleasure. After waiting with great impatience for three days she was liberated on Tuesday last, but she had become somewhat lamer from being upon the stone floor, and she was so crippled that it was with the greatest difficulty she could hobble along at all. She worried greatly for fear her household effects had been stolen by her vicious neighbors while she was incarcerated. I pitied the poor old lady to the extent of fifty cents, which I placed in her hand as we bid each other good bye. She rejoiced to be liberated from this place, and it would be supposed if she could have shown any activity in gait or speed that it would have been in leaving jail, but it took her fifteen minutes to get down stairs and out into the street. And I was sorry to learn that she stood on

the pavement in front of the jail for half an hour or more, unable to walk and without money enough to pay for a carriage. Finally some sympathetic persons helped her into a horse car which took her near the place she calls home. Whether she got there or not, and how she manages to get along since, I have no means of knowing.

It is indeed a fearful thing to be old, with no friends, no money, no health, and no means to get on in this cold, uncharitable world. The question often comes up—Where is this good Providence that takes care of the sparrows, the old women, and old men, and who knows just how many hairs they have on their heads? If he is all-powerful and all-good why don't he do a little something magnanimous, once in a while, in cases of this kind? Ah, it is to be feared that that personage is a myth whose residence, perhaps, is in close proximity to the upper landing of Jack the Giant Killer's bean stalk.

In bidding adieu to the crippled Irish woman, I must again express my utter abhorrence for the kind of justice that sent her to jail on a charge of contempt of court because from her crippled condition she was unable to put in an appearance at any court. It must have been one of the most contemptible courts that were ever blessed with a judge.

#### A CASE OF CHRISTIAN GRATITUDE.

A prisoner is in this jail by the name of M——, who has lived to see half a century or more, and who, like many others, has seen a great diversity of fortune. A few years ago he was a wealthy man, and could count his treasures by the hundreds of thousands of dollars. He belonged to a Fifth avenue

church. He was a generous Christian, and thinking to secure a reserved seat near the white throne (located at an uncertain distance above the clouds), he gave freely to his church. He gave ten thousand dollars for the Sunday-school connected with it for educating mutes, and he gave thirty thousand dollars for the general purposes of the church, making forty thousand dollars altogether.

Well, time rolled on, and reverses came. His earnings of years took wings and flew away like the shyest kind of wild hawks. He became a poor man. His mind became affected. He is partially demented. On some kind of a charge of obtaining money under false pretenses he was thrown into prison, when he should have been taken to an asylum. He is very poor. He has not a dollar, and not a clean shirt for his back. When he wishes to write a letter to a friend he has to beg a penny of this prisoner and another of that to pay for a stamp. This is one of the thousand cases of rapid descent from affluence to abject poverty.

Well, not long ago the clergyman of the wealthy Fifth avenue church to which M—— donated forty thousand dollars called to see his old, generous, but now poor and forgotten brother. And it must be stated as a fact that the benevolence of the kind pastor was aroused to such a degree, by seeing the needy condition of his whilom affluent brother, that, remembering the generosity which this brother had evinced a few years ago to his church, he opened his heart and his purse at the same time and gave the poor brother the sum of one dollar—a whole dollar! Just think of it! It is proposed in the prison here

to erect a monument to the memory of that benevolent Christian clergyman.

#### A FEW OTHER CASES.

With my limited opportunities, I learn a partial history of some of the other prisoners in this establishment, a few of which I will briefly mention :

Mr. B——, was formerly a Wall street broker. Some relatives of his entrusted him with some \$32,000 to invest for them. He invested it and made use of it in his business, but owing to the vicissitudes of financial life, or possibly some errors of judgment, he lost what he had of his own and the \$32,000 of his friends'. Such experiences are very common with Wall street people. But Mr. B——'s friends very naturally felt sore over the loss of such a snug sum of money and blamed him for it. They caused his arrest on a charge of fraudulent conduct, and sent him here. He has been here since February. He is an intelligent, genial, gentlemanly-looking man, and has charge of the library of the jail, which I am told contains some six hundred well-selected volumes.

A Mr. G—— is another large money speculator. He was sent here over four years ago on a charge of having some affinity with forged bonds or something of the kind, amounting to hundreds of thousands. I am told he had \$160,000 in bank at the time he was arrested, all of which was attached. He seems to endure prison life very philosophically and looks healthy and rotund. He must have had a few dollars laid away, for he has been able to pay \$15 per week for board here for over four years.

There are several in here for much smaller opera-

tions. A good-looking sailor, for instance, has been here some months for the value of a suit of clothes. A Jew persuaded him to buy the clothes, and trusted him with them, and when about to embark on a vessel to make a little money, the Jew clothier swore out an attachment on his body on the ground that he was about to leave the country and defraud him out of his money. He murmurs at his confinement, and wishes to be liberated, when he could in a short time make enough to pay the clothes dealer.

Another is Wm. H——, of the Teutonic persuasion. He is here for selling beer, but he did not sell it on quite the most approved plan. He was tending bar for a German widow, whose bump of honesty would probably not be marked by phrenologists at seven plus. She instructed William to say to the brewer's man who brought around the beer that he (William) and the widow were married, and that the beer for the week was to be charged to him. At the end of the week the beer bill amounted to \$105, and the collector called upon William for that trifling sum. William reported that he had no money, that he was simply tending bar for the widow. "But," said the man of beer, "why did you say you and the widow were married?" "Oh," answered William, "she told me to say that." This style of business was not satisfactory to the brewer, and he arrested William on the charge of fraud, and he was sent here without a penny, while the widow, who is at liberty, remains in possession of the proceeds from the beer. William should not have done just that way, but he is an unsophisticated Teuton, and being instructed by his employer to thus report, he readily consented.

He chafes at being here in prison for a little matter in which he got not a cent's advantage, and yearns to be out making an honest living. The heartless widow will neither pay the beer man, nor the wages due William, nor even send him his own clothes. William should remember the elder Weller's advice and "beware of the vidder." He has been in jail five weeks, and could easily get out on what is called the "fourteen day act" if he had the money to fee a lawyer necessary for the business, but lawyers are not apt to be willing to work gratuitously or to wait till a poor man can earn the money to pay them. There are several others here in the condition of William; they could get their liberty if they were able to pay a lawyer to help them. William is an industrious man. He is hard at work nearly all the day at sweeping, mopping, dusting, cleaning out the cells, etc., etc., for which he receives no remuneration except a few extra privileges.

We have here also the rather noted Elkington, a sort of young English "blood," the son of a Birmingham magistrate, who has achieved a somewhat unenviable notoriety by marrying Miss Miles, his contests with his new mother-in-law, his sharp practice in obtaining money from a retired grocer upon fraudulent securities, selling bogus bonds, etc., etc. He has been several times before the courts, the last time a few days ago. He is a rollicking "devil-may-care" looking sort of a fellow, and would hardly be taken for one who has painful qualms of conscience to any alarming extent.

We had here a short time also the Swedish murderer of a letter carrier. He is now on his way back to

Sweden, with a fair prospect of stretching some hemp in due course of time.

The law in this state which admits of men being confined in jail for years because they owe money which they cannot pay is extremely hard. A designing, dishonest man can swear that another has used fraud some way in money matters, in not paying him his dues, and thus hold him in confinement for years. It is all wrong.

Doubtless many are brought to this prison and to other prisons who richly deserve punishment and are guilty of the offenses with which they are charged. But on the other hand there are undoubtedly a large number who are unjustly imprisoned, who are innocent of the crimes charged upon them. There is little question but that the wrong man is often put in prison, the innocent man confined behind the bars, and the really guilty one roaming at liberty, petted and bowed to by the admiring populace. That, I fancy, is somewhat my case. The wrong man is in prison. I have committed no crime, no immorality. I have wronged no person, but I am behind the bolts and bars; while the designing villain who placed me here, and who has taken away from many scores of people that which is dearer to them than life—their property, their reputation, and their liberty—is at large, smiling and smirking with his aids and assistants. Ah! yes, the wrong man is in prison.

#### AM I TO BE RELEASED FROM PRISON?

This is a problem not easy to solve from the data at hand. Friends are working zealously in all directions in obtaining signatures to the petition asking for a release. Thousands of names have already



been obtained. One faithful, earnest brother has obtained five hundred names to one petition. Several of these petitions have already been forwarded to Washington and ere this have been laid before the proper authorities. Friends there are working earnestly, but they find a great opposition to contend with. Christian delegations have been sent from here protesting against a pardon being granted me. Clergymen of our aristocratic churches have written letters demanding that "no leniency be shown to Bennett." Comstock has also been to Washington to do his utmost to prevent a pardon.

The only strictly religious daily newspaper in this city, *The Daily Witness*, a warm sympathizer with Anthony Comstock, was out on the 12th inst. with the following fifteen reasons why the President should not pardon me. I did not see the paper until after this article was written, and I have not now time nor space to reply to these fifteen false and sophistical reasons, but will do so next week. That they are false and untenable will be quite easy to show. Here they are, and Comstock is said to be the author of them :

1. Because the book he sent out through the mails is obscene, and has so been declared by every jury that has passed upon it, three persons having been convicted in different courts.

2. Because he openly defied the laws, after the courts had declared the book obscene and unmailable ; and advertised the said book after he had been indicted in Watkins, N.Y., in the state courts for selling the same, as follows : " We will hand them to the purchaser, or send them by mail or express as desired, Anthony Comstock, Frederick Davis (Dis-

trict-Attorney), Oliver P. Hurd (Judge), and all the citizens of Watkins and Schuyler county to the contrary notwithstanding." "Let those who wish copies send in the price and they shall be supplied."

In other issues of his weekly paper the same defiant spirit was manifested and contempt of law expressed, while he continued to advertise, sell, and send by mail the said book. In one issue before this arrest he boasted he was "well along on the second thousand since our Watkins arrest."

3. He was tried by a jury of his own choice and found guilty.

4. Because on his appeal to the highest court in the district wherein he was tried, the three judges unanimously declared the book obscene within the meaning of the law, and that there had been no error on the trial in the court below.

5. Because the Circuit Court, in and for the district of Massachusetts, in the case of Heywood, unanimously gave the same decision in substance as was then expressed by His Honor, Nathan Clifford.

6. To pardon this man now is to embolden others to continue the same unlawful business, and to virtually indorse and license the said book as right and proper.

7. Because his crime was deliberate, his conviction just, and the public good requires an execution of the sentence.

8. Because to grant another pardon on this same book is to rob the community of all the benefit and protection that the laws are designed to afford.

9. The only security of the public lies in executing the laws and making them a terror to evil-doers. To pardon this defiant criminal is to trample justice

in the dust, encourage lawlessness, and discourage efforts that are made to keep the children pure.

10. Because the frequent pardon of criminals is not only discouraging to prosecuting officers, but affords and is plead as an excuse for the lax execution of the laws, and is a strong element of defense on behalf of criminals when their counsel plead for the non-trial of their clients.

11. Because the only way to stop the nefarious business of this man is to execute the just sentence of the law against him.

12. Because E. H. Heywood and this man Bennett, in their published statements, insist that the Government, by the pardon of said Heywood, indorsed the said book as being proper, and at a Freeloze meeting in Boston, held May 24th, the said Heywood boasted that the "Government found out I was right and that it was wrong, and here I am holding these meetings again." Also, "Let them dare imprison D. M. Bennett for mailing my book, and see which is the strongest." To pardon Bennett is to confirm the above defiant and lawless exhibition, and further bring the laws, courts, and Government into contempt.

13. Because good order and the highest public interest demand that nothing that tends to degrade the courts, impede the course of justice, set at defiance the laws, debauch the minds of the young, or corrupt their morals should be encouraged or permitted by the Government.

14. Because there is no sound reason in morals or equity why the President of the United States should set aside the deliberate verdict of the jury

and the calm judgment of the courts, where no injustice has been done.

15. Because he does not seek for a pardon as a penitent man, but rather by basest attacks and most malicious misrepresentations he seeks to deceive honest citizens to sign a petition for his release, on the ground that the false and malicious statements he has made against the officers and court that caused his conviction are true.

This is about what was to be expected. Indications have for some time been given that a concerted and powerful effort would be made to keep me in prison for the whole term of the sentence. On the day the sentence was pronounced, Comstock boasted that I would not get out of prison; that that little matter had already been attended to; that measures had duly been taken, etc., etc. It is not, perhaps, so much a matter of *justice* and *right* as it is one of *influence*. The Christians greatly outnumber the Liberals, and in point of numerical force they have largely the advantage. If, however, the President looks into the matter thoroughly and sees that I am unjustly imprisoned, that the matter of mailing one of Mr. Heywood's pamphlets is not such an offense as should send a man to prison with abandoned felons; if he decides that my trial was arbitrary and unfair, that the rulings of the Judge, his charge to the jury, his *definition* and *test*, were unjust to me and, illegal; if he, the President, sees that my prosecution and conviction were really because I entertain and proclaim heterodox opinions, that because of this I was convicted, and because of this it is wished to keep me in prison; or if he should perceive the fact that my arrest, prosecution, and

conviction were the result of spite on the part of an unprincipled, meddlesome spy and informer, who was able to use the highest courts of the country, with its attornies, marshals, and judges, to carry out his enmity and vindictiveness upon an individual who has simply told the truth about him—if this all becomes clear to the vision of the President, a sense of justice will undoubtedly prompt the chief executive of the nation to give me my liberty. This appears more likely to be the case when it is remembered that Attorney-General Devens has already given it as his opinion that “Cupid’s Yokes” is not to be classed with the books designed to deprave the mind and excite the passions, and is not such a work as was indicated by the statute under which I was convicted. The question of pardons is referable to him, and it would seem that he could hardly stultify himself by now saying that my trial and sentence were just.

But, on the other hand, it must be remembered that the Christian church is still powerful in this country; our society is organized upon it; the principal magistrates, judges, law-makers, and officials of all kinds are either of the church or under its influence; that in elections the church vote, or the vote it controls, is the most powerful in the country, and that a politician can hardly ignore that influence; that it takes a very brave man to perform an act of justice when nine-tenths of the populace cry out against it. If, in addition to all this, it is remembered that in matters of faith I am an offensive individual; that I proclaim unwelcome and distasteful truths; that the effect of my teaching is to touch the bread-and-butter interest of seventy thou-

sand idle, unproductive, and useless priests and preachers whose hatred is pointed towards me, and that the politicians are dependent on them and their supporters for the public offices—when, I say, all these things are taken into consideration, an idea may be had of how difficult it will be for me to obtain a release. The same prejudice and oppression that have placed me where I am are perhaps able to keep me here.

But however this may be, I shall not lose confidence in the principles of eternal justice and truth. I shall not falter in my allegiance to the right and the true. If the President opens my prison doors and says, "Old man, go forth into the world and be free again; I cannot see that you have done anything that deserves this severe punishment," I shall be truly grateful to him, and will ever think he performed a righteous act. But if the pressure from the persecuting church party is so strong upon him that he dare not resist it, or act upon his own better judgment, and says, "Keep the prison doors locked and barred upon that man; let him not bask in the rays of the sun of nature and liberty for thirteen months," I shall not grieve for his want of justice and independence, but shall endeavor to serve out my time with resignation and trust.

#### WILL THIS PERSECUTION PAY?

This is a problem that perhaps requires some time to be worked out. Just what the effects of this persecution will be it is perhaps too soon to decide. In my opinion, injustice never pays. It has not paid the Christian church. Its Inquisition-chambers, its dungeons and prisons, its racks, wheels,

pullies, and its thousands of similar devices to inflict torture; its scaffolds, its beheading-blocks, its stakes, its fetters, manacles, and burning-irons, its cruel executioners, its wicked and tyrannous priesthood, its perfidious judges, its mock courts and trials, its cruel and unjust verdicts, its vindictive sentences, its intolerance, maliciousness, and hatred manifested in thousands of ways, have by no means been an honor to it, nor remunerative. All these have so cursed the name and reputation of the church that it can never recover from it. It stands to-day, in the eyes of all well-informed, impartial people, as the most red-handed, murderous power that has ever existed on the earth. There is no wiping this out; it cannot be denied. It is so indelibly imprinted on the pages of history that it cannot, by all the arts in the world, be obliterated. These damnable acts must ever stand recorded on the debit side of the ledger of the Christian church; and though she may still exist a thousand years, and from this time maintain a tolerably fair reputation, the dark and bloody deeds of the centuries of the past will ever condemn her, and will ever impart to the careful student of history the great truth that the church has caused more wretchedness, more unhappiness, more suffering and death to the human family than any other religion in the world, and more than all other religions combined.

It is not likely that this persecution of myself will have a materially different effect from those cases which have preceded it. It is not as bloody or cruel as many that have preceded it in the centuries that have passed, simply from the fact that despite this unprogressive system of religion the

human race has advanced, and, by the effects of science and education, the horrors of the Dark Ages have had to skulk back into oblivion. Still the spirit and animus that actuated the old harlot—the old mother of abominations—is the same. She still likes to oppress for opinion's sake, still is fain to crush those who have the boldness to denounce her iniquities. This spirit has been most conspicuous in my case. Meanness, hypocrisy, falsehood, and malice were never more marked.

What will be the result? It must attract the attention of fair-minded people. It must show to those who will take the trouble to inform themselves that it is a case of oppression for opinion's sake; that it is an effort to crush free speech and a free press in one whose honest opinions cannot reach the figures marked on the moral scale of orthodoxy. The sympathy of good and intelligent men and women will be enlisted on my side. They will see at once that the trivial deed for which I was arraigned and sentenced did not warrant my imprisonment; did not justify my being torn from my family and from my business, which demands my constant attention. The church party will surely be damaged in reputation by this unjust prosecution and imprisonment, and the hypocrisy of the charge will be visible to hundreds of thousands. It will be well understood that my real offense was not obscenity but hetrodoxy, with too much boldness in proclaiming it. It cannot be believed that a church which worships an old book, every copy of which contains a hundred times more obscenity or indecency than the little pamphlet I sold and mailed, can be honest in prosecuting me for *obscenity*. The charge was



used as a pretext, because in that way their law would be made to reach me—constructive obscenity—similar to scores of cases of constructive treason which were prosecuted in the courts of England some two hundred years ago. Then, when it was desired to prosecute and imprison a writer or speaker for any sentiments he had uttered upon almost any subject, he was arraigned upon a charge of “high treason,” because under that charge they could more easily secure conviction, and because the sentences were extremely severe. The volumes of state trials of the English courts are full of these cases. In many instances, under the rulings and manipulations of corrupt and unjust judges, most unrighteous convictions were secured, the juries were dragooned and bulldozed as the judges pleased, and most unreasonable and cruel sentences were inflicted upon innocent people upon the most frivolous pretenses. I will take pleasure in soon citing numerous cases of this kind as copied from the official reports.

But after a while that sort of thing was discontinued. The people of England would not submit to it, and it became unpopular and unsuccessful to arraign people before the courts of the realm on charges of *constructive* treason. Treason was only prosecuted when it was treason, and the simple expression of opinion upon political, social, and religious subjects was no longer tried and punished as constructive treason. So it is believed it will be in this country. People after a time will not be prosecuted for heresy and radicalism upon a charge of *obscenity*. Obscenity will be the alleged offense only where obscenity really exists, and holding theological views not in unison with those of the Pope of

Rome, the Archbishop of Canterbury, or the Reverend Chancellor Howard Crosby of New York city will not be deemed sufficient provocation upon which to base a charge of the disgraceful crime of obscenity or *constructive* obscenity.

The main part of the people are fond of fair play, and they will cry out in remonstrance when they see it is not granted. When they see that the church is in the wrong, they will condemn her, and she will lose in trying to coerce the opinions of others and in trying to send a man to prison on a charge of *constructive* obscenity. Thousands are becoming informed of the facts in this case, and thousands more will learn the same facts. They will see the enormity of this whole business, and will take up on the side of free speech and a free press. The public mind is becoming liberalized from a knowledge of this case. Thousands are condemning the injustice that has been exhibited. The result will be the cause of truth and Liberalism will gain, and orthodoxy must lose. No party, no church, no portion of the people can afford to be so manifestly unjust; they cannot afford to trample on the principles of justice and fairness; they cannot afford to purposely wrong an opposite class because they may be fewer in numbers, or may hold a form of belief unlike their own. Yes, the side of justice must win in this contest, and the side of injustice must correspondingly go to the wall. The verdict of the people will ultimately be right.

#### EFFORTS OF MY ENEMY.

After Comstock got me into prison, he at once set to work to crush my paper. Knowing well that

there was not proper ground upon which he could take legal steps to suppress it, he attempted to do it by intimidation, the same game he tried a year ago. He went in company with his miserable tool and partner, Joseph A. Britton, to the place of Mr. John Scott—who does the presswork on my paper—and forbade his foreman to print THE TRUTH SEEKER under penalty of fine or imprisonment. The sneak effected very little by this. Both Mr. Scott and his foreman, Mr. May, are well acquainted with Comstock and his numerous villainies, and are able to estimate him at his correct value. They are the last men in the city to be frightened at anything Comstock can threaten. He was told that I duly paid them for printing THE TRUTH SEEKER; that I put in its columns what I pleased, and they should continue to print it for me so long as I wished them to do so.

The vile pair also called upon Mr. James Brady, who folds, wraps, and mails THE TRUTH SEEKER, and warned him in the same way to wrap and mail no more TRUTH SEEKERS if he did not want to get into serious trouble. But Mr. Brady is not at all troubled with fear of Anthony Comstock, and told that individual that he considered himself able to attend to his own business, and that it was entirely unnecessary for him (Comstock) to busy himself about it. He should, he said, continue to fold, wrap, and mail THE TRUTH SEEKER as long as I wished him to do so. Again was the contemptible Comstock thwarted; and it is now thought he is holding conference with Fiero and Judge Benedict to see if he cannot bring an action in the United States Circuit Court against Messrs. Scott and

Brady, on a false charge of "obscenity," and thus throw them into prison because they print and fold THE TRUTH SEEKER. A gentleman informed me on Saturday that Comstock is now exercising his brain most vigorously to decide upon a course by which he can suppress my paper. He may succeed in causing considerable annoyance, and put me to a heavy expense, but he cannot crush out THE TRUTH SEEKER. He may seize my type and books, and do various other mean and malicious things, but that will not stop the paper. He can hardly seize all the type in New York, but he will have to do so before he can stop this paper; and then Philadelphia, Boston, or some other city will be applied to to bring it out. So let the detestable representative of modern Christianity do his worst. Let Joseph A. Britton, Samuel Colgate, and Howard Crosby do all in their power to help him. THE TRUTH SEEKER will still be published. I defy the whole hypocritical persecuting pack. If the postmaster will only not allow Comstock to interfere with my papers after they are deposited in the mail, I will have no fear of what else he may do.

#### COMSTOCK'S COMPLAINTS.

The ground upon which the pet of the Y. M. C. A. complains of me is that I have said so much against him, and for this reason he is determined to pursue me to the bitter end. This was the reason he gave to my attorney in the court room immediately after the jury retired in my case. He said he would not have commenced proceedings against me if I had not said so much against him; that he simply acted in self-defense. But here he lied, as

is his custom. It was he who began upon me, not I upon him. I had scarcely mentioned his name when he caused my arrest for sending through the mails my "Open Letter to Jesus Christ." He called it *obscenity*, and caused it to be published in all the papers of the city and telegraphed to papers of other cities all over the country that I had been arrested for sending obscene literature through the mails. When thus stung by a miserable viper it was but natural that I should strike back and state some truths about my villainous assailant.

#### CHARGES AGAINST COMSTOCK.

What I said about him was the truth, but I did not say about him all that is to be said; there is more to come yet. He says I have libeled him. That is as false as his very nature is. I have not libeled him; a libel is a false statement, an untruthful and injurious representation of another. I have made none such about Anthony Comstock. I can prove by good witnesses the truth of all I have said about him, and much more. True, I have made some pretty damaging accusations against him, concerning deeds that no honorable man would be guilty of, but there is proof of all of them. Let us see:

1. I have charged him with being a sneak, with being a spy, with being an intriguer, with being a decoyer to the commission of crime, with being an enticer to lead people into a violation of law that he might drag them to prison, and who would not thus have violated the law but for his vile efforts. These are all true, and can be proved by more than a hundred witnesses.

2. I have charged him with falsehood and lies of the grossest kind. The charge is true, and can be abundantly proved.

3. I have charged him with forging others' names to his decoy letters with a view to the commission of crime. It is true. I can prove, it and he has himself in a public meeting confessed its truth.

4. I have charged him with signing the names of females to such shameful letters. It is true ; it can be proved, and he has confessed its truth.

5. I have charged him with using his utmost efforts to induce his selected victims to sell him unlawful wares and to buy unlawful wares of him that he might thrust them into prison, despoil them of their worldly possessions, and disgrace them for life. It is true. It can be proved, and he has in public admitted its truth.

6. I have charged him with arresting people for insufficient cause and charging them with ignominious crimes which they had never committed. This is most true, and can be proved in scores of cases.

7. I have charged him with despoiling people of their property by forcing them to unnecessary court and legal expenses to the tune of hundreds of thousands of dollars. It is true, too true, and can be proved to the satisfaction of any court or jury.

8. I have charged him with cruelly and unnecessarily destroying the reputation and happiness of hundreds of individuals, and of thrusting scores of families into the deepest and most poignant grief and wretchedness. It is most true, and can be proved to the fullest extent.

9. I have charged him with causing numerous persons to commit suicide, and of causing others to

be brought to an untimely grave. This is sadly true, and can be proved without any trouble. He has himself boasted of having driven fifteen persons to suicide, and in his letters he has exulted in having hurried others to untimely graves.

10. I have charged him with forcibly entering the premises of many different persons, seizing their property, carrying it off wrongfully, and never returning it. This he has done repeatedly, as can be amply proved. He did it in my case.

11. I have charged him with hiring, with a considerable sum of money, three young women in this city to expose themselves in a perfectly nude state before himself and five other men, and with sitting an hour and a quarter feasting his eyes with the postures, gyrations, and evolutions performed before him. This is true, as has already been proved in one of the first courts of this city, and even by his own oath, which, however, is unreliable.

12. I have charged him with having advertised under a fictitious name as having fancy or unlawful books for sale. It is true, and can be proved.

13. I have charged him with having carried obscene books and prints upon his person, and exhibiting them to special friends, legislators, congressmen, editors, and clergymen. It is true, and can be abundantly proved.

14. I have charged him with having sent through the mail the most filthy obscene books and pictures; and, if mailing "Cupid's Yokes" is justly punishable with imprisonment for two years, he, for his crime, ought to be imprisoned for ten thousand years. It is true, and can be proved in any court.

15. I have charged him with cruelty, harshness,

boorishness, and the most insolent and ruffianly conduct towards his victims and to those he had entrapped. It is true, and can be fully proved.

16. I have charged him with following up, persuading, and entrapping a poor old man, sixty-five years of age, to procure some fancy pictures for a pretended exhibition, and then brutally dragging him off to prison when he had succeeded in his hellish designs. It is true, and can be thoroughly proved.

17. I have charged him with entering photograph galleries and using his utmost endeavors to get the proprietors to make nude and indecent pictures for him, that he might imprison them; and failing in this, he has dragged them off to prison on the most frivolous and insufficient pretexts. This is true, and can be established by many excellent witnesses.

18. I have charged him with committing forgery in many instances. It is true, and can be unquestionably proved.

19. I have charged him with perjury, and with having secured his convictions by the means of perjury. It is true, true, true, and I can prove it by at least twenty witnesses, or forfeit one thousand dollars if I do not.

20. I have charged him with keeping in his employ for years, as a tool to do his dirty work, a contemptible specimen of humanity no better than himself, and who to his knowledge has been guilty of the most dishonorable conduct, and who has committed perjury on numerous occasions. This is true, and can be abundantly proved.

21. I have charged him with having boasted of having held an unnatural and criminal connection



with a dog. This is true, and the evidence can be produced whenever it is called for in the proper form.

22. I have charged him with having sent a worthy man to prison for simply sending a syringe through the mail, such as any druggist in the country has a perfect right to sell, and with having been the means of driving his wife to prostitution and degradation to keep herself and little ones from starvation. It is sadly, sadly true, and can be proved unequivocally.

23. I have charged him with having boasted that Judge Benedict always convicts the cases which he, Comstock, takes into Benedict's court, and with having said he "always wins" there, when it is notorious that it is almost the only court in the country where he can win. This is true, and is easily proved.

24. I have charged him with inducing a well-known female physician and editress of this city to sell him a female syringe, as he stated for his wife, then arresting her, rummaging and overhauling her house, and taking her off to prison, thus causing an immense injury to her reputation and business; and after that causing it to be published that she was another "Restell," when it was utterly false. This charge is true, and can be, and will be, duly proved in the Superior Court in this city.

25. I have charged him with pursuing and prosecuting another physician of this city, one of the most worthy men in the country, and securing his conviction in Judge Benedict's court upon his favorite charge of "obscenity," thus casting opprobrium and dishonor upon his fair name and bringing the most

intense grief upon his excellent family, when the offense consisted in sending in a sealed envelope certain information touching the laws of health and disease which every physician has a perfect right to impart. This useless and villainous prosecution and conviction cost this physician over \$5,000 at the time; and, through the injurious publicity and unjust suspicions and censure brought upon him, damaged him in his business—to say nothing of the grief thereby brought to his family—more than \$25,000 more. This is all strictly true, and can be demonstrated at any time.

26. I have charged this man with pursuing myself like a demon; with trying to break up my legitimate business; with making threats against me on several occasions; with sending me decoy letters to entrap me into the commission of an act that would make it possible for him to arraign me before his favorite Judge, who would send me to prison and impose a heavy fine upon me; with wrongfully seizing my property, carrying it off and never returning it; with subjecting me to costs and expenses amounting to thousands of dollars. This is most true, and can be made clear to any reasonable jury.

27. I have charged this man with letting his poor, feeble old father wander hungering and starving, with the toes sticking out of his shoes, in cold wintry weather through the streets of New York and Brooklyn, begging of friends and generous people for something to keep him and his young children from absolute starvation, while the son at the same time was receiving, for the miserable services performed for Colgate, Barnes & Co., the sum

of \$4,000 per year. This is true, and can be positively proved.

28. I have charged this man with denouncing my paper and the books, pamphlets, and tracts which I publish, and falsely imputing bad motives to me. This charge is true, and can be positively proved.

29. I have charged him with threatening and proclaiming in different cases that Freethought literature, Infidel tracts, and publications of that kind would soon be stamped out and suppressed. This is true, and can be shown so by the very best evidence

30. I have charged this man with being an unprincipled, untruthful, dishonorable, intriguing, entrapping, decoying, false-hearted, malicious, vindictive, revengeful, tyrannical, cruel, meddling, ungentlemanly, coarse, vulgar, indecent, profane, dirty, contemptible, and detestable individual, a disgrace to his kind and to the cause of which he is the champion. This is my honest opinion of the man. I feel very sure that I can easily prove to any fair-minded jury that I am correct.

This category could easily be extended, but probably this is enough to answer all purposes. If a more villainous, dangerous, and pernicious person can be produced, either in past history or among the present race of the world, one who has fewer good qualities in his organization, and more that is base, dishonorable, and unmanly, I will be very glad to have him pointed out.

This is the man who has placed me where I am. This is the man who was able to procure the passage of his most infamous laws in both our state and national legislatures. This is the man who holds a position under the general Government, and has

the power to overhaul the people's mails and throw out, after being duly stamped, such as he chooses. This is the petted member and champion of the Christian church and the Young Men's Christian Association. This is the man whom the first clergymen of the day fraternize with and acknowledge as their most worthy brother. This is the man whom Judge Benedict and Wm. P. Fiero co-operate with in convicting his decoyed victims and loading them and their families with expense, grief, wretchedness, and disgrace. This is the man who pretends to be the conservator of the people's morals, and is so outraged that a man has deposited in Uncle Samuel's mail bags a little pamphlet, which scores of thousands of intelligent people pronounce *not obscene*, that he sends the man to prison at hard labor with thieves and robbers.

This is the man sustained and supported by Samuel Colgate, Howard Crosby, A. S. Barnes, Wm. E. Dodge, Dr. John Hall, Rev. Frederick Courtney, Joseph Cook, and many others who count themselves holier and better than their fellow-men, and who claim to be in possession of the religion of Jesus, said to be the purest and best person that ever lived, and who disowned every form of injustice and wrong.

This is the man who complains that I have vilified him and spoken falsely of him, and for this whines around and punishes me by bringing me into Judge Benedict's court upon a charge of obscenity. If I have libeled him, why don't he act like a man and bring me before some of the courts of the state which are always open to him, where he can prosecute me criminally and send me to prison; or civilly,

and mulct me in heavy damages? He and his friends, Colgate and others, are whining around and saying the charges are false; then why don't they bring me into the state courts, that it may be proved to the world whether they are false or true? That is the manly, straightforward course. They are very careful to do nothing of the kind. They well know I can prove beyond question what I have charged upon that man. The reason they do not cite me before the proper authorities is because they fear I *can* prove what I have charged, and they dread to have such a damnable character, such a black, villainous record proved upon their pet, favorite, and champion. They and he think it better, if not more honorable, to take me before Judge Benedict, who is paid a very handsome salary with the people's money to dispense *justice*, where the District-Attorney, also in the pay of the general Government, will prosecute the case for him without its costing the decoying hypocrite a single cent. Oh, yes; this is thought to be preferable to paying a lawyer a regular fee and taking me before a state court, where we would stand on an equality.

It is a palpable truth that the court and the attorney that will co-operate with such a villain as is here portrayed, and for the purpose of wronging and imprisoning a worthy individual, justly merit the scorn of every honest man, and deserve to have inscribed to their memory on the page of history, to be visible forever, the glaring words, INJUSTICE, SHAME, INFAMY.

I repeat, it must be clear to every person who will take the trouble to look into this matter that if I have made false charges against Anthony Comstock

he can easily punish me upon a suit for libel in our state courts, and the very fact that he does not do so is an absolute admission that the charges, damaging as they are, *are true*.

The question, then, very naturally arises in connection with this subject whether the general Government, and whether the Christian church, can afford to be represented by such a character as Anthony Comstock? Can the Society for the Suppression of Vice maintain its honor and good name by having such a man for leader? Will they not all find before many more years that he is too heavy a load to carry? So much for Comstock.

#### FEATURES IN THE CASE.

Among the friends who have been canvassing the city to obtain signatures to the petition to the President of the United States for a pardon for myself, or rather for a release from prison, some have called upon the legal fraternity of the city. It has been observable, in the first place, that a large proportion of those called upon know little or nothing of the merits of the case or of the nature of the pamphlet upon which I was convicted, and supposing from the announcement in the papers that I was arrested for circulating obscene literature, and that, as a jury had brought in a verdict of "guilty" against me, I must be one of the foul characters who have been engaged in the spreading of lewd and lascivious books, they readily conclude that my conviction was just. Many of them object to signing a petition for pardon, and some have had the kindness to say that they would sooner ask that my sentence be increased than lessened. This only shows to what

extent I have been wronged in this whole business. An unmerited stigma has been cast upon my character that will follow me to the grave. "Ah! he was convicted in a United States court and sentenced to prison at hard labor for circulating obscene literature." Christian maligners will repeat and reiterate this after my body has mouldered to dust, the same as they now repeat the vile and cruel slanders against the memory of that great and good man, Thomas Paine. Little else than malignity and vituperation can be expected from this class of pious theological defamers. Those legal men who have informed themselves of the facts connected with my case, and of the severe and unfair trial which was accorded me, signed the petition readily.

#### CASE OF AN EX-JUDGE.

Among the legal gentlemen called upon was a well-known ex-judge who has defended several cases before Judge Benedict brought under the same statute as was my case. He is thoroughly apprised of the unconstitutionality of the law, and is decidedly of the opinion that it ought to be repealed. He readily signed the petition. But upon District-Attorney Fiero coming in and informing the ex-judge that I had made some strictures upon Judge Benedict and charged him with severity and injustice, the ex-judge at once regretted having signed the petition, and wrote a note to my attorney expressing regret that he had done so.

Now I hope the name of that ex-judge will be erased from the petition. If he stands too much in awe or fear of Judge Benedict to sign a request to the President to do a simple act of justice, his name

had better be removed at once. The fact of the matter is, this ex-judge has many cases in Judge Benedict's court, and wishes to stand well in that tribunal. He was so unwilling that it should appear that he had given a semi-indorsement to a censure of Judge Benedict that he wished to undo what he had done. He is most anxious to be "all right" with the judge before whom he has cases. And this is the feeling which has a controlling influence with many of our lawyers. They would sacrifice justice and throw it to the dogs rather than lose favor with the judge from whom they wish favors. This is a fair sample of modern justice.

#### WHAT ARE JUDGES ?

Why they are simply human beings, the same as kings, princes, popes, cardinals, and bishops. They are not only human beings, but often very fallible and unjust human beings, as I will show you in my remarks to you next week. I will give you condensed reports of many trials in English and American courts within the last three hundred years, which, I think will prove to you that judges have often sacrificed justice to pander to the power of kings and popular favor. I think it will not be very difficult to show that judges, though clothed with ermine and almost supreme power, have been very far from being true ministers of justice ; and have often really been far more deserving of punishment than the unfortunate men whom they convicted and sent to prison and the scaffold. I shall leave it to my readers to decide how far Judge Benedict and also Judges Blatchford and Choate deserve to be



classed with this class of men bearing the honorable title of *Judge* who have preceded them.

Our judges are simply public servants. They are paid with the people's money; they are placed in the positions they occupy to work for the people, and they are as amenable to inspection and criticism from their employers and superiors as any other class of public servants.

The antiquated idea that judges are a superior class of mortals that cannot err, and that they must not be criticised or censured, should be wiped away with the fallacy that kings are infallible, that they have divine rights, and govern and tyrannize over their fellow beings by authority from heaven.

The judges in our United States courts are an aristocracy not in keeping with the genius of American liberty and equality. They are almost wholly irresponsible to the people. They obtain their position from the President as a matter of favoritism or political compensation; and their appointment is for life, unless, by gross misconduct, they are impeached by Congress, which is a process nearly as difficult of accomplishment as making a ship canal over the Rocky Mountains or across the Isthmus of Darien, or building a railroad from New York to Liverpool. They are practically beyond the reach of the people except so far as public opinion is concerned, and in that direction I deem it perfectly legitimate for me to work. I shall try to give information to the public.

It is an incontrovertible truth that American courts and American jurisprudence sadly need reforming, and in none of our courts is this fact more true than in what we call our United States

courts. American jurisprudence needs simplifying and purifying. Justice is like the man who seeks it—a mere shuttlecock, knocked from battledore to battledore, or from judge to judge, from court to court, and from lawyer to lawyer, until the poor suppliant gets nothing but disappointment and bankruptcy. The more lawyers, the more judges, and the more courts, the less justice. We have in this city, it is said, four thousand lawyers with a few score of courts and judges, but alas! how little of justice. Justice is a highly expensive luxury. The pursuit of it in this city alone costs many millions of dollars annually, and the smallest modicum is obtained. I have often thought it would be far better to have no lawyers, no judges, no courts; but for the people to settle their little differences among themselves by arbitration. If we had no lawyers, judges, nor courts, save simple courts of deliberation, there would not be one-tenth part of the litigation and contention there now is, and it would not cost the people one hundredth part as much to settle their dissensions as by the present miserable and ruinous processes. In the "good time coming" it is to be hoped that mankind will learn to get along through life without lawyers, priests, or doctors; that men will learn to do their own thinking and praying, to preserve their own health and take care of their own bodies, to be their own lawyers, and to settle among themselves their own little difficulties.

#### JUDGES BLATCHFORD AND CHOATE.

I have been a trifle free in my censures of Judge Benedict for his unjust rulings and decisions in my own case, but feel sure I have not said a word more

than is fully merited. I feel, moreover, that this censure is nearly equally due to Judges Blatchford and Choate, especially the former, who particularly exerted himself to sustain Judge Benedict's rulings and injustice to prevent my having a hearing in the highest court of our country. Judge Blatchford has had the reputation of fairness and a devotion to the principles of personal liberty, but in this case he did not prove himself justly entitled to that reputation.

He sustained Judge Benedict in the ruling that it is not necessary to set out in an indictment the particular offense with which a person is charged, and that it may be alluded to vaguely and indefinitely.

He sustained Judge Benedict's charge to the jury and his definition and test of obscenity, not found in the statute or by any precedent in England or America, and by which a person is sent to prison upon a supposed "tendency" that a book or pamphlet may have, in the opinion of a jury, to corrupt the minds of a susceptible person into whose hands it might happen to fall, without the slightest proof that any person had been corrupted or affected by it.

He sustained Judge Benedict in the decision that in criminal cases a jury may be permitted to render a sealed verdict and then separate and mix in with the populace before appearing in court to say what their verdict really was.

On nearly a score of similar points, too tedious to mention now, Judge Blatchford sustained the remarkable rulings and decisions of Judge Benedict, with the evident intention of bolstering up those unjust decisions, to prevent my having a further hearing in

the Supreme Court of the United States, and to send me to prison for merely mailing a dry, physiological and philosophical essay on marriage and the relations of the sexes, and which was not shown to have done the slightest injury to any person living or dead.

It must not be forgotten that Judge Blatchford is an orthodox Christian judge, and that the person mostly interested in this case is an offensive opponent of that system. How far he, the judge, allowed the influence of the church to act upon him, and how far he is worthy of being added to the category of such infamous judges as Scroggs, Hyde, Kelyng, Finch, Twysden, Wright, Thurlow, Jefferies, Clark, and Benedict, I will leave with my readers to decide.

#### THE NEW YORK PRESS.

The matter most to be regretted in connection with this business, and the one for which I feel most ashamed, is the position of the editors of the New York press. Here, one of their brethren—humble it is true, but, nevertheless, a brother, and who expresses his convictions as honestly as any editor of the city—is stricken down, unjustly tried and sentenced to prison for simply exercising the rights of an American citizen and vindicating the freedom of the press, and they say not a word in disapproval; not a word in condemnation of the injustice. Neither will they admit into their columns a line in remonstrance to this iniquity. Friends have sent to several of the dailies of this city short articles, touching my case and on the side of truth and justice, and they have been persistently excluded. Letters of explanation from myself have been

treated in the same way. Friends have called in person upon some of the editors whose papers had contained untruthful and unkind notices of the case, and requested but a small amount of space to make a reply to such attacks, and they have been peremptorily refused.

This is the kind of justice I get from the editors of this city, probably because my paper is not quite so popular as some of theirs, and because the opulent, Christian, aristocratic, monied class are against me, and because they find their shekels most plentiful in that direction. They, the editors, know well that I am defending the freedom of the press ; that I have done nothing more than they have done over and over again ; that the same rulings that sent me where I am, if applied to them with the same severity, would send nearly every one of them to prison also, for in the reports of trials for adultery, seduction cases, trials for divorce, etc., time and time again, they well know they have published plainer and more objectionable matter, and still not a word have they to say in my behalf. So long as it is not their castle that is attacked, they care nothing as to what may befall another's. So long as they can please the Christian church and its supporters and pocket their dollars they care nothing for a heretic who is tabooed by those same churches. This is the justice, independence, and magnanimity of the New York press. They know the injustice that is being perpetrated under the Comstock laws ; they know the laws are unconstitutional ; they well know that by a concert of effort they could soon cry down those laws and compel their repeal ; but knowing that the aristocratic clergymen and the wealthy churches sus-

tain them and are in favor of their retention upon the statute books, they will not give the first note of warning or alarm. They tamely submit to what they know is a wrong rather than raise their voices in protest against it. This is a sad state of things, and it is to be hoped that at some time in the future the press of this great metropolis may have more independence and moral honesty, and will not be subsidized or bulldozed by the ecclesiastical power and influence.

#### THE JURY.

What shall be said of the jury? Well, what can be said? What is due to twelve men in this enlightened, advanced age of the world, when the praises of liberty and justice are sung so loudly, who will tamely be coerced by an over-zealous Judge and agree to send a man of sixty years—who has through life maintained an unblemished reputation—to an ignominious prison at hard labor, for doing nothing but what every individual in the country has a perfect right to do, the simple mailing of a harmless pamphlet, which contains not a thousandth part of the objectionable matter that is to be found in every bookstore and every library in the country, and not a hundredth part of what may be found in every copy of the Bible, to be found in every mansion, every dwelling, every cottage in all this broad land.

It must not be forgotten that this jury was mainly a Christian jury, that its foreman is superintendent of a Sunday-school, and that a part of them have said, since the trial, that but for the charge and definition of the Judge, a verdict of acquittal would have been rendered. What should be said of a jury

so easily influenced against their better judgment ; so easily dragooned by a bullying judge, I will leave it with my readers to decide.

Pardon me, kind readers, for detaining you so long. The subject is one of vital interest to me. There is much more I wish to say, but will defer it to future occasions. In my next I will endeavor to give you samples of what has passed for "justice" in the few centuries immediately preceding our own, giving you the opportunity to judge whether you find parallels between them and my case. D. M. B.

## LETTER III.

CELL 36, LUDLOW ST. JAIL, June 23, 1879.

DEAR READERS OF THE TRUTH SEEKER: One more week of prison life has passed away. All things considered, perhaps I stand the confinement and indignity as well as could be expected for an old man. I am still able to eat my allowance, to sleep well at night, and to keep a tolerably equable frame of mind.

On Wednesday, the 17th inst., the following unwelcome notice was sent to my attorney from the U. S. District-Attorney's office :

OFFICE OF U. S. DISTRICT-ATTORNEY, {  
NEW YORK, June 17, 1879. }

*Hon Abram Wakeman, Sir:* Mr. Fiero, being detained at his home by sickness, desires me to state that Mr. Bennett must be transferred to Albany on Friday, the 20th inst., with other prisoners.

Respectfully,

C. P. L. BUTLER, Jr

This, of course, was not very welcome intelligence, as I have an overwhelming dread of the Albany Penitentiary, where, according to Mr. Lant's experience, the rules are most severe, where hard labor has to be performed by the prisoners, where there is very little chance for communicating with the outside world, either by writing or seeing friends.



Besides, it is much easier to conduct my business from this place, where my wife and employees can call upon me every day, than it would be at Albany, where I should be cut off from such intercourse. But when bigots and tyrants are masters, an imprisoned heretic has little else to do but submit. I am pleased to state, however, that upon a personal application by my attorney, Mr. Fiero had the magnanimity to allow me to remain here a few days longer, though Mr. Comstock is urging him persistently to have me sent to the penitentiary at Albany without further delay. I hope the time will come when this man will cease to persecute me, or when he will no longer have power to imprison me, deprive me of my property, and involve me in trouble and ruin. Of course, I am very glad to have my stay here in the city prolonged yet a few days.

Before proceeding to give you, as promised in my last, an account of many trials in the English and American courts within the last two or three centuries wherein justice was mocked instead of subserved, let me first answer Comstock's fifteen "reasons" why I should not be pardoned—the reasons which he made a journey to Washington to lay before the President, and which were also published in his organ, the *Daily Witness*, of this city. There can be very little doubt that they are the production of Comstock's brain, because they are so replete with falsehoods and misrepresentation. It is thought there is hardly another man in the world capable of crowding so many lies into a small space as that same godlyite is capable of doing. I have become accustomed to exposing his falsehoods and showing up his villainies, and I shall now expose

the forty lies contained in the following "Fifteen Reasons." I shall take them up *seriatim*:

1. Because the book he sent out through the mails is obscene, and has so been declared by every jury that has passed upon it; three persons having been convicted in different courts.

Here are two lies to begin with. The book is not obscene. Of this fact we have the concurrent testimony of many thousands of intelligent people, among whom are the first authors, scholars, and publishers of our time, as well as Attorney-General Charles Devens, who has expressly said it was not to be confounded with obscene books written to inflame the passions and degrade the mind. It may be crude, it may be in bad taste, it may be mistaken, but it is not obscene. There is not an obscene word in it.

Proof as to whether it is obscene has not been allowed to come before the juries who have acted in regard to it. The opinions of the class of people most competent to decide upon its character have been persistently kept from the juries. The judges have decided the matter, giving their own definition, their own "test," and virtually instructing the jury as to what kind of a verdict it should render. The juries have not been given a chance to form a correct opinion. In each case, when a conviction has been obtained, it was by the extra-judicial action of the judge, and was subsequently set aside by the President of the United States or the Governor of Massachusetts. No person is in prison for selling the pamphlet but myself, and, so far as I am informed, I am the only Comstock victim of any kind now suffering imprisonment.

3. Because he openly defied the laws after the courts had declared the book obscene and unmailable, and advertised the said book after he had been indicted in Watkins, N. Y., in the state courts for selling the same, as follows: "We will hand them to the purchaser, or send them by mail or express, as desired, Anthony Comstock, Frederick Davis (District-Attorney), Oliver P. Hurd (Judge), and all the citizens of Watkins and Schuyler county to the contrary notwithstanding. Let those who wish copies send in the price and they shall be supplied."

This reeks with falsehood. No law was defied except this misnomer of Comstock's own hatching, and it is so utterly in contravention of the Constitution of our country that every freeman is perfectly justified in despising it. I have only defied Comstockism; and that I perfectly detest. For the Constitution of our country, and the laws based upon it, I entertain the profoundest respect. I have only asserted my rights, and in this respect I may be somewhat of a disciple of Davy Crockett—when I know I am right, I go ahead.

Frederick Davis is *not* District-Attorney. He is the pious Comstock of Watkins who instigated my arrest there—who laid the plot there as Comstock lays his. In fact, there is the strongest proof that he acted by Comstock's instruction. Comstock's father has stated that Anthony sent instructions to the branch of the Y. M. C. A. in Watkins to arrest Bennett if he sold a copy of "Cupid's Yokes." Frederick Davis is one of the Y. M. C. A., and carried out the orders of his chief, Comstock.

The entire reason, I repeat, why I advertised the pamphlet was because I was positive that it was fit to be sold, and that I possessed the clear right to sell it, as others had to read it, of which right I did

not propose that Comstock should deprive me. The pamphlet is not such a work as was contemplated by the statute, and I really defied no law, but simply Comstock's tyranny. The two juries he refers to made no law, and the judges who convicted had made no law.

3. He was tried by a jury of his own choice and found guilty.

Here is an infamous falsehood. I did not choose one of the jury. They were selected mainly from Christian churches by the machinery of the court. The original panel from which the jury were to be chosen was found by actual canvassing by an intelligent friend to be ninety per cent orthodox men, while, on an average, less than ten per cent of the men of New York belong to any church. This fact shows how much fairness there is in selecting juries in the United States courts and how much I had to do in selecting the one which went through the farce of trying me. I had the privilege of challenging and rejecting three jurymen, and there my privilege of selecting ended. It was the judge who really found me guilty, and not the jury. He instructed them how to decide, and they were extremely loyal; and I repeat what I have said before, that a part of the jury afterwards said that if they had been left to their own judgment a verdict of acquittal would have been rendered.

4. Because on his appeal to the highest court in the district wherein he was tried, the three judges unanimously declared the book obscene within the meaning of the law, and that there had been no error on the trial in the court below.

This is false. The three judges did not allude to the question of the obscenity of the book, and that was not one of the points or exceptions which my attorney raised. The whole truth in the case is in a nutshell: Benedict is a Christian judge. He tried the case and condemned me. He was one of the three judges to sit in review of his own rulings to which exceptions had been taken. Of course he sustained them, and of course Judges Blatchford and Choate—also Christian judges—strained a point and sustained Brother Benedict. That is the whole of it.

5. Because the Circuit Court, in and for the district of Massachusetts, in the case of Heywood, unanimously gave the same decision in substance as was then expressed by His Honor, Nathan Clifford.

Yes, and for precisely the same reason that Judge Clark is another Benedict and exhibited the same severity and unfairness in excluding the testimony of competent persons as to the character of the book. He is an old-fogy Christian. Judge Clifford is another, and unfortunately not materially different from him. The whole thing is easy to be seen by every one not blinded.

6. To pardon this man now is to embolden others to continue the same unlawful business, and to virtually indorse and license the said book as right and proper.

This is all false. A pardon will embolden no one to do wrong or to violate law. It will simply help to establish the truth that selling or mailing a copy of "Cupid's Yokes" is not such an offense as should send a person to prison. It is hardly the legitimate province of the President or of the Government to

decide for the people what books they may read or what books they may not read. That is one of the rights which the people, by virtue of the Constitution, reserve to themselves.

7. Because his crime was deliberate, his conviction just, and the public good requires an execution of the sentence.

Here are three positive falsehoods. No crime was committed. The conviction was not just, and most assuredly the public good does not require that I should be imprisoned for thirteen years nor thirteen months nor thirteen days. I have simply exercised the right of an American citizen. I have injured nobody, and nobody is benefited by my imprisonment.

8. Because to grant another pardon on this same book is to rob the community of all the benefit and protection that the laws are designed to afford.

This is all false. To grant another pardon on a book which is not in violation of law, not in violation of the rights of a citizen, will not rob the community of anything. The community requires that nobody should be imprisoned on account of the book. It is equally just to imprison every person who has a copy of Shakspeare, Byron, Burns, or the Bible. The assertion that the protection which laws are designed to afford have any connection with "Cupid's Yokes" is manifestly false. That little pamphlet should have an equal chance with the writings of other men. Let those who wish it and admire it have the right to possess it and read it. Those who do not like it are by no means compelled to own it or read it. It has never injured any one, and Comstock cannot point out one person who has

been in the slightest degree damaged by it. To imprison a man on a supposed "tendency" it might have upon some *imaginary* and very susceptible individual is monstrously unjust and tyrannical.

9th. The only security of the public lies in executing the laws and making them a terror to evil-doers. To pardon this defiant criminal is to trample justice in the dust, encourage lawlessness, and discourage efforts that are made to keep the children pure.

This is all falsehood and balderdash. It embodies not less than five lies. The security of the public does not lie in doing injustice to any one. Far greater danger lies in executing injustice in the name of law. I am not a defiant criminal. I am not a criminal of any kind. To pardon me would not trample justice in the dust. If it trampled anything it would be injustice, tyranny, and oppression. Such a pardon would not encourage lawlessness, but it might discourage Comstockism, villainy, hypocrisy. The pardon, whether granted or not, has no more to do with the purity of children than it has with the volcanoes on the moon. To insinuate that it would is the most utter falsehood, sophistry, and nonsense.

10. Because the frequent pardon of criminals is not only discouraging to prosecuting officers, but affords and is pled as an excuse for the lax execution of the laws, and is a strong element of defense on behalf of criminals when their counsel plead for the non-trial of their clients.

Here is more sophistry and falsehood. The pardon of any individual who is unjustly imprisoned is not necessarily discouraging to any just or reasonable prosecuting officer. It doubtless would be discouraging and aggravating to Comstock to have the

unfortunate victims he has entrapped by his artifices, traps, and villainy freed from the great trouble in which he has involved them; but the community is not much damaged if he is displeased. His success by the aid of the Government courts and the passage of a law to harass and ruin well-disposed members of society is one of the greatest pieces of injustice ever known in this country.

11. Because the only way to stop the nefarious business of this man is to execute the just sentence of the law against him.

The hypocrite Comstock here came nearer speaking the truth of his object and intent than in any other instance, only he used the wrong adjective. He wants to break up my business, which he is pleased to style "nefarious," and he thinks by keeping me in prison a year or two he may accomplish it. This is his animus and aim, and this is what Judge Benedict has helped him to do, and is what he wants President Hayes also to aid him in perfecting. It is quite doubtful, even with their help, if he succeeds in his object. My business is not "nefarious" in any sense of the word. It is strictly a laudable and legitimate business. It is to impart knowledge, science, reason, and truth—as I understand them—to my fellow-beings. Can it be that the President of the United States will think I ought to be confined in prison to prevent my doing that?

12. Because E. H. Heywood and this man Bennett, in their published statements, insist that the Government, by the pardon of said Heywood, indorsed the said book as being proper; and at a Freeloze meeting in Boston, held May 24, the said Heywood boasted that the "Government found out I was right and it was wrong, and here I am



holding these meetings again." Also, "Let them dare imprison D. M. Bennett for mailing my book, and see which is the strongest." To pardon Bennett is to confirm the above defiant and lawless exhibition, and further bring the laws, courts, and Government into contempt.

Here is more falsehood and sophistry. "This man Bennett" has not insisted that the Government, by the pardon of E. H. Heywood, had decided upon the character of the pamphlet, and fully believes the pamphlet would never have attracted much attention from the Government or anybody else had not the meddlesome Comstock commenced a very foolish persecution against it, causing a hundred persons to read it where one read it before. Bennett is not at all responsible for anything Heywood may have said in a meeting in Boston, but will guarantee that Heywood, in this meeting, came nearer speaking the truth than Comstock does in his. The pardon of Bennett would have no reference, confirmatory or otherwise, to any remark Mr. Heywood may have made. Heywood's remarks, even as Comstock states them, were not lawless. The pardon of Bennett would not bring the courts nor the Government into contempt. If the courts are in contempt it is by their own conduct entirely. The Government could not do a more honorable and commendable act than to repair the injustice that has been done in this case.

13. Because good order and the highest public interest demand that nothing that tends to degrade the courts, impede the course of justice, set at defiance the laws, debauch the minds of the young, or corrupt their morals should be encouraged or permitted by the Government.

This is the merest bosh, and is unworthy of a

reply. The courts have not been degraded, justice has not been impeded, the laws have not been set at defiance, the minds of the young have not been debauched, nor their morals corrupted by anything I have done, nor would the Government do any of these things by liberating me from imprisonment. Comstock is the person who has done these things more than any one I know of, and he ought to be impeded.

14. Because there is no sound reason in morals or equity why the President of the United States should set aside the deliberate verdict of the jury and the calm judgment of the courts where no injustice has been done.

False and sophistical. There is the best reason in the world for the President's stepping in with the pardoning power where he thinks injustice has been done. It was for this very wise purpose that this power was placed in the President's hands. Courts are very fallible, and sentences are often most unjust. Many a time has justice been subserved by the timely exercise of executive clemency.

15. Because he does not seek for a pardon as a penitent man, but rather by basest attacks and most malicious representations he seeks to deceive honest citizens to sign a petition for his release on the ground that the false and malicious statements he has made against the officers and court that caused his conviction are true.

Will the President be pleased to consider these reasons, and not grieve the moral and religious portion of the community by shielding from the law any more obscene publishers who abuse the public mails in furtherance of their nefarious traffic?

Here are some half a dozen falsehoods, and malice enough to smother them. I do not assume special penitence, because I do not think I have done wrong.

I am conscious of my integrity, but try to bear myself modestly and honorably. I have made no "base attacks," unless telling the truth is base. I have made no malicious representations. My letter to the President is candid, straightforward, and truthful; it contains not a word that is false. I have sought to deceive no one. I have done no injustice to the Court, nor have I misrepresented it. The published official report of the proceedings bears me out in all I have said in that direction. I can also say I hope the President will be pleased to consider these so-called reasons, as well as the some forty falsehoods, direct and indirect, with which they abound. I would also like to assure the President that in Comstock's "fifteen reasons" there is hardly one real truth. That while all the charge that Comstock can substantiate against me is that I mailed a harmless, indifferent pamphlet, I can substantiate, by excellent evidence, the thirty very damaging charges I made against Comstock a week ago, the smallest of which is infinitely worse than the fifteen "reasons" against me. I ask the President, and the whole country, to look closely into the character of my accuser and persecutor and decide which is the better man, and which is the more worthy of executive consideration and clemency.

I wish to assure our worthy chief magistrate that by liberating me from prison he will not grieve the really moral and righteous portions of the community, but will yield them the greatest satisfaction. The grief will be to those who have pursued me with malice and vengeance, and who unjustly have cast odium and obloquy upon a character which for three score years I have endeavored to keep clear of

reproach. I can but repeat that I am not an obscene publisher and that I have never pursued a nefarious business. It is only a base man who will persistently make this unjust charge. Herein lies the great wrong that has been done me. Comstock has published from one end of the country to the other that I have dealt in obscene literature, when nothing of the kind is true.

The candid reader cannot fail to see the malice and falsehood which pervade these "fifteen reasons," and that the object is to keep in prison one whom their author has so deeply wronged. These fifteen reasons he took to Washington, and has besides used his utmost exertions to prevent all clemency in my case. And I learn from Washington that since his return he is writing and telegraphing various parties there whom he thinks he can influence against me. He has even telegraphed to senators' wives to do all they can with the President to prevent his pardoning me. What can be thought of a man who will take the vile means he has to secure my arrest and then follow me up with the malice of an incarnate demon to prevent liberation being extended to me? If any person needs any further proof of the vileness of that man's heart they must indeed be hard to convince.

- As day after day slowly passes by, as I sit here in my lonely cell, and as I hear of the vigorous efforts that are made upon the part of my enemies to prevent liberty being restored to me, I am more and more convinced that the fight upon the question which has been raised in this case—whether a man may think what to him seems good, read what to him seems good, print what to him seems good, dis-

seminate what to him seems good, or whether a society or a church, or even the general Government shall settle this question for him—must be settled on its merits. If American freemen are not to enjoy these rights; if an individual, a society, the courts, or the state are to determine what a man may think, speak, or print, then our liberties are gone. We are no longer free men. We have become slaves, and we must absolutely look to our masters for permission to breathe, permission to think, permission to speak, permission to print. But *no!* *NO!* this shall never be. The people of America will never submit to such exactions as these. These privileges, these rights, are too dear to them to be thus tamely surrendered. They never will yield them without a life and death struggle. They never will consent that these shall be wrested from them as long as life is left them. These rights are the foundation of American liberty, and they must and shall be preserved.

A great struggle is thus taking place as to whether I shall remain ignominiously in prison at hard labor for exercising these constitutional rights, or whether the chief executive will restore me to liberty and the enjoyment of my rights, the same as my fellow-citizens all around me are enjoying. The man who has pursued me for two years, who by hypocrisy and falsehood secured my arrest, and by the help of an over-willing judge secured my conviction, backed by his relentless persecuting society and friends, is doing his utmost to prevent the President from performing the just act of restoring me to liberty. Every means is being employed, every argument is being exhausted, and every influence

is brought to bear. What the result will be, time will decide, but it certainly is to be hoped that justice and right may triumph over injustice and oppression. But whatever the decision may be, we may all rest assured that we are now making history. The deeds now being enacted will go down to posterity; and if justice is denied me now, it will, I trust, be accorded to me by those who come after us.

I am by no means the first who has been imprisoned unjustly or accused wrongfully. Thousands of worthier men have endured far greater hardships than I have yet been called upon to suffer. Since the days of Socrates, the old Grecian philosopher, vast numbers of men and women have been arraigned before the existing authorities upon false and flimsy charges. They have usually been charged with corrupting the minds of the young and with spreading heresy and sedition among their fellow-men. This was the charge made against that grand old Grecian, and for this he was forced to drink the poison hemlock. On a similar charge Jesus, the gentle reformer and innovator of Judea—if the story of his life and persecutions is true—was arraigned before the court and the authorities that condemned him to death on the cross. He did not mail a pamphlet, because there were few pamphlets at that time, and no mails, but his offense was of just about the same magnitude, and the injustice that was done him was still greater.

For hundreds of years after his time great numbers of people were arrested, imprisoned, tortured, and put to death in all conceivable forms of cruelty because their belief, their opinions, and their teachings were thought to be wrong, by the authorities

who held power over them, and they were charged with corrupting the minds of their fellows.

Giordano Bruno was a striking instance of this kind. He taught the truths of the universe, the laws of nature, and for this he was burned at the stake. Vanini was another who gave up his life in the same way and for a similar reason. The old astronomer, Galileo, was also arraigned for "corrupting" his fellow-men by teaching them that the sun was the center of the solar system, and that the earth, with the other planets, revolved around it. This was thought to contradict and upset the theological arrangement of the heavenly bodies, and he must needs be thrown into prison and torture must be applied to him; but the old man's life was barely spared, and he was forced to make a sort of recantation of what he knew to be true. Copernicus, who, a little earlier, taught the same heresies, was fortunate enough to make his exit from the world before he was tortured to death for "corrupting" the minds of his fellow-men.

Michael Servetus was another who was charged with "corrupting" the minds of both old and young; and one pleasant morning, Oct. 27, 1553, in the town of Geneva, Switzerland, he was, by the authorities of the time, brought out in a public place, bound hand and foot, and burned to death at a slow fire, and in the most excruciating agony, because what he thought and what he printed did not suit the great Anthony Comstock of that time.

Many, many, shared a similar fate. Many good men have thus been hunted down by some Comstock who has found some Benedict to condemn them to imprisonment; torture and death have been

their fate. But it was all done in the name of morality, religion, and virtue. The great plea in all their cases was that the minds of the young and even those older must not be "corrupted." On this pretense thousands, yes millions, have been put to deaths the most cruel.

George Fox and Wm. Penn were thrown into prison because they "corrupted" the minds of others, and the greatest indignities were loaded upon them. John Bunyan and Richard Baxter were subjected to the same fate and upon the same charge. There were Comstocks in those days and there were Benedict's also. One notorious one was George Jefferies, as poor Richard Baxter and hundreds of others learned to their sorrow.

It has been a sad thing for large numbers of men to differ in opinion with those in authority, and to have the temerity to utter their honest convictions. Of this class were Robert Taylor, Richard Carlile, Charles Southwell, George Jacob Holyoake, and Edward Truelove, the last two of whom are still living. These were Englishmen, and were thrown into prison for their opinions, being charged with corrupting the minds of others. We have not done so much in that line in America, but among the victims who have been sentenced to prison in Boston for thinking wrong and teaching wrong—corrupting the minds of others—were Abner Kneeland, some forty years ago, and E. H. Heywood a year ago. And now my humble name is added to this list of martyrs, heroes, and sufferers who were true to their convictions, and who uttered their honest sentiments. How long my imprisonment will continue President Hayes must decide. Judge Benedict said thirteen



months; I hope the President will have more mercy and justice. And let it be hoped that this case of mine is about the last one in America where a man will be torn from family, friends, and business for not thinking right or for teaching contrary to prescribed rules. America should be too free a country for its courts to throw men into prison for holding and teaching what they believe to be truth.

#### ENGLISH COURTS OF JUSTICE.

I will now leave Comstock and Benedict for a while and go back a few centuries and see what kind of justice the people had in those times. Our modes of justice, our courts of law, with trial by jury, were one of the results of Saxon conquest of Britain. The habits of the people were at that time very simple, and the courts of justice and the law-making power were of the same character. For a few centuries after that conquest the making of laws and their administration were performed directly by the people. At times they came together in convenient bodies and passed such statutes as they thought were needed, and at the same time tried such cases, quarrels, and disputes as arose among them. These popular courts were of different sizes, sometimes the freeholders of a township with only a certain number of families, and sometimes a whole shire or county. They were usually presided over by a reeve or bishop, who acted more as moderator than as officials possessing much power. These were incipient English judges, though at that time they possessed but a small fraction of the power which judges afterwards exercised.

The historian, Hume in speaking of those times,

says : "Suits were determined in a summary manner, without much pleading, formality, or delay, by a majority of voices, and the bishops and aldermen had no further authority than to keep order among the freeholders, and interpose with their opinion." By this mode all freeholders were obliged to take part in these legal proceedings.

This rule of simple and direct justice continued with but little change until after the Norman Conquest, when these local administrations were broken down and the law-making power of the courts became more centralized in the larger cities, all centering in the king. The Saxon system was not abolished all at once, but the changes were gradual. By degrees the services of the freeholders were dispensed with. Judges were appointed by the king; and depending upon the king for their place and position, they were of course very subservient to the king, and seconded his tyrannical plans and winked at his perversion of the very principles of justice. In short, they were little better than tools in the hands of corrupt kings, and were too ready to execute their corrupt designs. They were too often guilty of duplicity, falsehood, treachery, and the most cruel tyranny towards the people. As they obtained their power from the king, they acknowledged no fealty to the people, and were most cruel oppressors of the people.

Many of the English judges within the last few centuries were notorious for their oppressive rulings, their arbitrary and insolent conduct, their cruelty, and their perversions of the very principles of justice. Often the very worst of men, by their suppleness to the wishes of a corrupt king, were promoted

to a judge's seat, and by their numerous villainies made themselves objects of the detestation of mankind. Among the more conspicuous in this class of corrupt and venal judges appear the names of Robert Tresilian, Thomas Billing, John Fitzjames, Thomas Fleming, Nicholas Hyde, John Brampton, Robert Heath, Robert Foster, Robert Hyde, John Kelyng, William Scroggs, Francis North, Edmund Saunders, Robert Wright, and the notorious George Jefferies, with several others of a later date who were culpable in a somewhat lesser degree, some of whose doings will be mentioned further along. Those who wish to read the history of these judges and their infamous conduct are referred to a volume styled "Atrocious Judges," by Hildreth, published by Miller, Orton & Mulligan. They will find there judicial villainy enough to satisfy the most depraved taste for that article.

#### GEORGE JEFFERIES.

This infamous tyranny and venality of the judges culminated in the seventeenth century, during the reigns of James II. and Charles II. Among the most villainous of this class of judges stands conspicuous George Jefferies, a disgrace to the judicial ermine as well as a disgrace to mankind.

Jefferies was born in 1648. His father was a country squire of small means. By a system of shrewdness and low cunning, the son, after entering the legal profession, climbed up from one position to another until he occupied the highest position in the profession. His manner was marked by a wild, brutal ferocity, which was never matched or even approached by the worst of bullies and prostitutes that

he himself condemned to be flogged at the cart's tail. Charles II. described him as "a man who had no learning, no sense, no manners, but more impudence than ten carted street walkers." To describe his impudence in brief compass has been said to be beyond the power of language. In his wilder moods it ceased to be impudence or even impudicity, and rose into paroxysms of a terrific and half maniacal frenzy. When to these qualities are added the cunning of a wild beast, the cruelty of an inquisitor, and the malignity that gloated and reveled in the shrieks and groans of its unhappy victims, it will be easily seen why the name of Jefferies is even now hardly ever pronounced by an Englishman without a curse.

He showed himself a willing tool of a Christian court, and by the means of his vile arts rose to the highest position a judge can hold. In 1673 he became Chief Justice of the King's Bench, soon after which came the failure of the Duke of Monmouth's attempt to secure his uncle's crown, when Jefferies was sent to traverse the western counties of the kingdom and punish those who had taken part in the rebellion. During this tour, characteristically called the "Bloody Assizes," or Jefferies campaign, he exercised the extremest cruelty and barbarity toward the hapless wretches who fell under his power; his malignity and vengeance seemed to know no bounds. He convicted and condemned to death nearly every unfortunate person brought before him who was charged with treason; and pompously made the boast that he had hanged more traitors than all the judges since the conquest. The numbers of victims whom he sentenced to death are

variously estimated from 350 to 700. Lord Lonsdale, who possessed good facilities for knowing, placed the number at the latter figure. The numbers he sentenced to be cruelly whipped at the cart's tail are not to be computed. For these very important services James II. made him Lord High Chancellor, which position he held till the Revolution, when that event deprived him of his sole friend. In his attempts to escape the country in the guise of a sailor he was discovered by an attorney whom he had shamefully browbeaten and insulted, who exposed him to the vindictive anger of the populace, who would have killed him on the spot but for the timely arrival of a squad of soldiers. He was, however, imprisoned in the Tower, where he died in the direst ignominy, utterly despised by almost every person in England. His memory has been held in detestation from that day to this.

Of course civilization and progress have done a good deal for the English-speaking people, especially since the time of Jefferies, but probably my readers will not think strange if in tyrannical bearing, unjust rulings, severe sentences, indifference to the rights of the accused, disregard of law and justice, in arrogance and sensuality, in efforts to coerce and dragoon juries to render a desired verdict, in acting the part of prosecutor rather than the just upright judge, etc., etc., I see in the judge who dealt out such heavy-handed justice to me some of the characteristics of George Jefferies, or that I have been able to perceive strongly-marked parallels between them.

It would require a volume of large size to merely give the names and slightest details of the unjust judges who have in the last few centuries pretended

to administer justice to their fellow-men. The most cruel have been those who have punished for theological offenses. The worst tyranny has been that which has tried to enchain and oppress the mind. The worst cruelty has been that which has punished for matters of opinion. Because men and women have not cramped their minds to follow the pattern set up for them they have, by ecclesiastical judges, been racked and tortured, hung and quartered, burned and beheaded, in numbers beyond the power of accurate computation ; but that these most unfortunate victims of ecclesiastical judges and courts have amounted to many millions is well known.

It is not my purpose now to enter into a consideration of ecclesiastical courts and ecclesiastical justice. It is a most bloody chapter, and I will leave it for the present until I have first given a considerable number of cases in the English courts, that it may be seen that the cruel injustice on the part of some of our judges is not without precedent.

#### THEODORE PARKER'S CASE.

I shall use somewhat freely the compilation made by Theodore Parker to use upon his trial before Judge Curtis of the United States Circuit Court in Boston, June, 1855 (the proceeding's having been commenced several months earlier, in the previous year), for a misdemeanor—a charge of having aided a fugitive from slavery, Anthony Burns, colored, to retain his freedom. This was a charge nearly as heinous, at that time, as depositing a copy of "Cupid's Yokes" in Uncle Sam's mail bags is now. At about the same time, and upon the same terrific charge, were arrested Wendell Phillips,

T. W. Higginson, John Morrison, Samuel T. Proudman, John C. Clure, and Mr. Stowell. It was at that time a serious crime against the laws and Government of the United States to aid a poor bondsman who risked his life in escaping from slavery to freedom. There is in our time but little that is equal to what that was, except it be spreading light and truth among the people, advocating heretical opinions, or sending over the country certain physiological and socialistic pamphlets by mail.

Upon this monstrous charge of aiding and befriending runaway slaves, these men were duly arrested by the strong arm of the Government, marshals and deputy marshals being dragooned into service for this purpose. They were taken before a United States commissioner, Edward G. Loring, and were required to give bonds or be sent to prison—the same as I was; they were duly presented to the United States Grand Jury (one of whom was brother to the U. S. Judge), true bills were found against them, and at the instance and by the aid of the U. S. District-Attorney, Benjamin F. Hallett, they were duly indicted and held for appearance at the regular session of that august court, to sit in March, 1855, the cases being continued to the April term, and afterwards to the June term.

The arrest of these worthy men caused not a little excitement in the vicinity of Boston, as well as in various parts of the country. Thousands regarded the whole business as a shame and an outrage—that the great Government of the United States should thus lend itself, at the behest of the slave power, to arraign and persecute gentlemen of such excellence upon the charge of having sympathy for the down-

trodden and oppressed. The arrest, indictment, trial, and sentence of myself in the United States Circuit Court for depositing a harmless pamphlet in the mail is in many respects a parallel case, only in my case my persecutors have been more severe, more vindictive, and more disgraceful than were those in the cases of Parker, Phillips, Higginson, *et al.* The prosecutors in the cases of those gentlemen became ashamed of their meanness and injustice. The good sense of the country would not justify such a species of governmental persecutions, and District-Attorney Hallett very prudently and very sensibly entered a *nolle prosequi* in each of those cases, and the accused were set free.

#### MY OWN CASE ONCE MORE.

Not so in my own case. That infamous sneak, Comstock, backed by the Young Men's Christian Association, has for two years been pursuing me with the view and intent of finding some pretext upon which he could arrest me, cast me into prison, disgrace me all over the country, and utterly ruin my business. He sent spies to see what could be discovered ; he entered my place himself under the pretense of wishing to purchase Liberal literature, and finding something he thought he could use as a pretext, he submitted it to his junta of legal advisers of the Young Men's Christian Association, and they said, "These will do ; go ahead." Arrest, being held to bail, indictment, and being published as a dealer in obscenity in all the principal papers of the country followed. Everything went swimmingly with Comstock and Colgate. Their victim was safe, and Benedict would soon send him to prison.



But the authorities at Washington learned the facts, and the case was ordered to be dismissed. Comstock and Colgate's little game was spoiled. Comstock was very angry, and declared that he had not got through with Bennett, and would yet get him in his power. "Cupid's Yokes" was the next pretext he could find. A decoy letter was sent, ordering a copy. A false or forged name was used. The victim was caught, and arrest, indictment, and more disgrace followed. District-Attorney Stewart L. Woodford scorned the business, and did not wish to prosecute it. He did not believe it was such a case as the statute contemplated. But his assistant, Wm. P. Fiero, was pleased to take it up. He came to the rescue of Comstock, Colgate & Co., knowing that thereby he would gain the approbation of the pious Christian element. With the vigorous aid of Judge Benedict, and a very submissive, accommodating jury, a conviction was easy. Comstock, Colgate, Cook & Co. were happy, and here I am in prison, as they desired.

#### ENGLISH JUSTICE.

But let me leave for a while the memory of my own wrongs and recite somewhat similar cases which passed for justice in England two or three centuries ago and later. I think my readers will bear me out in the assertion of the truth that judges have been among the greatest oppressors, the worst tyrants, and the most bitter foes to liberty that poor, abused, injured humanity has had to contend with. The authenticity of these reports cannot be doubted, for they are taken from the official reports of English state trials and other authorities. The intent, pur-

pose, and mode of this kind of prosecutions, Parker states thus :

“1. In the Privy Council, or elsewhere, it is resolved to punish the obnoxious men, and the business is intrusted to the law-officers of the Crown appointed for such functions.

“2. They consult and agree to pervert and twist the law—statute or common—for that purpose. By this means they gratify their master and prepare future advancement for themselves.

“3. The precedent thus established becomes the basis of new operations in the future, and may be twisted and perverted to serve other causes as they occur.”

#### EXAMPLES FROM HISTORY.

As examples of this exhibit or arraignment, the following cases are briefly stated :

1. In 1610 two Puritans, for refusing the *ex officio* oath, were thrown into jail by the commissioners. They were brought on *habeas corpus* before a court, and a Mr. Fuller, their counsel, a learned lawyer, insisted that they were imprisoned without due process of law. For this “contempt of court” he was thrown into prison by Archbishop Bancroft, whence he was rescued only by death. (Pierce’s Vindication, p. 174.)

2. In 1613 there were many murmurs among the people of England at the tyranny of King James. Fine and imprisonment did not quell the disturbance, so a more dreadful example was thought needful. The officials of Government broke into the study of Rev. Edmund Peacham, a Protestant minister, sixty or seventy years old. In an uncov-

ered cask they found a manuscript sermon, never preached, nor designed for the pulpit nor the press, and never was shown to any one. It contained some passages in favor of human liberty, that an advocate of the power of kings might think calculated to incite men to resist tyranny. The minister was arrested, thrown into prison, and all his papers seized. The Government officials, in concert with the judges in deciding upon the charge that should be made against him, decided that it should be high treason, as that was a favorite charge in those times upon which to convict a poor, unfortunate victim, as obscenity now is with Comstock and Benedict. Francis Bacon, the powerful and corrupt attorney-general (he was probably a little smarter man than Wm. P. Fiero), managed the prosecution. Before the trial was ventured upon he procured an extra-judicial opinion of the judges appointed for such services, who gave him the assurance that they would declare the act of the minister to be high treason.

But even for those swift and willing authorities, a manuscript sermon, never preached nor designed to be published in any way, was hardly evidence enough to convict the poor unfortunate man of high treason. So they adopted an eminently Christian mode of action—torture by rack before trial. This poor man was subjected to this most cruel treatment. Twelve leading questions were prepared by the Government officials and propounded to him. The following is in the verbatim record of Secretary Winwood, which is still extant in his own handwriting: "He was this day examined before torture, in torture, between torture, and after torture; not-

withstanding nothing could be drawn from him; he still persisting in his obstinate and insensible denials and former answers." Bacon was present at the torture, which took place in the Tower, Jan. 19, 1614, O.S. In August following he was tried for high treason—"compassing and imagining the king's death"—before a packed jury, against law and without legal evidence. He was of course found guilty under rulings of the court. When it is remembered that this inoffensive Rev. Peacham was condemned upon the "tendency" which his written sentiments "might have upon persons of susceptible minds into whose hands they might fall and who might be open to such influences," and that the rulings and charge of the judge controlled the verdict, a strong parallel may be seen between the case under consideration and my own. But public opinion, even at that early date, caused fear and trembling to come over kings and despots. The people were so indignant at the outrage that had been committed that, notwithstanding the verdict, the execution was not ventured upon. But a worse fate was reserved for the man. He was left to languish in prison till on the 27th of March, 1616, a king more merciful—Death—took the old minister where tyrannous judges and despots could not trouble him more. (State Trials, 869; Montague's Bacon, clxvi; 2 Campbell, 291.)

Thus it will be seen that that most unfortunate man was forced to a wretched death upon *constructive* treason, when he had not been guilty of treason at all. *Constructive* obscenity in our time is little better.

It may be interesting to read the opinion of the

good King James upon this case—the sovereign who had the Bible translated :

“So the only thing the judges can doubt of is of the delinquent’s intention, on his bare demand to clear him [himself] since nature teaches every man to defend his life as he may ; and whether in case there was a doubt herein, the judges should not rather incline to that side [namely, the side of the Government] wherein all probability lies ; but if judges will needs trust rather the bare negative of an *infamous delinquent*—then all the probabilities, or rather infallible consequences upon the other part, caring more for the safety of *such a monster* than the preservation of a crown in all ages following, whereupon depend the lives of many millions Happy, then, are all *desperate and malicious knaves*, but the fortune of this crown is more than miserable, which forefend ” (2 St. Tr., 878).

3. In 1633, Laud, a tyrannical, ambitious man, and a servile creature of the king, mentioned before, was made Archbishop of Canterbury, continuing Bishop of London at the same time. Charles I. was strongly inclined to Romanism ; Laud also leaned that way, aiming to come as near as possible to the papal and not be shut out of the English church. He made some new regulations in regard to the communion table and the Lord’s Supper. John Williams, Dean of Westminster and Bishop of Lincoln, who had been Lord Keeper under King James, wrote a book against those innovations ; besides, in his Episcopal court he had once spoken of the Puritans as “good subjects,” and of his knowing “that the king did not wish them to be harshly dealt with.” In 1637 Laud directed that he should be prosecuted in the Star-Chamber for “publishing false news and tales to the scandal of his Majesty’s government,” and “for counsels of state contrary to his oath of a

privy counsellor." He was sentenced to pay a fine of £10,000 (equal in those days to what \$100,000 is now); to be suspended from all offices, and kept a close prisoner in the Tower during the king's pleasure—whence the Revolution set him at liberty. Besides he wrote private letters to Mr. Osbaldernstone, and called Laud "the little great man"; for this he in 1639 was fined £5,000 (fully equal to \$50,000 now) to the king, and £3,000 (\$30,000) to the archbishop. Osbaldernstone in his letters had spoken of the "great leviathan" and the "little urchin," and was fined £5,000 (\$50,000) to the king, and the same to the archbishop, and sentenced also to stand in the pillory with his ears nailed to it. (3 St. Tr., 767; Campbell, 400.)

This was indeed beautiful justice. The offense those two men committed was nearly equal to mailing a little pamphlet. I perhaps ought to be very glad that I did not live at that time and that my case was not tried in the Star-Chamber. It would have troubled me severely to pay those fines, but I suppose I could have lain in prison and also stood in the pillory with my ears nailed to it, though it would not have been altogether pleasant. Possibly I ought to be very grateful to somebody or something that my lines fell in such pleasant places, and that I met the tender mercies of Comstock, Colgate, Britton, and Benedict.

4. In 1629 Richard Chambers, a merchant of London, complained to the Privy Council of some illegal and unjust treatment, and declared "that the merchants in no part of the world are so screwed and wrung as in England; that in Turkey they have more encouragement." Laud, who hated freedom of

speech and liberal comments on the Government—as much as our exalted clergymen and pious dignitaries at the present time are opposed to anything radical being said against orthodox creeds, customs, and opinions, whether in theology or in social life—is said to have told the king, “If your majesty had many such Chambers, you would soon have no chamber to rest in.” The king very readily took the hint, and poor Chambers was cited to appear before the Star-Chamber, and was fined £2,000 (\$20,000), and was condemned to make a “submission for this great offense,” which the sturdy Puritan refused to do and was kept in prison till the Court of the King’s Bench, faithful to the law on *habeas corpus*, admitted him to bail, for which however they were reprimanded. Laud and all the ecclesiastical members of the commission of the Star-Chamber wished Chambers’ fine to be £3,000 (\$30,000). (3 St. Tr., 372; Franklyn, 362; 2 Hallam (Paris), 1841, 6 *ec etam* 13; Mrs. Macauley, 16, 45, 65.)

O, yes, no doubt the ecclesiastics were in favor of making the fine heavy. They always entertain a profound respect for pounds and dollars, while in the qualities of mercy and forbearance they have not especially distinguished themselves. It is certainly to be doubted whether our modern Star-Chamber would have been quite so heavy handed on poor Chambers. They might have let him off with thirteen months imprisonment and a fine of \$300.

5. In his place in Parliament in 1629, Sir John Eliot, one of the noblest men in England’s noblest age, declared that “the Council of Judges had all conspired to trample under foot the liberties of the subject.” The truth which that good man uttered

then was as patent as that the liberties of the people are to-day being trampled under foot in the forms of laws and by prosecutors and judges who stand high among church aristocracy. But a few days after the king (Charles I) had dismissed his refractory Parliament, Eliot, with Hollis, Long, Selden, Strode, and Valentine, most eminent members of the House of Commons, and zealous for liberty and law, was seized by the king's command and thrown into prison. The *habeas corpus* was demanded in vain, for Laud and Strafford were at the head of affairs (as Blatchford and Benedict are at the head of the United States Court in this city), and the priests and pliant judges in Westminster Hall struck down the law of the land, just as justice and right have been stricken down in my case in this year 1879. The court decreed that those men should be imprisoned during the king's pleasure, and not be released until they made submission and gave security for good behavior. Eliot was fined £2,000 (\$20,000), and Hollis and Valentine in smaller sums. Eliot, the truly brave and great man, refused submission and died like a hero in the Tower, a martyr to human liberty. (3 St. Tr., 293; 1 Rushworth; 3 Halmum 2; 2 Parl. Hist., 488, 504; Foster's Eliot; 2 Mrs. Macauley, ch. i, ii.)

6. In 1630, the very first year of the settlement of Boston, on the 4th of June, Rev. Dr. Alexander Leighton was brought before the Court of High Commission, in the Star-Chamber, to be tried for a seditious libel. He had published "An Appeal to the Parliament, or a Plea Against Prelacy," a work still well known, but, of course, not as bad as my "Open Letter to Jesus Christ;" but it remonstrated



against oppressive grievances in church and state, "to the end that Parliament might take them into consideration and give such redress as might be for the honor of the king, the guide of the people, and the peace of the church." The Court of Commissions accounted it "a most odious and heinous offense" (probably not as bad as "Cupid's Yokes"), "deserving the most serious punishment the Court could inflict, for framing a book so full of such pestilent, devilish, and dangerous assertions." The two chief justices declared if the case had been brought in their courts they would have proceeded against him for treason, and it was only "his Majesty's exceeding great mercy and goodness" which selected the mildest tribunal. His sentence was a fine of £10,000, to be set in the pillory, whipped, have one ear cut off, one side of his nose slit, one cheek branded with S. S.—sower of sedition—and then at some convenient time be whipped again, branded and mutilated on the other side of the face, and confined in the Fleet (prison) during life. Before the punishment was inflicted he managed to escape out of prison, but was recaptured, when the odious and terrible sentence was fully executed. (3 St. Tr., 383 ; Laud's Diary, Nov. 4 ; 2 Hallam, 28.)

What glorious times those would have been for Comstock and Benedict ! They could have exercised the natural bent of their minds to the full. They could have dragged to prison with the utmost ferocity everybody who gave the slightest offense, and inflicted all the cruelty their pious souls could wish. That was the hey-day for cruel and vindictive prosecutors and judges. I shall try and feel joyful that my brief career on the earth did not come off

in those times, for I would have been sure to have got into some trouble. If I had not mailed a pamphlet I very likely would have said a word or two in favor of liberty and against kingly, judicial, and ecclesiastical tyranny.

7. William Prynne, a zealous Puritan, and a very learned lawyer, wrote a folio against theaters called, "A Scourge for Stage-Players," said to be "dull, learned, unreadable, and uncomm on thick." But for this offense he was brought to the Star-Chamber in 1632-3, and Chief Justice Richardson, who, even in those times, had but an indifferent reputation for honesty and veracity, gave this sentence: "Mr. Prynne, I do declare you to be a schism-maker in the church, a sedition-sower in the commonwealth, a wolf in sheep's clothing; in a word, *omnium malorum nequissimus*—the wickedest of all scoundrels. I shall fine him £10,000, which is more than he is worth, yet less than he deserveth. I will set him at liberty no more than a plagued man or a mad dog, who, though he cannot bite, yet will he foam. He is so far from being a sociable soul that he is not a rational soul. He is fit to live in dens with such beasts of prey as wolves and tigers like himself; therefore I do condemn him to perpetual imprisonment as those monsters that are no longer fit to live among men nor see the light. I would have him branded in the forehead, slit in the nose, and his ears cropped, too." This sentence was executed the 7th and 10th of May, 1633. (3 St. Tr., 671; 2 Hallam, 28.)

It must be admitted that Judge Richardson's cruelty and injustice were greater than Judge Benedict's, but had the latter lived in the time of the

former and been clothed with the same power, it cannot be told whether he would have been any more mild and merciful.

8. In 1685, James II. was in reality a Catholic. He wished to restore Romanism in England and abolish the work of the Reformation, the better to establish the despotism which all of his family had sought to plant. He was determined to punish such as spoke against the papal church, though no law prohibited such speaking. Judge Jefferies, a member of the cabinet and favorite of the king, was at that time Chief Justice, and abundantly fit for the work demanded of him. The pious and venerable Richard Baxter, who had written elaborate works on religious subjects, was selected for the victim. The historian Macaulay describes the shameful affair in the following language :

“In a commentary on the New Testament, he had complained with some bitterness of the persecutions which the Dissenters suffered. The men who, for using the Prayer Book, had been driven from their homes, stripped of their property, and locked up in dungeons, should dare to utter a murmur, were then thought high criminals against the state and church. Roger Lestrangle, the champion of the Government and the oracle of the clergy, sounded the note of war in the *Observer*. An information was filed. Baxter begged that he might be allowed some time to prepare for his defense. It was the day that Oates was pilloried in the prison-yard that the illustrious chief of the Puritans, oppressed by age and infirmities, came to Westminster Hall to make this request. Jefferies burst into a storm of rage. ‘Not a minute,’ he cried, ‘to save his life. I can deal with

saints as well as sinners. There stands Oates on one side of the pillory, and if Baxter stood on the other, the two greatest rogues in the kingdom would stand together.'

"When the trial came on at Guildhall, a crowd of those who loved and honored Baxter filled the court. At his side stood Dr. William Bates, one of the most eminent nonconformist divines. The two Whig barristers of great note, Pollexfen & Wallop, appeared for the defendant.

"Pollexfen had scarce begun his address to the jury when the Chief Justice (Jefferies) broke forth: 'Pollexfen, I know you well. I will set a mark on you. You are the patron of the faction. This is an old rogue, a schismatical knave, a hypocritical villain. He hates the Liturgy. He would have nothing but long-winded cant without book.' And at this his lordship turned up his eyes, clasped his hands, and began to sing through his nose in imitation to what he supposed was Baxter's style of praying: 'Lord, we are thy people, the peculiar people, thy dear people.' Pollexfen gently reminded the court that his late majesty had thought Baxter deserving a bishopric. 'And what ailed the old blockhead, then,' cried Jefferies, 'that he did not take it?'

"His fury was now almost to madness. He called Baxter a dog, and swore that it would be no more than justice to whip such a villain through the whole city.

"Wallop interposed, but fared no better than his leader. 'You are in all of these dirty cases, Mr. Wallop,' said the judge. 'Gentlemen of the long robe ought to be ashamed to assist such factious knaves.' The advocate made another attempt to

obtain a hearing, but to no purpose. 'If you do not know your duty,' said Jefferies, 'I will teach it you.'

"Wallop sat down, and Baxter himself attempted to put in a word, but the Chief Justice drowned all expostulation in a torrent of ribaldry and invective, mingled with scraps from Hudibras. 'My lord,' said the old man, 'I have been much blamed by Dissenters for speaking respectfully of bishops.'

"'Baxter for bishops!' cried the judge, 'that's a merry conceit indeed! I know what you mean by bishops—rascals like yourself, Kidderminster bishops, factious, sniveling Presbyterians.'

"Again Baxter essayed to speak, and again Jefferies bellowed, 'Richard, Richard, dost thou think we will let thee poison the court? Richard, thou art an old knave. Thou hast written books enough to load a cart, and every book as full of sedition as an egg is full of meat. By the grace of God, I'll look after thee. I see a great many of your brotherhood waiting to know what will befall their mighty Don. And there,' he continued, fixing his savage eye on Baxter, 'is a doctor of your party at your elbow. But by the grace of God Almighty, I will crush you all.'

"Baxter held his peace, but one of the junior counsel for the defense made a last effort, and undertook to show that the words of which complaint was made would not bear the construction put upon them by the information. With this view he began to read the context. In a moment he was roared down, 'You shan't turn the court into a conventicle.' The noise of weeping was heard from some of those surrounding Baxter. 'Sniveling calves,' said the judge." (1 Macaulay, 456-8, Harpers' ed.)

Baxter was sentenced to pay a fine of 500 marks, to lie in prison till he paid, and be bound for seven years for good behavior. It is also said Jefferies wished him to be whipped at the tail of the cart, but the king remitted the fine.

Poor Richard Baxter stood just about as much chance for receiving justice before Jefferies as Comstock's victims do in Judge Benedict's court. Their unfairness in not letting the context be read to give the import of the condemned words is about equal, their style of instructing and coercing the jury not dissimilar. It is not difficult to imagine that Baxter and his friends had about as much consideration with Jefferies as I and my friends had with Benedict. This judge has for years been sending Comstock's victims to prison and loading them with heavy fines, with about the same mercy and justice that was shown by the notorious and infamous Jefferies.

My friends, I will not now detain you with further samples of English justice, as I fear I have already wearied you. I may recur to them in my next. I think by the time I have concluded you will be convinced that great tyranny and oppression have been enacted in the name of justice, and that judges and courts have time and time again been the greatest enemies to the liberty and happiness of mankind.

#### VISITORS' CALLS.

Kind friends continue to visit me in my prison cell, and their faces I have been most glad to see. Among those from outside the city were E'izur Wright, on his way home from Minnesota, and J. M. Peebles. I have to report, however, that Anthony

Comstock, Samuel Colgate, Joseph A. Britton, Judge Benedict, nor none of that godly class have called upon me. They have not given me the opportunity to say to them at the last day, "I was in prison and ye visited me." I hope, however, they will not put themselves out of the way to come and see me. I am not particularly anxious to set my eyes upon them.

The question as to what will be my fate is now an important one to myself and the thousands of my friends all over the country. Petitions to the President are being signed in large numbers, and many have been duly forwarded to Washington.

Before these lines reach the readers of *THE TRUTH SEEKER* the President will have been presented with petitions bearing twenty-five thousand names, asking for my liberation. Boston alone has sent ten thousand. The aggregate will undoubtedly reach one hundred thousand names.

I cannot express the gratitude I feel toward all the kind friends who have so nobly stepped forward to aid me in obtaining liberty. I wish I had it in my power to reciprocate the kindness.

It would seem that the earnest request of so many people, asking for but an act of justice, ought to have an immense influence with the Executive, but it must be borne in mind that the influence we have to contend with is also immense. The entire Christian element of the country appears to be aroused in this case, and great numbers are beseeching the President not to interpose in my behalf. A friend in Washington writes that letters are coming in from bishops, ministers, their uncles, "their sisters, their cousins, and their aunts," praying that Bennett

be not pardoned. The struggle is waxing very warm, and it is difficult to say what the result will be. If orthodoxy thinks it will gain by this severity and intolerance toward myself, I believe it will be mistaken. The greater the injustice it is guilty of, the more it will ultimately redound against it.

The little pamphlet which I mailed, and for which I am in prison, has been thoroughly examined at the White House and in the Department of Justice, and the opinion in each place is that it is not obscene. This would seem to be enough to settle the case at once. But the fact that five Federal judges, by their rulings and decisions, have practically pronounced the book obscene has much weight in the President's mind. But if he reflects that it has not been the province of those judges to decide the question whether the book is obscene or not, that they have not done so, and that even if they had, it does not change it one way or the other, he will probably be able to decide upon the merits of the case, regardless of five men or five hundred men. Probably one hundred thousand people have read the book, many of these among the most intelligent in the country, and they have declared it *not obscene*, and it would seem that their opinion ought to have as much weight as that of five judges, who have in fact expressed no opinion upon the subject. And more, if the public judgment is divided—if there is a doubt as to the general verdict—justice would seem to say I ought to have the benefit of that doubt.

If the President will think for a moment that in every house in the land, and by every fireside, is found the Bible, with its amorous Song of Solomon; the story of prostitution in the book of Esther; the



love story of Ruth and Boaz, of her going into his tent and lying with him at night under the same blanket ; of the incest of Lot and his daughters; of Judah and Tamar; of Amnon and his sister ; of the adultery of David with Bathsheba; of the polygamy, concubinage, and whorings of Solomon; of the twenty-third chapter of Ezekiel, with hundreds of other places too tedious to mention, in all of which there is a hundred times more of indecency to be found than in Mr. Heywood's dry philosophical pamphlet, I think he will be able to understand that *obscenity* is a mere pretext on the part of my enemies ; that that charge is a mere cover for my real offense—heterodoxy. I hope he will not think I ought to be kept in prison because my religious views are unlike those of another class.

As so many letters are pouring in to the President from my enemies, I advise that my friends pursue the same tactics. Every man and woman in the country, however humble, has a perfect right to address the chief magistrate. Let them, every one of my friends and sympathizers who thinks injustice has been done me, and who wishes me restored to liberty at once, write a letter to the President—if not more than ten lines—requesting him to release me from prison. Address, His Excellency, R. B. Hayes, President, Washington, D. C. A concert of action in this way may accomplish much good.

I trust I am guilty of no breach of confidence in saying that the postmasters of these three cities, New York, Brooklyn, and Jersey City, have petitioned the President for my pardon, as well as many of the ablest legal gentlemen of this city. This should count much in my favor.

I know not on what day I may be taken to the Albany Penitentiary. If no instructions to the contrary come from Washinton within a very few days, I shall probably be transported there before the close of the present week. I, of course, do not wish to go, but the matter seems not to be left to my choice. But let us hope that eventually the right will come uppermost and that justice will be done.

D. M. B.

## LETTER III.

CELL 36, LUDLOW ST. JAIL, June 30, 1879.

DEAR READERS OF THE TRUTH SEEKER: Day after day passes by with me in my prison cell the same as with those who are immersed in busy cares and active life in the outside bustling world; another week has passed away and the time has come again for me to address you. Prison life is monotonous. The variety which one sees here is not great. The same routine; at seven in the morning the cell door is unlocked, when the keeper invariably finds me up and engaged in reading and writing, at which I have been occupied two hours or more. At eight the morning paper is brought in, and an hour or more is spent in looking over the events of the past twenty-four hours, with what the editors have to say about the same. At nine my breakfast is brought, which usually finds me with a good appetite. My faithful wife is the first caller, and she brings me the news from THE TRUTH SEEKER office, a brief account of the letters that have been received, etc. After her return to her onerous duty, Superintendent Eugene Macdonald makes his daily visit, and is usually followed by others. Some days I have six to ten visitors, and on others only two or three. The visits of friends are always welcome. About two P. M. dinner is served, and my appetite often

proves unequal to the task set before me; but when I have done the best I can, I feel that I have done just as well as any one could do under the circumstances. Supper comes about seven, and if it did not come at all I should not be offended. It seems redundant. Visitors seldom come in after five P. M., and the evening is spent in reading and writing. At half-past ten the turnkey comes around and locks me in my little cell, and I usually take that as a hint that it is time for me to go to bed, when I soon fall into the sweet repose due to a justified conscience. Those who have not experienced it are hardly able to judge of the degree of safety one feels in being locked securely in a stone and brick cell, with a strong iron door and iron bars before the window, with three other strong iron doors between the cell and the street, and the windows heavily guarded with iron gratings. Yes, the feeling of security is marked. One instinctively feels, Why this must be the place I have read of, "where thieves cannot break through and steal." One can lay down his watch, his pocketbook, his knife, or his jewelry (I never use any) with a certain conviction that he will find it there in the morning. No danger here of any Chastine Cox breaking in, stealing rings and trinkets, and then taking life. No kidnapping here. All this danger has been obviated in my case by Comstock and Benedict. But notwithstanding these great advantages, I would far rather that the protection be withdrawn and I take my chances in the outside world. I have so long been used to freedom that I think I can say positively that I prefer it to imprisonment, even in Ludlow street jail, to say nothing of the horrors of

the Albany Penitentiary. So, if it is all the same to Comstock, Colgate, and Benedict, I hope they will not again put themselves to any trouble to get me behind the bars, even should I be so fortunate as to have these prison doors opened for me to walk out.

My friends on the outside and all over the country have been busy doing what they could to aid me in regaining my liberty. Petitions to the President have been flowing in very freely, and they have been duly forwarded to Washington, where friends are far from idle. By the time these lines reach the eyes of my readers, petitions with fifty thousand names will have been presented to President Hayes, asking for my release. And right here, let me again thank my kind friends all over the country for what they have done in my behalf. In this way a greater load of indebtedness has been placed upon me than I shall ever be able to discharge; but I shall continue to try and do my duty so far as I know it. The quick uprising on the part of the best people of the country that has been made in my behalf has been most remarkable. Nothing like it was ever known before. For fifty thousand signatures asking for a simple act of justice from nearly all the states of the Union to be placed in Washington, with at least as many more on the way, reaching one hundred thousand names in all, and within three weeks' time, is indeed unlike anything that has ever been known before. It is an indorsement of my conduct and of my rights in the premises that I cannot forget to the day of my death. It affords me unalloyed happiness to realize it as I sit here within my prison cell. It is a comfort that my Christian enemies cannot deprive me of.

But my opponents are also busy. Comstock has been exultant in the victory which Benedict has aided him in achieving by placing me in prison, and this great joy has been participated in by many pious, hypocritical Christians all over the land, and especially by what is called the orthodox religious press. And all hands have been busy writing letters to the President, imploring him not to interpose a pardon between Bennett and thirteen months' imprisonment. Every influence is brought to bear that these self-righteous souls are capable of conceiving of, and as they are strong and numerous their power cannot be denied. What is to be the result of these opposing efforts is yet a matter of more or less uncertainty. But the hope is with me that our Chief Magistrate will have the justice and descretion to set me free.

The meanest treatment I have received is from the orthodox, Calvinistic press. The venom and hatred which they evince is truly characteristic and in keeping with the murderous persecutions which Christians have indulged in for fifteen centuries. They exult that I am in prison, and would exult still more were I fastened to the stake and the fierce flames leaping up around me.

THE NEW YORK "OBSERVER."

I must give a few specimens of this Christian spirit of charity and brotherhood with which the leading religious papers of the country have teemed. The first is from the New York *Observer*, that staunch advocate of simon-pure Calvinism which for more than fifty-six years has been ministering to the bigotry and intolerance of the Presbyterians of the Unit-

ed States. This is what it had to say of my sentence on June 12th:

A JUST SENTENCE.

D. M. Bennett, a publisher near Astor Place, in this city, author of several very offensive works, and a prominent member of the party that opposes the laws of the United States forbidding the sending of vile books by mail, having been convicted of violating those laws, has been sentenced to the Penitentiary for the term of thirteen months and to pay a fine of \$300. The sentence is very light compared with the enormity of the crime, the possible penalty under the law, and the well-known character of the convict. He may congratulate himself on the tenderness of the court, the three eminent jurists and judges, Benedict, Choate, and Blatchford, concurring in the fairness of the trial, the justice of the verdict, and the fitness of the sentence.

An effort is already on foot to secure a pardon for this man from the President of the United States. It is to this point we would specially speak.

On the part of the present Governor of this state, and on the part of the President of the United States, there has been what appears to us, and to many others engaged in philanthropic work, an undue readiness to use the pardoning power when great transgressors are, after long struggles, at last convicted. We did not think it in good taste, at the Anniversary meetings in the Broadway Tabernacle, for a speaker to denounce President Hayes for pardoning a man convicted under the same law which has now consigned Bennett to prison. But the applause with which the denunciation was received (untimely as the censure was) showed that the heart of Christian people was hurt by the President's act. Nor can we expect the Governor or the President to examine personally into the merits and details of every case invoking their clemency.

It is to this end that we make the declaration that if any man ever deserved the full measure of punishment the law permits, it is the man Bennett, who has now been convicted. We would not punish him for other sins till he is convicted of them also, but there is nothing in his antecedents

to justify clemency, and there is everything to forbid it. He is a man whose trade has been to publish and sell books that are in our judgment demoralizing, and he is therefore one of those whom we regard as an enemy of society. He may think differently, and probably would urge that to destroy Christianity would be a deed well done. We think such men as he the most dangerous persons in the community. And as his business is to issue such publications, we hope that he may be permitted to meditate in prison for a year upon the sinfulness of his business, and perhaps reflection will lead to remorse and to the resolution to come out of his cell a better as he will a sadder man.

The hypocrisy and falsehood of this tirade must be obvious to every candid reader. It cannot be supposed that this disciple of John Calvin is so anxious that I should serve out to the last hour my very "light sentence" simply for mailing a pamphlet which does not contain—make the most of it possible—a hundredth part of the salacious or indecent sentences that that old Jew book contains which the *Observer* worships and enjoins upon everybody to accept as God's own handiwork; but the true reason is because I publish books—"offensive works," "demoralizing publications"—that I let the light of truth into the false and vile system which has been worse than a millstone upon the necks of the people of Christendom for nearly a score of centuries. This is what is the matter with the *New York Observer*. It don't like to have me tell such plain and palpable truths. It is afraid I may give the people so much light that it will injure its business, cut off its supply of bread and butter, and open the eyes of the people to such an extent that its power and the power of the clergy will be lessened over them. This is what makes this old bigoted organ of intol-



erance and self-righteousness squirm and show its fangs. But it has good reason to be alarmed. The days of superstition and priestcraft are pretty well numbered. Hundreds of thousands of people are getting to see the utter hollowness and absurdity of the long-boasted Christian system, and are declaring their independence of the enslaving dogmas of total depravity, imputed righteousness, ghostly parentage, the atonement, infinite brimstone, the great value of blood, the beauty and excellence of burning sulphur, and all the rest of it.

The editor of this paper, *The Observer*, is the one who slandered that great and good man, Thomas Paine, by asserting that he recanted his belief on his death-bed, and that he was a debauched drunkard. The first charge he was compelled to disavow, and the second was proved to be utterly false. This is the editor who professes great virtue and purity of character, and is shocked that Infidels are so immoral. I wonder if he has never done anything that a pure follower of Jesus ought not do? Has he never been guilty of an act as bad as dropping a philosophical pamphlet into the U. S. mail? Has he never been guilty of little dirty acts which a pure-minded guide and teacher of the people ought not to be corrupt enough to perform? I am afraid he has. I fear he is not always so pure and heavenly-minded as he would have his admirers believe.

I happen to have in my possession damaging proofs against this man's purity of character. I have been in possession of this proof a few years, and when he was so foully defaming the memory of the man whom I so greatly revere, Thomas Paine, I felt like giving the matter a little airing, and would

have done so had not charity whispered, "Stay yet awhile." But now, when his paper so exults over the victory which a miserable sneak and fraud has gained over me, to the extent of blackening my character all over the land, and casting me unjustly into prison; as his sheet is so opposed to the chief executive opening my prison doors, and all because I publish to my fellow-man what I honestly believe to be the truth, I cannot longer regard total silence as a virtue.

This matter, which I will only allude to now, but will give the facts more fully if the party implicated desires it, is in reference to impure, dishonorable, and sinful commerce with a match girl (nearly grown) who a number of years ago daily visited the *Observer* office. The performances were varied, and perhaps interesting to the participants in the transaction. We have the positive proofs of eye-witnesses which can be forthcoming when the pious and hypocritical slanderer wishes them, and takes the proper means to bring them out. They possibly might make a grand chapter to add to the glory of this proud organ of Calvinism. I am quite willing to submit our cases to an impartial public and let them decide which has been guilty of the greater offense in the sight of God and man, the "old Infidel," who mailed a copy of "Cupid's Yokes," or he who indulged in the unclean pleasures here barely alluded to.

#### THE "CHRISTIAN UNION."

The next exhibit is from that other whited sepulchre—though exceedingly foul withal—that other organ of Calvinism—modified somewhat, with a portion of the sulphur taken out—*The Christian*

*Union*, editors Henry Ward Beecher and Lyman Abbott. From such a pure pair of course only purity and chastity must be looked for. This first article appeared in its columns soon after my conviction.

## THE BENNETT CASE.

Our readers will not forget the meeting that was held in Faneuil Hall to protest against the imprisonment of Heywood for selling obscene literature, as a violation of the sacred liberties of the press; nor his subsequent pardon on grounds which have never been made officially public. Some of the newspapers, constituting themselves a court of appeal, declared that the free-lust literature, for the circulation of which he was condemned, however false in its theories, was not obnoxious on the charge of obscenity; and it was even gravely asserted that the question of its moral character had not been sufficiently considered, and that the judge before whom the case was tried had signed a recommendation for the publisher's pardon. There is now another opportunity for another Faneuil Hall meeting, and another appeal to the newspapers from the verdict of a jury and the decision of a United States court; for the book has a second time been condemned. The history of the case just concluded is more instructive than interesting; but it is one of which no one can afford to be ignorant who cares for the well-being of the community, or even the purity and safety of his own household.

Mr. Heywood had hardly gone from the Court House to the prison before the free-lust wing of the Free Religionists (if we do not get their denominational title right, they will pardon us; Infidelity has its sects as well as religion, and it is not quite easy to keep the titles from being sometimes mixed) held a convention at Watkins Glen, at which the book which had been condemned in Massachusetts was sold in open market. The sellers were arrested; among them the sister-in-law of the Massachusetts convict, and one D. M. Bennett, the editor of a weekly journal, as immoral as it is Infidel. Released on bail, he came home (to New York city), and publicly announced his purpose to continue the sale of the condemned book, the law and the courts to the

contrary notwithstanding. If he went to jail for so doing, others, he boasted, would take up the work, and when they were arrested successors would be found, till the jails were full. He began to fulfil his promise; the facts, with a copy of the book, were laid, by the district-attorney, before the grand jury; without a dissenting voice it brought in a bill against him; and last week he was tried before Judge Benedict and a jury. The case lasted three days; on the first vote the jury stood eleven to one for conviction, after an all-night session the one yielded, and a verdict of guilty was recorded.

The President made a great mistake when he pardoned Heywood, although he did so on evidence satisfactory to himself that Heywood's health was suffering from confinement, and on the representation that his death was not improbable, and that for him to die as martyr to a bad cause would do more harm than his pardon. The President made a still greater mistake when he pardoned Simpson, who is known to the officers of justice as one of the worst criminals of the country in this most criminal business. He will make the greatest mistake of all if he yields to the pressure which a few thoroughly bad men, reinforced by a few thoroughly impractical doctrinaires, may bring to bear upon him to secure the pardon of Mr. Bennett. It has been made a public boast by Mr. Bennett's counsel that the Attorney-General has in writing declared that the law is not intended to prevent the sale of such publications as Mr. Heywood's free-lust pamphlet. Even if this is true, it will be well for the President to hesitate before he allows the opinion of his Attorney-General to outweigh the opinion of three United States judges, one of them the senior judge of the Supreme Court.

The recent discovery of the body of a murdered girl in a trunk at Lynn brought to light the terribly significant fact that over six hundred women, some married, some single, are recently missing from their homes within a not very large geographical province, of which Boston may be regarded as the center. Most of them were believed by their friends to have given themselves up to a life of shame. This is the terrible fruitage of such seed as Heywood and Ben-

nett are sowing. It is a monstrous doctrine that denies to society the right to protect itself against such a crop as this. And those who deny the right have only their own folly to blame, if an indiscriminating public regards them as accessories after the fact of a crime which they really abhor, but which they allow themselves by their theories of free speech so effectively to defend.

A National Defense Association has been formed to defend the right of these men to poison the souls of our sons and daughters. Doubly, therefore, ought the Society for the Suppression of Vice to be supported by all those who believe in the right of society to defend itself from social vampires.

The following is from the columns of the same godly paper of June 11th—the next after my sentence :

Mr. D. M. Bennett, to whose trial in this city for circulating immoral literature we recently referred editorially, was sentenced last week to thirteen months' imprisonment at hard labor and to pay a fine of \$300. The case had previously been heard on appeal, and all the rulings of the Court on the trial had been sustained. Respecting the main point in issue, there is really no question, viz, the liability of every publisher to a penalty for publishing that which, on a fair trial, is found by a jury of his countrymen to be of a tendency to deprave and corrupt the minds of its readers. There is quite as little room to question the fact that this was the tendency of the book for the publication of which Mr. Bennett has been sentenced. His counsel have given notice of their purpose to apply for a pardon. The President made a serious mistake in pardoning Mr. Heywood ; he would make a still more serious mistake if he were to pardon Mr. Bennett, who published in open and avowed defiance of the law, and who should be made to feel the full weight of its penalty. There ought to be no clemency to the man who breeds moral malaria in the community for personal profit.

It is, perhaps, very fitting that the old lecher who is capable of committing adultery with half of the females of his large congregation, and then of coming into court and for thirteen consecutive days perjuring himself, and a yoke-fellow willing to be harnessed up with him to work for Jesus, should be the men to prate about "the purity and safety of the household," "free lust," "an immoral Infidel journal," the terrible fruitage of the seed sown by Heywood and Bennett," "breeding moral malaria," etc., as well as to cry out against my being a recipient of executive clemency. If they will confine themselves to the fruitage of the seed sown by themselves, they will probably have about as much to do as they can well attend to.

The falseness and meanness of the representation about the "free-lust wing of the Free Religionists" at Watkins are very characteristic of a Christian newspaper. These editors ought to know that the Free Religionists had nothing at all to do with the Watkins Convention, and were not represented there. They ought to know what they are talking about, or else keep silence. Slander and defamation are poor weapons for those to use who set themselves up as teachers and guides of morality for the world. But "they all do it." The more purity they profess, the more false and hypocritical they are.

I am not inclined to boast of my uprightness or morality, but will just say to Messrs. Beecher and Abbott that I have not been an adulterer; I have not committed perjury; I have not been a liar. If I cannot quite say in Pinafore language that, "I never, never, never" uttered a falsehood, I can truthfully say, "Well, hardly ever."

## "ZION'S HERALD."

The next fine morsel of Christian slander, meanness, and uncharitableness is from *Zion's Herald*, the organ of still another branch of Calvinism—that taught by John Wesley. This delectable, pious journal is published in Boston, and these choice tit bits are from its issue of June 21st :

We have received a number of country papers with marked editorials denouncing Anthony Comstock and his measures, and especially criticising his unjust attack, as they esteem it, upon so good a citizen as D. M. Bennett, editor and publisher of *THE TRUTH SEEKER*, of New York. This man was arrested for circulating the same form of demoralizing literature as sent our Massachusetts Heywood deservedly to jail. The courts have sustained Mr. Comstock by finding Bennett guilty; and upon appeal, the highest court affirms the constitutionality of the law under which he has been condemned. He has now been sentenced to thirteen months' imprisonment in the Albany Penitentiary, and a fine of \$300. Already efforts are being made to secure his pardon. It is to be ardently hoped that the President will not again interfere with the course of justice, as in the case of Heywood, but permit this bad man to suffer the really light penalty inflicted upon his infamous course, in view of the enormity of the offense.

We hear with amazement and grief that there is a strong presumption that President Hayes will pardon Bennett—the promulgator of demoralizing literature—on the ground that the government has no right to interfere with the morals of the citizen. This is simply the last result of the modern idea of the secularization of government and education and a fatal forgetfulness that every citizen is necessarily a moral being, and, that no state can stand if the moral nature of its subjects is not properly trained, and at least saved from perversion. The enemies of purity and the friends of license are loudly proclaiming the prophecy that Bennett will be out in ten days. We hope our religious associations will give ample protestation against such a

step on the part of the President. Whatever may be his personal opinion, or the opinion of his advisers, he holds not his high office to override the courts and constitutional law.

Here is the same meanness, the same untruthfulness, the same intolerance, the same desire to crush, the same want of charity, of fairness, so conspicuous in others of the same ilk. Here is the same authoritative instruction to the President not to presume to grant a pardon to Bennett. We have here also the same hypocritical cant about "purity," "demoralizing literature," etc. I am not acquainted with the editor of *Zion's Herald*, but, as he belongs to the pious professional fraternity, I am not afraid to wager \$500 that if all the facts in his career can be brought out, he will be found to be guilty of the same immoralities and impurities for which clergymen are so notorious. They do not wait for the injunction of Jesus, "Let him that is without sin cast the first stone," any more than they follow his teachings in other respects. As a rule, the more sins they are guilty of, the more stones they throw at their betters.

#### THE "DAILY WITNESS."

The following very choice article is from Comstock's favorite, the *Daily Witness*, of June 27th. From its style and venom I judge it was written by the pure-minded young-lady inspector, St. Anthony himself. That it teems with the true "Christian spirit" no reasonable person will deny.

#### UNAVAILING MALIGNITY.

A miscreant who is most justly suffering a term of imprisonment for sending a vile book through the mails, and whose incarceration was brought about by the indefatigable



Anthony Comstock, publishes a weekly paper. If Lucifer himself were editor-in-chief, the contents could not well be more venomous. Religion is held up to ridicule, while the editor presents his own and kindred dives into the polluted depths of obscenity as scientific investigations and searchings after truth. Mr. Comstock is made a special and peculiar object of attack. "There is a growing feeling," says the champion and self-imposed martyr of nastiness, "that Anthony Comstock in arresting deserving people and throwing them into prison for very slight offenses, should have a suitable testimonial in his favor." Then comes a suggestion of tar and feathers, and the statement, malicious and revengeful, that "there are many who would with pleasure help to decorate his grave." We do not doubt it. The expression of the wish shows clearly what its author would do if he dared. Mr. Comstock bears upon his face the marks of the hate such people feel toward him, and many of them could have no greater gratification than to give him a few fresh scars. We trust, however, he may be spared such maltreatment, and that his useful life may be greatly prolonged. That his enemies howl so loudly shows how badly they are hurt. And as their hurt means the nation's welfare, we shall not hesitate to prefer their discomfort to the danger with which their liberty, unwarrantably abused, would threaten the community at large. No! no! Mr. Bennett; Mr. Comstock is not dead yet, and we trust you may be allowed the full time of your recent sentence for reflection upon your wickedness, and that ere you breathe again the air of liberty which you so stealthily sought to soil, the worthy agent of the Society for the Prevention of Vice may cage many more such serpents. Hiss away! It is thus that our fellow mortals will be reminded of your slimy nature.

The malignity which this Christian editor speaks of is doubtless in his own breast. It is, perhaps, natural that a man should feel some indignation who has been slandered and published all over the country as an obsceneist by a Christian miscreant and liar, torn from his family and business, and thrust

into prison for no offense whatever. How does the whining hypocritical editor of the *Witness* think he would like to be served in the same way?

We have not circulated a vile book, and every time that the *Witness* says we have, *it lies*. The pamphlet he alludes to is a dry, physiological, and philosophical dissertation on marriage and the relations of the sexes. We have never insisted that it was written in the best possible taste or that its conclusions are correct. Doubtless there are a thousand persons or more in the country who could write a more acceptable treatise upon the subject than Mr. Heywood has done. But he certainly has a right to do the best he can and to utter his honest convictions, which I am very positive he has done. I know him to be a sincere, honest, and strictly moral man. In view of the great unhappiness that thousands experience in the marriage relation, that over thirty women applied for divorce in one rural court in Massachusetts at a single term, that in most of the New England states from one in fifteen to one in ten cases of marriage is so unhappy as to result in separation, there is certainly sufficient grounds for Mr. Heywood to speak his mind and propose his remedies. Those who do not like his views have the privilege to take as little of them as they please; and even the editor of the *Witness* need not change the course of his pure life in the slightest degree on account of what Mr. Heywood has to say.

That the pamphlet is not obscene thousands in this city will bear witness, and at least a hundred thousand in the entire country, and among them the most intelligent and worthy people in the whole land. Elizur Wright is of this number, as is the

Attorney-General, Charles Devens. He does not approve of Mr. Heywood's opinions, but he says the pamphlet is not to be confounded with that class of literature gotten up to inflame the passions and deprave the mind. The little book is decency itself compared with the story of Lot cohabiting with his daughters, the incest of Judah with his daughter-in-law, Amnon with his sister Tamar, Absalom and his father's concubines; the adultery of David with Abigail, Bathsheba, and the attempt with Abishag; the lovesick, amorous Song of Solomon, with the polygamy, concubinage, and whorings of this wisest and holiest of all men, and the hundreds of other indecent and filthy places in that old book which the *Witness* man worships and insists that others shall worship also.

As to Anthony Comstock's possible death, we care not how soon or late it comes; he is a disgrace to the religion he champions, and is undoubtedly a curse to his race. And those who defend him and urge him on are no better than himself. If he lives till some Infidel kills him, he will live to be a very old man. Killing men for opinion's sake is not in the Infidel line. That is especially the work of Christians. They have killed people by the millions in the centuries that are passed because they did not believe as ordered. Yes; their murders for the religion of Jesus are estimated at 150,000,000. Murdering and torturing with all the cruelty of demons has been especially the work of Christians for fifteen hundred years. The man who cut Comstock's face is a Christian and member of a Christian church, and by those who understood the facts of the case he is judged to have acted not unreason-

ably ; but it was one of the best things that ever happened to Comstock, for it put some \$10,000 in his pocket and constituted him a martyr in the eyes of his Christian admirers. The Liberals of the country have no occasion to wish Anthony to be speedily taken to Abraham's bosom. He is doing them more good than harm ; he is unwittingly increasing their numbers and doing more to spread their views than even I am.

By all means let Comstock live as long as he can, yet he will assuredly leave an infamous name behind him when he does die ; and if there is after death a world of torture where those who injure others in this life are punished, he stands as good a chance for a full dose of hell as any man I know of.

As to Lucifer, whom the *Witness* alludes to, I know very little of him, but am willing to bet four dollars and a half—the proceeds of the bet to go towards putting a new coat of paint on the image of the Blessed Virgin mother of God in Saint Patrick's Cathedral—that if there is such a fellow as Lucifer, and the data can be surely arrived at, he is more of a gentleman than either Anthony Comstock or the editor of the *Daily Witness*. The editor, his paper, and his friend, Sneak Comstock, have my supreme contempt.

My readers will probably excuse me for not asking them to read more of such false, unfair, and intolerant articles at this time. It is not at all pleasant reading for one who likes the truth.

On the other hand, it pleases me to introduce editorials and notices of a different character from the foregoing. It will be seen that the following are far more *gentlemanly* in tone, if not so *Chris-*

*tian like.* I give this from the *Home Journal*, with the introduction that I had written for it :

SOUND SENSE AND JUSTICE.

[We very cheerfully lay before our readers the following—a leading editorial—from the *Home Journal* of June 18.h, having reference to our trial and imprisonment. It is eminently just, reasonable, and candid, while moderate in tone, and is vastly superior to the intolerant and cruel articles on the same subject which have emanated from the Christian press. It is indeed to be regretted that the organs of that religion which professes to be founded upon the principles of love, charity, and universal brotherhood should descend to such unfairness, intolerance, falsehood, and injustice which some of them have evinced. The *Home Journal* for over a third of a century has stood at the head of American literature and American journalism. Its conduct has been marked with ability, justness, and intelligence, and its readers are among the very best and most cultured people of the land. It is most cheering to see this justly prized periodical taking such high and noble ground in favor of free speech, a free press, and free literature. At the time of our trial a most sensible article in a similar vein appeared from the same source, which we reproduced with great pleasure. All hail to the noble, independent journal that so manfully defends true American principles and American liberty.—Ed. T. S.]

MODERN MEDIÆVALISM.

The vital principle of our American social organization is undoubtedly the right to the free expression of individual opinion as being the very life and soul of all other freedom. Our institutions are grounded upon the faith that humanity is progressive and that sound, equable progress, free from revolutionary excess, is best ensured by leaving the field open for contentions of opinion in all domains of thought. This, indeed, is the accepted principle of American, and to a large extent of European society. But it would be premature to say that the minds of men, either here or in Europe, have thoroughly adapted themselves to this condition of freedom. Faith in the natural upward tendency of society by its own inherent law of growth, faith in the power of truth

and the ultimate ascendancy of what is right and best, is exceedingly rare among men—as rare almost on this side the Atlantic as on the other. Partisans political and partisans religious, and, most of all, the self-constituted moral censors and regulators of society—those who are engaged, as they tell us, in philanthropic work—show often enough their lack of faith in the American idea; they are willing at any moment, without apparent compunction, to sacrifice the principle of freedom to the support of their particular ends, thinking, no doubt, in all sincerity, that society will at once go to the dogs if their efforts are remitted, and they are ready accordingly to avail themselves of whatever instruments of repression are left at their command or may be converted to their purpose.

In the development of society, external conditions are far more largely the precursors than the product of mental and spiritual conditions. Thus the external freedom which society now enjoys is not derived so much from an inner spiritual impulse as from the power of circumstances; it has been forced upon society by the conflict of interests. The idea of freedom, though it may have been with the few a prophetic inspiration, is, as regards the many, an after-growth which slowly evolves itself. The minds of men do not immediately adapt themselves to the new social world so far as to make faith in freedom, faith in progress, faith in the inherent divinity of society, a part of their personal consciousness, the governing principle of their thoughts. Our free country is still liberally sprinkled with petty popes, waifs, and estrays from mediæval folds. They have changed their dogmas, but they retain the old spirit. They have patterned out a moral and religious constitution of society, and have had it, as they think, sealed with the seal of high heaven. Whoever, therefore, attacks this divinely accredited constitution of things, makes himself thereby “an enemy of society,” whom it is a duty to crush by any agencies that may be brought to bear, without stickling too nicely over the means, so long as the end is accomplished. To be sure, not much power is left them under the present constitution of society, but the spirit of repression is still

virulent enough and finds frequent utterance in influential organs of opinion.

The comments which have been elicited by a recent conviction in the courts under the law forbidding the mailing of indecent publications are instances in point, the writers congratulating themselves and the public, not simply that the offense, if committed, has been visited with deserved punishment, but that a man who has devoted his life to the promulgation of opinions antagonistic to their religious faiths has been made to pay the penalty of his presumption. This, in their eyes, is his crime, and for this, rather than his nominal offense, he is deservedly mulcted and imprisoned. "He is a man," says one of these latter-day popes, "whose trade has been to publish and sell books that are in our judgment demoralizing, and he is, therefore, one of those whom we regard as an enemy of society." The writer evidently feels that to be demoralizing in his judgment and to be demoralizing without this qualification are essentially the same thing, and to be an enemy of society in his regard is to be an enemy of society in the sight of both God and man, for he adds: "And as his business is to issue such publications, we hope that he may be permitted to meditate in prison," etc. Clearly, whatever may have been the legal description of the poor man's offense, the crime for which he is considered to suffer is that of entertaining and advocating views opposed to the writer's authoritative exposition of the truth of things.

We hold that utterances and acts prompted by a spirit of this kind are far more radically inimical to society than the offense reprobated. They show an utter absence of faith in the power of truth, and by relegating the people to a mediæval tutelage in religion and morals, they tend to sap those very sources of moral power which in society at large, as in the individual, lie in the right of an untrammelled consideration of all questions that present themselves and a free self-determination. The greatest foes to the moral life and soundness of the community are they who, under the cloak of religion or philanthropy, stab at this dearly-won right. They are, of course, too impotent at the present day to gain more than a temporary advantage, and *that*

merely through the carelessness and self-confidence of the community. For the time, however, they not only effect great private injustice, but they work serious harm directly and indirectly upon the public welfare. They vitiate the moral sense and relax the moral fibre of the community. If allowed to have full swing, the reaction against their sway which must eventually set in cannot but have a disastrous effect. This is not an idle protest against the public suffering of imaginary foes. The recent conviction to which we have above referred, the crying injustice of which will be patent to every fair-minded person who reads the report of the trial, is proof enough that these enemies to the essential moral life and integrity of society are living realities who are determined and aggressive in their secret conspiracies and overt attacks. It is certainly high time that the liberal and independent press of the country should make its voice more clearly heard on the individual injustice that has been perpetrated in this case, as well as in reprobation of the still more serious crime that has been committed against what we have been always taught to believe the soundest, best, most vital principle in the organization of American society.

The following vigorous remarks are from an editorial of considerable length in the *Seymour* (Ind.) *Weekly Times*:

IN THE NAME OF GOD, THIRTEEN MONTHS.

That the law under the operation of which Mr. Bennett suffers is unconstitutional no candid, intelligent, clear-headed man can doubt; nay more, it is undemocratic, tyrannical, and odious. And with the brave and fearless Bennett the question was "Shall I obey such a law, or, disobeying, go to prison?" And he chose defiance and a felon's cell.

And now there is but one thing to do—but one thing for good, sensible men to do. No country and no cause can be benefited by Mr. Bennett's imprisonment. We hold, and in time it will be admitted and enacted into a law, that the only penalty that should be visited upon the writer or dis-



tributor of such a work as "Cupid's Yokes," is the condemnation of those who disapprove it. Public opinion, free discussion, is able to take care of itself—to make popular or drive out of the market any book or its teachings.

And it is a pretty hard thing, for a difference of opinion merely, to tear a good man from his home, his family, his business; to tear him from the bright sunshine and the free breezes of this broad land and immure him in a dungeon in this beautiful and lovely month of June, when bud and leaf and flower are mutely preaching gentleness and love in every garden and grove. It is a sad day for our country when a brave man that has led a blameless life; a man whose only fault is that he is not a church member and has dared to oppose the old soul-dwarfing Christian dogmas, is led away to an American penitentiary, has his venerable locks shorn from his head by ruffianly prison officials or menials, is made to don a convict's garb, to perform a convict's labor, and to sleep in a felon's air-tight and unwholesome cell during the sweltering nights of the summer of the 103d year of our so-called American independence. This is a sad day; a sickening sight. Verily, there is work for the *Seymour Times*, THE TRUTH SEEKER, and the other Free-thought papers.

And now it remains for us to take steps to secure the President's early pardon. Mr. Hayes is a sympathetic, a kind, a merciful man; and in the line of what he conceives to be his duty, he is equal to any occasion. He will, therefore, heed an appeal for executive clemency in this sorrowful case. We therefore ask all good men everywhere to sign the petition for Mr. Bennett's pardon.

As a compensation for the infliction enforced by reading what my enemies say of me, I will give the following, as taken from the *Naples (N. Y.) Record*, which is from the pen of a correspondent. It certainly contains far more truth than is to be found in the religious press :

#### COMSTOCK VERSUS LIBERTY.

When an old man, guilty of no crime, can be fined and imprisoned for opinion's sake, does it not behoove every

American citizen to inquire, Whither are we drifting? Would it not cause the bones of our Revolutionary fathers to turn uneasily in their graves to know that the government which they founded to secure the blessings of liberty had been turned into an inquisition? Did not the fathers declare in the face of all the world that the Creator had endowed man with a right to "life, liberty, and the pursuit of happiness?" Was this liberty made to depend upon a certain class of ideas, or on the belief in particular creeds? That would be liberty with a vengeance; the kind which is dealt out to more than half of the people on the globe by the worst despots on the face of the earth.

There can no longer be any doubt that there is an organized effort to blot out all the literature which does not comport with the commonly-received religious notions of the day. If this is not so, what means the boast of Comstock and the society which he represents, that "Free-thought literature must be stamped out?" Under this head the Cincinnati *Commercial* makes the following pertinent and sensible remarks:

"Mr. Comstock should tell us what he means by Infidel literature before he seeks to invoke the agency of the state for its suppression. He is not warranted in classing it with obscene literature and invoking the state to punish those who print and publish it. There are multitudes of men and women all over the land whose lives are as pure and whose conduct is as unselfish as Mr. Comstock's, and who are liberal in their religious views, and Freethinkers—'Infidels' if you please—and who do not propose to allow Mr. Comstock or anybody else to interfere with their right to think, speak, print, and proclaim their own thoughts, no matter whether they accord with Mr. Comstock's or not. When he says 'the public have a right to protect themselves from the effects of Infidel literature,' that literature has the same right to publication and circulation through the mails that the preaching and teachings of any Baptist, Methodist, Presbyterian, or Catholic theologian have, and it will never do to try to persecute it out of existence."

Now the great difficulty is to make the public understand that there is a well-concerted effort to crush out Freethought literature, or, to use their own language, to "stamp it out." This is to be done by closing the mails against its circulation (where is the freedom of the press which was not to be

abridged?) by denominating it as obscene, by calling it blasphemous, etc., etc. If these things are not so, the strictures of the Cincinnati *Commercial* must go for naught. But they are much worse than the *Commercial* dreams, for it does not know that courts are organized, and judges pledged, and agents employed to carry out the programme. Is not Comstock's boast "that he never fails to convict in Judge Benedict's court" a little significant? What means his public declaration that "Freethought literature must be stamped out?" Be it known that Anthony Comstock is the special agent of the Government. He is clothed with power to put any man under arrest in the United States. He can enter any post-office in the country and throw out any printed matter which may be distasteful to him. This unlimited power was, by a drunken Congress (the act was passed in the winter of 1873—the night when they had the big drunk), put into the hands of a man who has shown himself to be a spy, a sneak, and a tyrant, as I shall prove before I get through. Wherefore did he boast that he would "fetch the old Infidel yet?" (He arrested Bennett once before but the case was dismissed.) If obscenity is the real crime for which Bennett is imprisoned, why did not Comstock say that he would fetch the old obscenist, or in some way refer to obscenity instead of boasting that he would "fetch the old Infidel yet?" It was Infidelity which he was prosecuting and persecuting, and not obscenity. If "straws show which way the wind blows," certainly we need not be deceived when the air is full of clubs. Is every man in the country who does not indorse the Thirty-nine Articles to be brought before Judge Benedict's court, which "never fails to convict?" Are the mails to be closed against a man because the story of Jonah and the whale appears to him unreasonable? Does a man forfeit his citizenship because he don't believe that a ghost can be the father of a big, bouncing baby? Does the Constitution of the United States make it obligatory upon a man to run in some old groove? or may he be a bold and outspoken man and proclaim his thoughts to the world, no matter whether they are orthodox or heretical? These are questions which

every lover of our free institutions wou'd do well to consider.

Why is this old man behind prison bars, and for what crime does a fine drain his pockets of hard-earned money? Was it not proved and admitted in court that he had always been a law-abiding citizen; that he had lived a good and useful life and injured nobody? Is it at all likely that such a man, in his old age, would deal in obscene literature? But this is the charge alleged against him.

In the first place, the little pamphlet, "Cupid's Yokes," has none of the characteristics of an obscene book. It was written by an honest and earnest reformer, a temperance advocate, and an old anti-slavery lecturer, an editor of a newspaper, and a graduate of Brown University. Such men are not apt to write obscene literature. In the second place, this book is on sale openly by all respectable news-dealers and booksellers. Obscene books are never sold openly. No, no; the cause of his imprisonment was not the mailing of this little book; never, never. I will let Mr. Bennett state the true cause in his own language:

"I have charged him with being an intriguer, with falsehood, with forging others' names to his decoy letters, with signing the names of females to such letters, with inducing people to sell unlawful wares, with arresting people for crimes which they never committed, with despoiling people of their property, with destroying the reputation of hundreds, with causing suicide, with seizing property wrongfully, with hiring three young women to exhibit themselves in a perfectly nude state, and feasting his eyes with their postures, gyrations, etc.; with advertising fancy or unlawful books, with carrying obscene books, with sending obscene books and pictures through the mails, with cruelty and ruffianly conduct to his victims, with persuading an old man to procure fancy pictures and then brutally dragging him off to prison, with inducing artists to produce nude and indecent pictures, with committing forgery, with perjury, with keeping in his employ a tool who has committed perjury, with sending a worthy man to prison for sending a syringe through the mails, with boasting that Judge Benedict always convicts the cases which he brings into his court, and that he always wins there, with letting his feeble o'd father wander hungering and starving and begging, with his toes sticking out of his shoes, while the son was drawing \$4,000 a year, with denouncing my paper and the books, tracts, and pamphlets which I publish, and imputing bad motives to me; with

boasting that Freethought literature must be suppressed and Infidel publications stamped out. I have charged this man with being an unprincipled, untruthful, dishonorable, intriguing, entrapping, decoying, false-hearted, malicious, vindictive, revengeful, tyrannical, cruel, meddlesome, ungentlemanly, coarse, vulgar, indecent, profane, dirty, contemptible, and detestable individual, a disgrace to his kind and to the cause of which he is the champion. If I have belied him, why don't he act like a man and bring me before some of the courts of the state which are always open to him, where he can prosecute me criminally and send me to prison. He is careful to do nothing of the kind. He well knows I can prove beyond a question what I have charged upon him."

These charges stung and maddened Comstock, the more so because they were publicly made in Bennett's paper, and what is more, Bennett said over and over again that he could prove them true. Again, Bennett is a forcible writer, but differs from the commonly-received religious notions of the day. He publishes a paper which is read by fifty thousand individuals every week; he has written a number of large volumes, which have had a large sale; he publishes tracts, pamphlets, etc., which are scattered like snowflakes all over the land—all of which are not considered orthodox—and Mr. Comstock has declared that this kind of literature "must be stamped out," and all the churches say "Amen," though the most sacred guarantees of the Constitution should be "stamped out" along with it.

Enough has now been said to show the intelligent reader the real nature and character of the whole proceeding. In the first place, Comstock was instigated by a spirit of revenge. In the second place, nearly all the churches (of which Comstock is the representative) wanted to destroy Bennett's influence and put a stop to his publications. Obscenity is the merest pretext. Mr. Bennett is as far above a dirty obscene book as the heavens are above the solid earth. The rulings of the court show conclusively that it was Infidelity and not obscenity that was on trial. How does it happen that the rulings in this case, as in the "Dred Scott" case, should attract the attention of thinkers and writers and speakers and papers everywhere. Hear what they have to say:

"Judge Benedict ruled very strongly against Bennett.

There were some peculiar decisions. The jury were instructed that they were not to consider the general scope and design of the work, but must find their verdict on particular passages pointed out by the District-Attorney. The defense was not permitted to show that the book was sold by respectable booksellers, or that in the opinion of experts in the book trade it is not an immoral work. The defense was not permitted to show from standard literature that the book complained of was not more objectionable than many found in the large libraries. The judge was about to pronounce sentence, but Bennett said he desired to speak. Judge Benedict said he could not hear the prisoner."—*New York Sun*.

"It is not a pretty story which appears in our columns to-day, of an arrest just made by Mr. Comstock, who seems clearly to have seduced the offender into committing the crime for which he was arrested. There can be no baser or more mischievous crime in its way against society than this."—*N. Y. World*.

This refers to another, and not to Mr. Bennett's case. Mr. Bennett is far too intelligent to be seduced by such a man as Comstock. The truth is, he meant to assert the rights of an American citizen, the unrighteous Comstock to the contrary notwithstanding. When I say "unrighteous," I do not mean to misapply the term, as the following quotations will amply show:

"What will the Judge of all the earth say to this pretended suppression of vice and crime by means in themselves most appropriate to promote vice and crime."—*N. Y. Herald*.

"Mr. Comstock has been trying to trap unwary sinners, by forging letters and buying forbidden wares. It strikes us as bad policy to use as instruments men who are meaner than the offenders themselves. He is a self-convicted sneak and hypocrite without moral honor, and must naturally do the cause of morality more harm than good."—*Philadelphia Record*.

"We should think an honorable, high-toned man would find it difficult to reconcile his own feeling of self-respect with the resorting to such measures, even on account of their supposed necessity in the abatement of a great evil."—*New York Ledger*.

"And as for Anthony Comstock, none will be so vile as to do him reverence."—*Alleghany Journal*.

Now if we are to put the power of arresting any man, of entering any post-office in the United States and overhauling the mails—I say if such power is to be put into the hands of one man, has Anthony Comstock shown himself to be

the proper man to be intrusted with such power? The one-man power is entirely foreign to the idea of free institutions. There is an innate love of fair play in the American character, and I am satisfied that these inroads upon the freedom of the press and the mails will never be sanctioned by the people. There can be no safety so long as there is a censorship of the press and an espionage of the mails. The freedom of the press can be worth but very little when a spy is allowed to tamper with the mails. Every question, whether of religion, morals, marriage, woman's rights, or what not, should be open to discussion. Any law to the contrary will never stand the test of the Constitution or be finally indorsed by the people. It is too far along in the nineteenth century for an old man to lie in prison for heresy. The American people have never been taught to go backward. When Mr. Comstock claims that "the public have a right to protect themselves from the effects of Infidel literature," and he proposes to do it by law, the first link is welded which is to unite church and state. It will be far better for the church to depend upon talent, piety, zeal, charity, humility, good works, and sound doctrine than upon law. Mr. Comstock and his law are open to a slight objection—they are at least two hundred years behind the times. When Mr. Comstock finds out that American brains act independently of law, he will be a wiser man. He can no more stop investigation than he can control a tornado. Ripping-knives, iron boots, racks, and thumbscrews can never be successfully introduced in this country, and Mr. Comstock will find that to bind down the mind to the belief in a universal flood or the feats of Samson and Joshua, by law, is an equally absurd undertaking.

There is to-day in Ludlow-Street Jail an old man, put there for publishing what Comstock is pleased to call Infidel literature. He can stay there only during the pleasure of the people. When the final decision is made, either Mr. Bennett will be let out or thousands more will be put in.

JOHN PECK.

Although the foregoing is somewhat lengthy, it is hoped it will not be unacceptable.

## ELIZUR WRIGHT'S LETTER TO THE PRESIDENT.

I feel truly grateful for the many excellent letters that have been written to the President in my behalf. Among this number I take pride in presenting the following from a true friend, and one of the noblest men on this globe:

*To the President of the United States, Sir:* The greatest calamity which can befall our country, next to the destruction of its nationality, is to have its national government assume power not granted by its Constitution. You have the opportunity, and it seems to me the duty, to prevent such a calamity by a simple act of mercy and justice. And as you have used your constitutional prerogative so signally to save our nationality, I, for one, look with confidence to you to arrest a very formidable attempt to make our national government, through its control of the Post-Office, an engine of religious proscription and persecution.

The case has arisen under a meritorious-looking Act of Congress—the tendency of which was not publicly discussed or popularly understood before its passage—prohibiting the mailing of obscene publications. It is not pretended that Congress has any power in regard to such publications elsewhere than in the mails, or its own special territories; nor is it shown that the people, in their municipal and state capacities, have not reserved in their own hands all necessary power to suppress the criminal use of them. Here, then, supposing the law to be just and wise in itself, it is, first, *extra-constitutional*, and, second, unnecessary. It is an assumption of ungranted power, which could be far more safely and effectively exercised by the local authorities. And what adds exceedingly to its danger is the vagueness of its definition—the Court's explanation of the term "obscene," in this case, being such as to exclude from the mails a large part of our periodical as well as standard literature. It will be impossible, under this law, for any man whose religious opinions differ from those held by the prosecuting association, to send anything through the mails in regard to the relations of the sexes without exposing



himself to the hazard of fine and imprisonment, and the only safety will be in silence or submission to a censorship of the press.

You have already pardoned the author of the pamphlet for sending which through the mail D. M. Bennett has since been fined and imprisoned. Whatever may have been the reasons for that pardon, equally strong ones of the same kind exist in the present case.

In the opinion of the highest legal adviser of the government, the pamphlet in question is not obscene within the meaning of the law, and though its publication on some accounts is not desirable, it cannot be considered any more undesirable than that of thousands of pamphlets which cannot by any possibility be excluded from the mails. No sane person thinks the moral tone of our literature can be made what it should be by penal legislation, or that "Infidelity" or "Atheism" can be cured by fine or imprisonment. Yet it is little less than certain that D. M. Bennett would not have been prosecuted if he had not been the publisher of an "Infidel" paper. As the editor of that paper (*THE TRUTH SEEKER*), he would have been burnt at the stake a few hundred years ago. Under the Constitution of our fathers he was safe, till there was invented an ingenious device to evade its wise and magnanimous intent. His sending through the mail to a decoy a book which is sold and possessed openly by thousands without molestation from state authorities, is used as a handle to arrest and punish him, not for obscenity, but for "Infidelity,"—*i. e.*, fidelity to his own individual convictions—for publishing opinions on religion known to have been held by two or three of our most honored Presidents, as well as many of the most distinguished men of the scientific world.

I do most earnestly appeal to you, as the beloved conservator of the fair fame and true glory of our country, to prevent the shame and grief which every free and enlightened American must feel if this pitiful, unwise, and cowardly persecution is allowed to triumph over this sincere and honest, though, perhaps, rough and unpolished old man.

Allow me a word more, for this is a question of the highest national import.

Such individuals as Bennett cannot be fined and imprisoned for such publications at the instance of an organized Christian association without producing an opposite organization, and, finally, a bitter conflict on questions which have heretofore convulsed the world. An association of ardent and somewhat bigoted men, drawn from most of the Christian sects of our country, has commenced, with the open or tacit approbation of cultured society, a warfare ostensibly against obscene publications, a very difficult and hazardous thing to do when legal weapons are the chief reliance. Only moral weapons have hitherto had much success, and these have been largely drawn from the Bible, though quite as efficient may be found elsewhere. But that book of books, coming from remote times and crude civilizations, in our age is open, in some parts of it, to serious attacks on the very score of obscenity and immoral tendency, as witness, among many places, the Book of Esther, in which a most striking example of intended obscenity, wilful divorce, premeditated prostitution, and bloody revenge, is presented without a hint of condemnation. Does not the wisdom of a secular government lie in discouraging all sectarian warfare between beliefs and unbeliefs, and in restricting the detection and prosecution of criminals to its own regularly constituted machinery? If this ecclesiastical warfare against opinions and modes of expression is allowed to go on under a national association of Christians as director of the secular power, is it not likely to produce a counter national association of "Infidels," or non-Christians, which will take advantage of the judicial rulings in the case of Bennett to punish those who can be entrapped into sending the Bible through the mails? And is not such a result to be deprecated and avoided by a firm, judicious, and timely intervention of the pardoning power?

Very respectfully and truly yours,

*Boston, June 25, 1879.*

ELIZUR WRIGHT.

#### MEMORIAL FROM THE SHAKERS.

Here also let me take the liberty of giving another letter to the chief executive, and from

other true friends. Such evidences of real friendship are very cheering to me, and more than make amends for the slander and vituperation of Christian enemies. In point of purity of character and usefulness of life, the Shakers—among whom this letter was written—are as much superior to Christian hypocrites and vilifiers as the sun is above the earth.

SHAKERS, N. Y., June 23, 1879.

*My Dear President* : In behalf of three thousand of your children, called Shakers, I make an appeal to you to pardon from imprisonment D. M. Bennett, lately, yet wrongfully, convicted of circulating obscene literature through the mails. We have known said Bennett from a small boy, and now, while he is between 60 and 70 years of age, we know him still to be an upright citizen. While we deem his act somewhat reckless in testing, publicly and determinedly, the laws he construes to be unconstitutional, and which to us appears so ; and for which open test he is now confined, awaiting the merciless discipline of our Penitentiary for criminals, unless interference is made by your supreme direction.

We pray you, dear friend President, to hear our appeal, and save one we love from the unearned sorrows of the reward of bad men ; and may God bless you and your administration, is our continual prayer.

In behalf of three thousand Shakers, G. A. LOMAS.

*To the President, R. B. Hayes.*

The following is from Elder Evans, another member of the same people, which I take pleasure in quoting :

TO THE EDITOR OF THE TRUTH SEEKER : I am fully of the opinion that the prosecution of D. M. Bennett is a church and state persecution, by the clergy, for his infidelity.

They exhibit the early spirit of the old inquisitor—show just what use they always have and always will make of civil power.

The clergy are the enemies of human freedom and of American institutions.

*Mt. Lebanon, N. Y., June 1, 1879.* F. W. EVANS.

Here is another, from the same pen, which was printed in the *New York Tribune* of June 28th.

*To the Editor of The Tribune, Sir :* Is not the conviction of D. M. Bennett a church and state persecution? In the circle of my acquaintance, I have never known the people, male and female, more thoroughly aroused than at the present time. What will the end of ecclesiastical governmental interference be? The approaches of military siege works to capture a citadel were never more systematic and to the point than are the successive moves of the clergy toward theologizing the American Government—a union of church and state. Indeed, is it not already virtually accomplished? The *World's Exposition*, for every people, creed, and theology, was closed, by clerical influence, upon one of the seven Sabbath days of the week, except to a few favorite sinners, of whom several thousand were always admitted. The clergy have possessed themselves of the American Government. Its mails, the most sacred of all trusts by the people, are broken open, overhauled, and inspected by Young Men's Christian Association agents in the name of the United States. Its courts are turned into inquisitorial engines of physical and mental torture and affliction. Honest American citizens are incarcerated, and their business is broken up by these merciless God-in-the-Constitution advocates. What an outrage upon the rights of man and the liberty of American citizens, to be sanctioned by a government founded by Infidels like Thomas Paine and Thomas Jefferson, and fought for by Washington, Father of the Republic, who, when making a treaty with Tripoli, declared before all church and state governments that the United States did not constitute a Christian nation, and that, constitutionally, it was a purely secular government, under which the Atheist, Deist, Mormon, or the clergy of any theology upon earth, possessed equal civil rights and nothing more.

Is not the stealthy passage of Comstock laws, and the

appointment of an irresponsible individual, publicly charged with grossly immoral and obscene practices, clad in Russian arbitrary powers to rob the mails of 30 000,000 inhabitants, an unparalleled inconsistency to common-sense people, who flattered themselves that they were the sovereigns, and that the American government was their agent to execute their legally expressed will? Not a few honest, modest people regard the whole Comstock concern as an unmitigated American obscenity. The possibility that such may be true should insure the repeal of all Comstock laws. Can President Hayes or the editorial corps fail to see that placing in the hands of any one man or woman such unlimited and terrible power over the confidential correspondence of a nation, as Comstock is furnished with, is un-American? Would the English people endure for a week the operation of such church and state espionage over their private communications with each other? I do not believe it; nor will the American people when they come to a knowledge of the facts and issues involved. I would a thousand times prefer leaving the morals of the nation in the hands of parents, school-teachers, pastors, and logical Infidels, to demoralizing American citizens by first tempting them to do evil, then instituting unconstitutional legal proceedings that rogues may pocket the informer's wages of iniquity, after having thus put the cup to their neighbor's lips. Hoping that D. M. Bennett, and all convicted under Comstock laws, may be at once pardoned, or the agent placed with them in the penitentiary. I, in the name of the liberty-loving, law-abiding Shaker order, remain your sincere friend and well-wisher,

F. W. EVANS.

The next is an extract from a letter of A. E. Giles in *The Banner of Light* of the same date:

I cannot resist the conviction that such a sentence, on such a man as Mr. Bennett is, is vindictive, oppressive, and unjust.

Mr. Bennett believed that a fundamental principle of American liberty had been violated by the enactment of the so-called Comstock laws. He desired that their validity

should be tested by the courts. He had no malicious purpose whatever in mailing "Cupid's Yokes." His sole and sincere motive, as it appears to me, was to defend what he conceived to be the right of American freemen to free speech, to free inquiry, and a free press, both in and out of the mails. It was as a freeman and a patriot, conscious of his own rectitude, and not as a felon, that he acted. If he made a mistake in his judgment of the law, ought he to be treated as a villain? Who was harmed by the pamphlet that he mailed? Certainly not Anthony Comstock, who instigated the offense and received the pamphlet.

It is a true proverb that what is one man's meat is another man's poison. Is it not also true that what is one man's purity is another man's obscenity? that what is one man's piety is another man's blasphemy? and that a sentence of thirteen months' hard labor in prison and a fine of three hundred dollars on Mr. Bennett for that act of his, done from as pure a motive as ever animated a patriot or a martyr, is equally, if not a far more immoral act, than the mailing of "Cupid's Yokes?" George Colman, the younger, seems to have had the question in his mind when he inquired:

"Who would then have heard of, by-and-by,  
The Vice-Suppressing starched Society?  
That tribe of self-erected prigs—whose leaven  
Consists in *buckramizing* souls for heaven;  
Those stiff-necked buzzards, who evince the vigor  
Of Christian virtue by unchristian rigor;  
Those Quacks and Quixotes who in coalition  
Compose the canter's secret inquisition;  
Dolts, in our tlerating constitution,  
Who turn morality to persecution,  
And through their precious pates' fanatic twists,  
Are part informers, spies, and Sectarists."

I have been acquainted with Mr. Bennett for about five years. I believe him to be an eminently candid, honest, brave, and truthful man. He is pure in his conversation and conscientious in his purposes. He is now from sixty to sixty-five years of age. He has been a great reader of ecclesiastical history. He regards the current theology and ecclesiasticism of this country as in some respects a debasing

superstition—as being itself the parent of many of the ills which afflict the people, and which the clergy charge upon unregenerated human nature. Mr. Bennett has battled and used every honest means in his control to enlighten the people and to overthrow superstition and priestcraft. “I fight,” said Cato, “not for my own liberty, but for my country; not to live free, but to live among freemen.” A similar sentiment, as I believe, inspired Mr. Bennett in his defiance of the Comstock law. Sad it is that the heroism which was a virtue in Cato is regarded in a United States court as a crime in D. M. Bennett.

The Comstock laws, like those which established the Inquisition, proceed from a wrong principle, and do more harm than good. It is not the rightful province of Government to arbitrarily establish or suppress either religion or morality. These pertain to the individual, grow out of his spiritual nature, and are his rights. It is the proper function of government to protect the individual against the invasion of his rights, and more than this on its part necessarily results in tyranny and general demoralization. The sooner the Comstock laws are repealed the better will it be, as we believe, for the welfare and the morals of the people.

*Hyde Park, Mass., June 22, 1879.* ALFRED E. GILES.

The next is a paragraph from a letter by Moses Hull in the *Boston Investigator* of June 25th.

Poor D. M. Bennett is, at last, paying the penalty for his love of freedom. He did not indorse the sentiments advocated in “Cupid’s Yokes,” but he did indorse Mr. Heywood’s right to write his sentiments, and also the right of any one who chose to read them to do so. This right he pledged not only his sacred honor and his liberty, but his *life*, to defend; and had he gone to the gallows instead of the state’s prison, he would have died happy, feeling that he had done his duty. We honor Socrates and other martyrs for laying their lives down in defense of principle, but be assured the martyrs are not all dead! and when the final roll is called, D. M. Bennett will take his place with Socrates, Michael Seryetus, and Abner Kneeland. Poor Comstock, where will

his place be then? Along with Calvin, Torquemada, and a few of the Benedict's!

“THE PHYSIOLOGIST.”

The following able article is from that sprightly and valuable publication, *The Physiologist and Family Physician*, for July:

“O LIBERTY, WHAT CRIMES ARE COMMITTED IN THY NAME!”

The progress of the world has been accomplished by the gradual enlargement of the sentiment and idea of fraternity, and of the equality of rights. It is thus that tyrannies and oligarchies have given way to free representative government; that slaves have been set free, and serfs emancipated; and that equal laws and equal freedom shall be extended from class to class, from nation to nation, and from race to race, until the whole world shall be free and self-governed. To protest in action against wrong and injustice done to any class or individual is not only a rightful instinct, but is oftentimes a sacred, a providential, inspiration.

And this spirit, this inspiration, should be at work largely in the minds of all the Liberal and liberty-loving people of this land to-day. A good old man lies locked up in Ludlow Jail, awaiting removal to the state penitentiary to serve out a sentence of thirteen months' hard labor, and to pay a fine of three hundred dollars. The case of D. M. Bennett must be familiar to our readers—how the loathsome spy of a band of bigots has vented upon him the vengeance of an American Alva under the sanction of unlawful law. It seems as though the spirits of Torquemada and Jefferies still found hospitality in the hearts of living men.

Mr. Bennett's crime, to be expiated by a year and a month's hard labor in prison, was mailing a little pamphlet called “Cupid's Yokes,” a dry disquisition on the marriage question, so dry and theorizing that we do not believe it was ever read entirely through until it became the subject of the recent prosecution. The alleged obscenity of this publication constitutes Mr. Bennett's crime. No heretic ever



escaped Torquemada because the charge against him was not sustained. We imagine that Jefferies would have had no trouble in finding any publication obscene if an accused man's life depended on it.

We have read this little pamphlet carefully through, weighed every word and put the worst construction to every hidden meaning, and would never have dreamed of any one associating the idea of obscenity with it had not Judge Benedict condemned an honest old man to a cruel imprisonment on that account. When we read it we considered it too terribly dry to make the thinnest ripple on the tide of depravity. We aver that there is not a lady (a real *lady*) in the land who will say there is any unchaste expression in the book.

Of course we strongly reprobate the doctrines of the document, as also does Mr. Bennett. We believe the writer was wrong in his views. But we believe this Government gives a man the right to hold wrong views, to write and preach and print them. We do not believe that outside of the Comstock court it is considered a crime to even carry wrong views to the post-office.

We have the profoundest personal regard for Mr. Bennett, for his morality, his honesty, integrity, benevolence, and true manliness. It may be a mistake of his to believe so firmly in the "Mistakes of Moses," but we had hoped that that devil of dogmatism which once thirsted for the blood of a brother for opinion's sake had disappeared with the old Dark Ages.

We consider this incarceration of Mr. Bennett an outrage against personal rights, and the freedom of the mails and press. A retribution waits every paper that dare not speak out and denounce this crime against liberty. No American citizen deserves a heritage in this free land who does not do all he can for the immediate liberation of Mr. Bennett. We believe that the spirit of constitutional rights is instilled too deeply into the hearts of our people to permit this infamous injustice to go unrebuked. Every good man and good woman should do all they can to arouse a sacred agitation about those unconstitutional, special, unrighteous legislative acts, which afford a pretext for persecution—an agitation

that will not abate until they are stamped from our statute books forever.

This is from the *Rockland Advertiser* :

#### A VISIT TO LUDLOW STREET JAIL.

Impelled by a curiosity to scan the features of the "culprit" who has aroused so much human sympathy throughout the land, while in the city a few days ago we procured a pass from the marshal and visited the cell of Mr. D. M. Bennett in Ludlow street Jail, where the prisoner awaits instructions for his transportation to the Albany Penitentiary, to which place Judge Benedict has sentenced him to serve a term of thirteen months at hard labor.

Arriving at the jail, we pulled the bell-knob, and, the door being opened, presented our pass, and were directed up a flight of stairs. When we had reached the landing another huge iron door was opened, which admitted us into the general corridor, where some fifteen or twenty prisoners were assembled. Here we again inquired for Mr. Bennett, the editor, and were directed up another flight of stairs to the second corridor. Here, seated at a table before the door of his cell, we saw a man, apparently between sixty and seventy years of age, engaged in writing. This was Mr. Bennett. The details of our interview would doubtless be interesting to the readers of the *Advertiser*, but our limited space compels us to be brief. Suffice it to say, we found in Mr. Bennett a man of the noblest impulses, and one whose conscious innocence of any offense—and whose heartfelt and grateful appreciation of the manifest sympathy which the intelligent masses are extending him—is strongly depicted in the lineaments of his countenance and in the tone of his conversation. As we extended our hand and expressed our adieu, our mind involuntarily reverted to the martyrdom of man through the ages past, and we thought of the many heroes who have been ready to sacrifice liberty, and even life, in the cause of truth or in vindication of the inalienable rights of themselves and their fellow-men.

## FROM THE BROOKLYN "EAGLE."

## FEDERAL LAW VS. COMMON SENSE.

The case of D. M. Bennett, sentenced to the state prison for thirteen months for selling a book adjudged to be immoral, will unquestionably direct attention to Federal law as against common law, common justice, and common sense. In the first place, Mr. Bennett was entrapped into sending the book, which we understand is simply a disquisition upon the marriage relation, through the mails by Anthony Comstock. Whatever may be the necessity for some method of suppressing obscene literature, public sentiment will never indorse one which lays such traps as Mr. Comstock springs upon his victims. This, however, is apart from the real points of the case. Being a discussion of the marriage relation, there are undoubtedly passages in the book which, taken by themselves, might, by prurient minds, be construed into impropriety. There are passages in the Old Testament which, taken without reference to the context, are equally susceptible of unclean construction. Mr. Bennett, in order to show the true meaning of the passages to which Mr. Comstock took exception, claimed the right of having them considered by the jury in the light of the remainder of the book, that indeed the volume should be judged by its general scope and tenor, and not by any particular phrase or passage. This claim Judge Benedict refused to allow. A second claim was made to prove that reputable booksellers, experts in literature, sold the volume and regarded it not immoral. This claim was not allowed. The third claim was the right to show that the work in question contained nothing worse than many standard books, and that the very passages complained of compared favorably with other passages in books considered proper and moral. The third claim was also disallowed.

We have heard of various kinds of law; "Crown's Quest Law," Dogberry's law, and others. Of all varieties of law, however, the Federal law of this country seems to be the most preposterous and unreasonable. The great leader of the Hebrews, chosen by God to emancipate the Israelites, and held not unworthy to face his Maker on

Mount Sinai, would, under the ruling of Judge Benedict, be sent to the penitentiary for writing scores of passages scattered through the Pentateuch. The Bible, according to the Messrs. Comstock and Benedict, may contain the light of salvation, but it is nevertheless an obscene book. To send the word of God through the mails should involve the penalty of a term in the state prison if the general scope and tenor of a book are not to be considered, and if the instance of any prurient-minded fellow, upon selecting two or three obscene—that is to say, immodest—passages, is to have the weight of Federal authority,

This may be Federal law. It is not good sense and it is not justice. It is, therefore, opposed to the public good. Better a return to the outspoken coarseness of Rabelais than a so-called decency obtained at the sacrifice of popular liberty.

#### FROM THE SHAKER "MANIFESTO."

##### CHURCH AND STATE UNION.

There has not been such a violation of human rights enacted since the days of the *Inquisition* as the *trial* of D. M. Bennett, of THE TRUTH SEEKER, exhibited. Every feature that would aid in presenting a favorable appearance to his "fault" was ruled out by a United States judge in the interest of the churchal party. The "fault" was in mailing a copy of a pamphlet containing testimony so plain and strong against sexual immoralities and abuses, though, in our opinion, advocating other errors as a reform, that the persecutors of Bennett, dubbing it "obscene," moved heaven and earth to secure a verdict of guilty. Shakers do not fellowship the Freeloze principles of "Cupid's Yokes," nor do they fellowship the Infidelity of THE TRUTH SEEKER, while we protest against the inconsistency of Bennett's trial. Under such ruling, by judicial inconsistency, the Bible, Shaker books and pamphlets, and thousands of others, are obscene and unmailable. The testimony of Jesus cannot, according to such erroneous decisions, circulate through the mails. So terribly in earnest appears the church, in its determination to rule the state, that gags for those who dare to preach Christ may not be only things of the past. We

pray the President to interfere and pardon Bennett, thus offering a protest to clerical domination, judicial inconsistency, and Comstock persecution.

## ENGLISH JUSTICE AGAIN.

I will now resume the instances of English justice of which I gave some samples in my last.

## CASE OF THE SEVEN BISHOPS.

9. James II. wished to restore the Catholic form of religion, rightly looking upon Protestantism as hostile to his intended tyranny, so he claimed a right to dispense with the laws relating thereto, put a Jesuit into his privy council, expelled Protestants from their offices, and filled the vacancy thus illegally made with papists. He also appointed Catholic bishops. In 1688 he published a proclamation—it was the second of the kind—dispensing with all the laws of the realm against Catholicism, and ordered it to be read on two specified Sundays during the hours of service, in all places of worship. This measure was a special insult to the Protestants. The declaration of indulgence was against their conscience and in violation of the undisputed laws of the land; but Chief-Justice Wright declared from the bench his opinion that it was “legal and obligatory,” and on the day appointed for the reading the decree attended church “to give weight to the solemnity,” and as it was not read—for the clerk “had forgot to bring a copy”—he “indecently, in the hearing of the congregation, abused the priest as disloyal, seditious, and irreligious.”

But the clergy thought differently from the Chief-Justice, Episcopalians and dissenters agreeing on this point. Seven bishops petitioned the king that they might not be obliged to violate their con-

sciences, the articles of their religion, and the laws of their realm by reading the declaration. They presented their petition in person to the king, who treated it and them with insolence and wrath.

“The king,” says Kennet, “was not contented to have this declaration published in the usual manner, but he was resolved to have it solemnly read in all the churches as the political gospel of his reign. The bishops and clergy were, of all others, the most adverse to the subject-matter of the declaration, as being the most sensible of all ill design and ill effects of it, and therefore the court seemed the more willing to mortify these, their enemies, and make them become accessory to their own reign, and even to eat their own dung, as Father Petre proudly threatened, therefore this order of council was made and published” (12 St. Tr., 239).

The petition was printed and published with great rapidity, and the bishops were seized, thrown into the Tower, and prosecuted in the court for a “false, feigned, malicious, pernicious, and seditious libel.” Judge Allybone thus addressed the jury :

“And I think, in the first place, that no man can take on him to write against the actual exercises of the government, unless we have leave from it, but he makes a libel, be what he writes true or false; for if once we come to impeach the government by way of argument, it is the argument that makes it the government, or not the government. So I lay down that, in the first place, the government ought not to be impeached by argument, nor the exercise of the government shaken by the argument, because I can manage a proposition, in itself doubtful, with a better pen than another man, this, say I, is a libel.

“Then I lay this down for my next position, that

no private man can take on him to write concerning the government at all, for what has any private man to do with the government if his interest be not stirred or shaken? It is the business of government to manage matters relating to the government; it is the business of subjects to mind only their own properties and interests. If my interest is not shaken, what have I to do with matters of government? They are not within my sphere. If the government does not come to shake my particular interest, the law is open for me, and I may redress myself by law; and when I obtrude myself into other men's business that does not concern my particular interest, I am a libeler.

"These I have laid down for plain propositions: Now, then, let us consider, further, whether, if I will take upon me to contradict the government, any specious pretense I shall put upon it shall dress it up in another form and give it a better denomination? And, truly, I think it is worse because it comes in a better dress; for by that rule every man can put on a good vizard, may be as mischievous as he will to the government at the bottom, so that, whether it be in the form of a supplication, or an address, or a petition, if it be what it ought not to be, let us call it by its right name, and give its right denomination—it is a libel.

"The government here has published such a declaration as this that has been read relating to matters of government; and *shall* or ought *any body* to come and *impeach that as illegal which the government has done?* Truly, in my opinion, I do not think he should or ought; for by this rule may every act of the government for the rectifying, altering, regulating, and making what law they please; but if every private man shall come and interpose his advice, I think there can never be an end of advising the government.

"We are not to measure things from any truth they may have in themselves, but from that aspect they have upon the government; for there may be

every tittle of a libel true, and yet it may be a libel still ; so I put no great stress upon that objection that the matter of it is not false ; and for sedition, it is that which every libel carries in itself ; and as every trespass implies *vi et armis*, so every libel against the government carries in it sedition and all the other epithets that are in the information. This is my opinion as to law in general. I will not debate the prerogatives of the king, nor the privileges of the subject, but, as this fact is, I think these venerable bishops did meddle with that which did not belong to them ; they took upon them, in a petitionary, to contradict the actual exercise of the government, which I think no particular persons or singular body may do." (12 St. Tr. 427-429.)

After this remarkable address, worthy of Benedict or Blatchford, from the judge, read the words of Attorney-General Powis :

" And I cannot omit here to take notice that there is not any one thing that the law is more jealous of, or does more carefully provide for the prevention and punishment of, than all accusations and arraignments of the government. No man is allowed to accuse even the most inferior magistrate of any misbehavior in his office, unless it be in a legal course, though the fact is true. No man may say of a justice of the peace to his face that he is unjust in his office. No man may tell a judge, either by word or petition, ' You have given an unjust, or an ill judgment, and I will not obey it ; it is against the rules and law of the kingdom,' or the like. No man may say of the great men of the nation, much less of the great officers of the kingdom, that they do act unreasonably or unjustly, or the like ; least of all may any man say any such thing of the king ; for these matters tend to possess the people that the government is ill administered ; and the consequence of that is to set them upon desiring a reformation ; and what that tends to and will end in we



have all had a sad and too-dear-bought experience.”  
(12 St. Tr. 281.)

Next read what kind of a law was laid down by Solicitor-General Williams, and I ask whether it does not sound particularly like Benedict :

“ If any persons have slandered the government in writing, you are not to examine the truth of the fact in such writing, but the slander which it imports to the king or government ; and be it never so true, yet if slanderous to the king or government, it is a libel and to be punished ; in that case, the right or wrong is not to be examined, or if what was done by the government be legal or no, but whether the party have done such an act. If the king have a power (for I still keep to that) to issue forth proclamations to his subjects and to make orders and constitutions in matters ecclesiastical, if he do issue forth his proclamation and make an order upon the matters within his power and prerogative, and if any one would come and bring that power in question otherwise than in Parliament that the matter of that proclamation be not legal, I say that is sedition, and you are not to examine the legality or illegality of the order or proclamation, but the slander and reflection upon the government.

“ If a person do a thing that is libelous, you shall not examine the fact, but the consequence of it ; whether it tended to stir up sedition against the public, or stir up strife between man and man, in the case of private persons ; as if a man should say of a judge, He has taken a bribe, and I will prove it. They tell the king it is inconsistent with their honor, prudence, and conscience to do what he would have them do. And if these things be not reflective upon the king and government, I know not what is.

“ I'll tell you what they should have done, sir. If they were commanded to do anything against their conscience, they should have acquiesced till the

meeting of the Parliament [at this a number who were present in the court hissed.]

“If the king will impose upon a man what he cannot do, he must acquiesce ; but shall he come and fly in the face of his prince ? Shall he say it is illegal ? and the prince acts against prudence, honor, or conscience, and throw dirt in the king’s face ? Sure that is not permitted ; that is libeling with a witness” (12 St. Tr., 415-417).

But fortunately this trial was before a jury not easily coerced by such miserable law as was handed out to them by servile judges, attorney-generals, and solicitor-generals. The seven bishops were promptly acquitted, amid the tumultuous huzzas of the people, who had congregated in great numbers around Westminster Hall, and they rent the air with their shouts, which even the soldiers repeated. (2 Campbell’s *Justices*, 95.)

Two of the judges—Sir John Powell and Sir Richard Holloway—stood up manfully for law and justice, declaring that such a petition to the king was not a libel ; but vengeance was meted out to them, and they were soon thrust from their offices.

This tyranny on the part of the king and his corrupt judges could not last always. The Stuarts soon filled up the measure of their time and were hustled from the throne of England, which they had so thoroughly disgraced, and their judges no longer held position in the kingdom.

#### CASE OF JOHN HORNE TOOKE.

10. The next case noticed will be one considerably later. On the 8th of June, 1775, John Horne—better known by his subsequent name, John Horne Tooke formerly a clergyman, but then a scholarly man, de-

voting himself to letters and politics—published the following notice in the *Morning Chronicle and London Advertiser*, as well as in other newspapers.

KING'S ARM TAVERN, CORNHILL, June 7, 1775 —At a meeting this day of several members of the Constitutional Society, during an adjournment, a gentleman proposed that a subscription should be immediately entered into by such of the members present who might approve the purpose for raising the sum of £100 to be applied to the relief of the widows, orphans, and aged parents of our beloved American fellow-subjects, who, faithful to the character of Englishmen, preferring death to slavery, were, for that reason only, inhumanly murdered by the king's troops at or near Lexington and Concord, in the province of Massachusetts, on the 19th of last April; and which sum being immediately collected, it was thereupon resolved that Mr. Horne do pay to-morrow into the hands of Messrs. Brown and Collinson, on account of Dr. Franklin, the said sum of £100, and that Dr. Franklin be requested to apply the same to the above-mentioned purpose.

At that time Thurlow was attorney-general and looking for further promotion from the Tory government of Lord North. Mansfield was chief-justice, a man of great ability, and who did so much to reform English law, but whose hostility to America was only surpassed by the hatred which he bore to all freedom of speech and the rights of the jury. The government was eager to crush the liberty of the American colonies. But this was a difficult matter, for in England even, there was a powerful party friendly to America, who took our side in that great struggle for liberty. The city of London, however, was hostile to us, wishing to destroy our merchants and manufacturers, who disturbed the monopoly of that commercial metropolis.

The government thought it necessary to punish any man who ventured to oppose their theory and sympathize with America. Accordingly it was determined that Mr. Horne should be brought to trial. But as public opinion, stimulated by Erskine, Camden, and others, favored the rights of the jury, it seems to have been thought dangerous to trust the case to a grand jury. At all events, the attorney-general dispensed with the services of the grand jury, and filed an information *ex-officio* against Mr. Horne, therein styling him "a wicked, malicious, seditious, and ill-disposed person;" charging him, in that advertisement, with "wickedly, maliciously, and seditiously intending, designing, and venturing to stir up and excite discontent and sedition;" "to cause it to be believed that divers of his Majesty's innocent and deserving subjects had been inhumanly murdered by his Majesty's troops, and unlawfully and wickedly, to encourage his Majesty's subjects in said province of Massachusetts to resist and oppose his Majesty's government." He said the advertisement was a "false, wicked, malicious, scandalous, and seditious libel, full of ribaldry, Billingsgate, scurrility, balderdash, and impudence;" "wicked is a term too high for this advertisement;" "its impudence disarmed its wickedness." In short, Mr. Horne was charged with "resisting an officer," obstructing the execution of the "process" whereby the American provinces were to be made the slave colonies of a metropolitan despotism. The usual charge of doing all this "by force of arms" was of course thrown in. The publication of the advertisement was declared "a crime of such heinousness and such a size as fairly called for the highest re-

sentment which any court of justice has thought proper to crimes of this denomination ;” “ a libel, such that it is impossible by any artifice to aggravate it.” “ It will be totally impossible for the imagination of any man, however shrewd, to state a libel more scandalous and base in the fact imputed, more malignant and hostile to the country in which the libeler is born, more dangerous in the example if it were suffered to pass unpunished, than this.” “ It is in language addressed to the lowest and most miserable mortals . . . it is addressed to the lowest of the mob, and the bulk of the people, who it is fit should be otherwise taught, who it is fit should be otherwise governed in this country.”

Mr. Horne was brought to trial on the 4th of July, 1776. He defended himself, but though a vigorous writer he was not a good speaker, and was in a strange place, while “ Thurlow fought on his own dunghill,” says Lord Campbell, “ and throughout the whole day had the advantage over him.” There was a special jury packed for the purpose by the hireling sheriff—a “ London jury”—famous for corruption—a tyrannical and powerful judge, ready to turn every weapon of the court against the defendant and to construe law against the liberty of speech. The analogy to my own case cannot pass unobserved. Of course Mr. Horne, whose only crime was to advertise a benevolent society to raise £100 for the benefit of the widows and orphans of the men shot down at Concord and Lexington, was declared guilty. But how should he be punished? Thurlow thus determined :

“ My Lords, the punishment to be inflicted upon misdemeanors of this sort, have usually been of three different

kinds; fine, corporeal punishment by imprisonment, and infamy by the judgment of the pillory. With regard to the *fine*, it is impossible for justice to make this sort of punishment, however the infamy will always fall upon the offender; because it is well known that men who have more wealth, who have better situations and reputations to be watchful over, employ men in desperate situations both of circumstances and characters, in order to do that which serves their party purposes; and when the punishment comes to be inflicted, this court must have regard to the apparent situation and circumstances of the man employed, that is, of the man convicted, with regard to the punishment.

“With regard to *imprisonment*, that is a species of punishment not to be considered alike in all cases, but . . . that it would be proper for the judgment of the court to state circumstances which make the imprisonment fall lighter or heavier. . . . That would be proper, if I had not been spared all trouble upon that account by hearing it solemnly avowed . . . by the defendant himself, that imprisonment was no kind of inconvenience to him; for that certain employments . . . would occasion his confinement in so close a way that it was mere matter of circumstance whether it happened in one place or another; and that the longest imprisonment which this court could inflict for punishment was not beyond the reach of accommodation which those occasions rendered necessary to him. In this respect, therefore, imprisonment is not only . . . not an adequate punishment to the offense, but the public are told . . . that it will be *no punishment*.

“I stated, in the third place, to your lordships *the pillory to have been the usual punishment for this species of offense* I apprehend it to have been so in this case for above two hundred years before the time when prosecutions grew rank in the Star-Chamber . . . The punishment of the pillory was inflicted, not only during the time when such prosecutions were rank in the Star-Chamber, but it also continued to be inflicted upon this sort of crime, and that by the best authority, after the time of the abolishing the Star-Chamber, after the time of the Revolution, and while my Lord Chief Justice Holt sat in this court.

"I would desire no better, no more pointed, nor any more applicable argument than what that great chief-justice used. When it was contended before him that an abuse upon government, upon the administration of several parts of government, amounted to nothing, because there was no abuse upon any particular man, that great chief-justice said they amounted to much more; they are *an abuse upon all men*. Government cannot exist if the laws cannot restrain that sort of abuse. Government cannot exist unless . . . the full punishment is inflicted which the most approved times have given to offenses of a much less denomination than these of much less. I am sure it cannot be shown that in any one of the cases that were punished in that manner the aggravations of any one of these offenses were in any degree adequate to those which are presented to your lordship now. If offenses were so punished then, which are not so punishable now, they lose that expiation which the wisdom of those ages thought proper to hold out to the public as a restraint from such offenses being committed again.

"I am to judge of crimes in order to the prosecution; your lordship is to judge of them ultimately for punishment. I should have been extremely sorry if I should have been induced by any consideration whatever to have brought a crime of the magnitude which this was (of the magnitude which this was when I first stated it) into a court of justice if I had not had it in my contemplation also that it would meet with an adequate restraint, which I never thought would be done without affixing to it the *judgment of the pillory*. I should have been very sorry to have brought this man here, after all the aggravations he has superinduced upon the offense itself, if I had not been persuaded that those aggravations would have induced the *judgment of the pillory*" (20 St. Tr., 780-783).

In reference to Horne Tooke it may be remarked that in the year 1794 he was again arrested upon a charge of high treason for the expression of his political views, and though the usual amount of bitterness was shown him, and much unfairness dis-

played, he was not convicted, and this ended the persecutions of this sincere, worthy man.

Thurlow had many of the characteristics which so distinguish Comstock ; he was relentless and merciless, and was not satisfied unless he visited upon his victims the utmost disgrace and cruelty possible ; but Mansfield was more like Benedict, and made the sentence less cruel than was desired ; in fact, he came near making it the same that Benedict did in my case—a fine of £200 and imprisonment for twelve months. (5 Campbell, 415.)

The following description of Thurlow is from Parker, and we doubt not our readers will be able to discover strong resemblance between him and Comstock, though the latter is by far the meaner of the two and with but a tithe of the mental ability of the other:

“Thurlow was a man of low intellect, of a fierce countenance, a saucy, swaggering, insolent manner, debauched in his morals beyond the grossness of that indecent age—ostentatiously living in public concubinage—a notorious swearer in public and private. But he knew no law above the will of the hand that fed and could advance him, no justice which might check the insolence of power. And in less than a month after Mr. Horne was sent to jail, Thurlow was made Lord Chancellor of England, and sat on the woolsack in the House of Lords. His chief panegyrist can only say, ‘In worse times there have been worse chancellors.’” “But an age of comparative freedom and refinement has rarely exhibited one who so ill-understood, or at least so ill-discharged, the functions of a statesman and legislator.”

It seems he was ill qualified to the high position to which he was unworthily promoted, but one can-



not help thinking what a splendid active agent he would have made for a vice society! What a suppressor he would have made! With Colgate to back him, Britton for an accomplice, and with Benedict for prosecutor and judge, what a land-office business they could have transacted, and the poor victims would have been sent to prison in such a way as would have made such holy prints as the *New York Observer*, *The Christian Union*, and *Zion's Herald* exult with joy. The church would have prospered immensely.

To give an example of the opinions of this judge, which should more thoroughly endear him to the pious persecutors of the present time, I will make a quotation from Lord Campbell. In 1788 a bill was brought into Parliament to mitigate the horrors of the African slave trade. The Lord Chancellor Thurlow opposed it as follows :

It appears that the French have offered premiums to encourage the African [slave] trade, and that they have succeeded. The natural presumption, therefore, is that *we ought to do the same*. For my part, my lords, I have no scruple to say that if the "five days' fit of philanthropy" [the attempt to abolish the slave trade] which has just sprung up, and which has slept for twenty years together, were allowed to sleep one summer longer, it would appear to me rather more wise than thus to take up a subject piecemeal which it has been publicly declared ought not be agitated at all till next session of Parliament. Perhaps, by such imprudence, the slaves themselves may be prompted by their own authority to proceed at once to a "total and immediate abolition of the slave trade." Our witness has come to your lordship's bar with a face of woe—his eyes full of tears, and his countenance fraught with horror—and said, "My lords, I am ruined if you pass this bill. I have risked £30,000 on the trade this year! It is all I have been

able to gain by my industry, and if I lose it I must go to the hospital!" I desire you to think of such things, my lords, in your humane frenzy, and to show some humanity to the whites as well as to the negroes. (5 Campbell, 460 : Parl. Hist., 638 )

Truthfully does Parker say, "One measure of tyranny in the hands of such judges is constructive crime, a crime which the revengeful or the purchased judge distils out of an honest or a doubtful deed, in the alembic he has made out of the law, broken up and recast by him for that purpose, twisted, drawn out, and coiled up in serpentine and labyrinthine folds. For as the sweet juices of the grape, the peach, the apple, pear, or plum may be fermented, and then distilled into the most deadly intoxicating draught to madden man and infuriate woman, so by the sophistry of a states-attorney and a court judge, well trained for this work, out of innocent actions and honest, manly speech the most ghastly crimes can be extorted, and thus the 'leprous distillment' be poured upon the innocent victim,

" 'And a most instant tetter barks about,  
Most lazar-like, with vile and loathsome crust,  
All his smooth body.' "

#### A CASE OF CONSTRUCTIVE TREASON.

Here is an example : In 1668 some London apprentices committed a riot by pulling down some houses of ill-fame in Moorfields, which had become a nuisance to the neighborhood ; they shouted, "Down with bawdy houses." Judge Kelyng had them indicted for high treason. (Comstock and Benedict's charge of *obscenity* would have been more appropriate.) He said it was "an incroachment of royal authority." It was "levying war."

He thus laid down the law: "The prisoners are indicted for levying war against the king. By levying war is not only meant when a body is gathered together as an army, but *if a company of people will go about any public reformation, this is high treason.* These people do pretend their design was against brothels, with a captain [an apprentice walked about with a green apron upon a pole] and an ensign and weapons. If this thing be endured, *who is safe?* It is high treason because it doth betray the peace of the nation, *and every subject is as much wronged as the king;* for if every man may reform what he will, no man is safe, therefore the thing is of desperate consequence, and we must make this for a public example. There is reason why we should be very cautious; we are but recently delivered from rebellion [Charles I. had been executed nineteen years before, and his son had been in peaceable possession of the throne for eight years], and we know that that rebellion first began under this pretense of religion and the law; for the devil hath always this vizard upon it. We have great reason to be very wary that we fall not again into the same error. Apprentices for the future shall not go out in this manner. It is proved that Beasley went out as their captain, with his sword, and flourished over his head [this was the 'weapons'], and that Messenger walked about Moorfields with a green apron upon the top of a pole [this was the 'ensign']. What was done by one was done by all. In high treason, all concerned are principals" (Campbell's Justices, 404-5; Kelyng's Reports, 70).

Upon this Benedict-like charge thirteen apprentices who had been concerned in a riot were found

guilty of *high treason*; they were sentenced, and four of them were hanged! All of the eleven judges—Twysden was one of them—concurred in the sentence except Sir Matthew Hale. He declared there was no treason committed, and insisted they were merely “an unruly company of apprentices.” Ah! Sir Matthew Hale would never have done to sit in banc with Benedict and Choate to review the former’s rulings and errors. It is not likely he would have sustained Benedict so thoroughly as did Judge Blatchford in my case.

The same Judge Kelyng, singularly thick-headed and ridiculous, loved to construct crimes when the law made none. It is not unreasonable to conclude that Benedict is an apt follower of his. Whether he took lessons most from Kelyng or Jefferies is hard to decide. Kelyng thus ruled: “In cases of high treason, if any one do anything by which he showeth his *liking and approbation to the traitorous design*, this is in him *high treason*. For all are principals in high treason who contribute towards it in action or approbation” (Kelyng’s Reports, 12).

He held it was an over act of treason to print a “treasonable proposition,” such as this: “The execution, judgment, and justice is as well the people’s as the magistrates’ duty; and if the magistrates pervert judgment, the people are bound by the law of God to execute judgment without them and upon them.” So the printer of the book containing the “treasonable proposition” was executed. A man by the name of Axtell, who commanded the guards which attended at the trial and execution of Charles I., was brought to trial for treason. He contended that he acted as a soldier, by the command of his

superior officer, whom he must obey or die. But this Judge Kelyng decided that "there was no excuse, for his superior was a traitor, and all that joined him in that act were traitors, and did by that approve the treason, and when the command is traitorous, then the obedience to that command is also traitorous." So Axtell had to die. And the same rule of course smote at the head of any private soldier who served in the ranks. (Kelyng, Reports, 13.)

How similar the rulings of Kelyng and Benedict ! In fact had they lived at the same time and presided over different courts they could have exchanged situations with no more prejudice to the unfortunate accused men brought before them, than the members of two Calvinistic congregations are inconvenienced when their pious pastors exchange pulpits for a Sunday.

These wicked cases of constructive treason by the court out of the most trivial offenses, and often of the most honest actions, continued until Erskine attacked them with his justice, and with his burning eloquence exposed them to the indignation of mankind, and so shamed the courts into humanity and common sense. And right here I cannot help expressing the devout wish that we now had an Erskine in the United States Circuit Court of this District. Never was more needed an honest, intelligent, broad-souled, justice-loving judge. But unfortunately the same evil which existed in England two centuries ago is still insidiously lurking around our highest courts in this country. Any malignant, prejudiced, or purchased judge, when it suits his whim, or at the dictation of his brethren of his own creed, may draw back his judicial fist, and smite

at the fortune, and reputation, and even the life of any innocent man against whom he has a private grudge, or against whom his church brethren have a grudge and wish to have removed; and this damnable mockery, in this last quarter of the nineteenth century, passes for United States justice !

#### ILLEGAL TORTURE.

The mass of men, busy with their honest work, are not aware what power is left in the hands of judges wholly irresponsible to the people, as I have already shown our United States judges to be. Few men know how often they violate the laws which they owlshly pretend to administer. Take but a single form of this judicial iniquity, the use of torture, again looking to England for the example.

The use of torture in England has never been conformable either to common law or to statute law ; but how often has it been practiced by a corrupt administration and wicked judge ! In 1549 Lord Seymour, of Sadley, Admiral of England, was put to the torture. (2 St. Tr, 774., note.)

In 1604 Guy Fawkes was "horribly racked." (1 Jardin. Crim. Tr., 16.)

Peacham was repeatedly put to torture, as has already been shown, and even in presence of Lord Bacon himself, in 1614.

Peacham was racked in 1620, Bacon and Coke both signing the warrant for this illegal wickedness. "He deserveth it as well as Peacham did," said the Lord Chancellor, making his own infernal ruling and custom to stand for law.

In 1627 the Lord Deputy of Ireland wanted to

torture the priests, and Charles I. gave him a license, the Privy Council asserting, "All of one mind that he might rack the priests as he saw fit, and hang them if he saw reason." (1 Jardin, 12.)

In 1628 the judges of England solemnly decided that torture was unlawful—but had always been so as much as at that time—and Yelverton, one of the judges, was a member of the commission which stretched Peacham on the rack. (3 St. Tr., 371.)

Yet, spite of this decision, torture still held its old place, and a warrant from the year 1640 still exists for inflicting this illegal atrocity on a victim of the court. (1 Jardin, 29.)

Yes, even so late as 1804, when Thomas Picton, governor of Trinidad, put a woman to torture of the most cruel character, by the connivance of the court he entirely escaped from all judicial punishment. (30 St. Tr., 225.)

Yes, torture was long continued in England itself; though not always by means of thumbscrews, and Scottish boots, and Spanish racks; the monstrous chains and damp cells, the perpetual irritation which corrupt judges of a despotic court tormented their victims withal, was an old demon under another name. (Case of Huggins, 17 St. Tr., 297, 309.)

It has been well said by a distinguished English judicial authority :

"It must be owned that the guards and fences of the law have not always proved an effectual security for the subjects. The reader will . . . find many instances wherein they who hold the sword of justice did not employ it as they ought to in punishment of evil-doers, but to the oppression and destruction of men more righteous than themselves.

Indeed, it is scarce possible to frame a body of laws which a tyrannical prince, influenced by wicked counsellors and corrupt judges, may not be able to break through. . . . The law itself is a dead letter. Judges are the interpreters of it; and if they prove men of no conscience, no integrity, they will give what sense they will to it, however different from the true one; and when they are supported by superior authority will, for a while, prevail, till, by repeated iniquities, they grow intolerable and throw the state into convulsions, which may at last end in their own ruin. This shows how valuable a blessing is an upright and learned judge, and of what great concern it is to the public that none be preferred to that office but such whose ability and integrity may be safely depended on" (1 Hagram's St. Tr., 68).

It is indeed most unfortunate for the people who have to submit to the powers that be that judges, wholly deficient in the great and manly principles of integrity and honor, should be appointed to dole out the miserable mockery falsely labeled *justice*. The remedy is a greater diffusion of intelligence, independence, and honesty among the masses. They must take the control of judges, to a great extent, into their own hands, and insist that none but honest, fair-minded, and just men shall sit in the judge's seat.

Now, dear readers, perhaps I have done my duty by you for this time. Under the circumstances perhaps you ought to be satisfied with these few limited accounts. You will undoubtedly hear from me next week. It is quite probable that I shall remain in this prison but a few days longer. If the



President does not order my prison doors to be opened for me, I shall most likely be taken to the Albany Penitentiary. I need not again assure you that my partiality is largely in favor of obtaining my pardon, but whatever my fate may be, I will endeavor to submit to it with becoming resignation.

D. M. B.

## LETTER V.

CELL 36, LUDLOW ST. JAIL, July 7, 1879.

DEAR READERS OF THE TRUTH SEEKER: Still another week has passed away and I am not a free man, nor have I been removed to the Albany Penitentiary. I presume I am indebted to the powers at Washington for both conditions. I did hope that if the President came to the conclusion that I had done nothing deserving of being thrown into a felon's cell he would sign an order for my release before the Fourth, but he has had a great deal of other signing to do in the way of vetoes, which, with the incompatibilities of Congress, necessary preparations for a two-weeks' pleasure trip, etc., have occupied his attention. It is rather my opinion that if the President had been in prison over a month for committing no crime whatever, and his business was seriously suffering from his absence, he would begin to think he had been in about long enough, and that somebody ought to make it his business to let him out. But as I am not master of the situation, and it seems to be my fate at present to remain in prison, I shall endeavor to show a due degree of submission to the inevitable. I have not chafed severely at the great injustice done me.

But on the hundred and third anniversary of our nation's birth, after I had read over the Declaration

of Independence, by my cell door, on the Fourth, and when I could hear from without the cheering sounds of jubilation that we are a free people—the booming of cannon, the chiming of bells, the endless clatter of small-arms, crackers, etc., I could not help querying to myself, “I wonder if it was the intention of the great Thomas Jefferson, who is said to be the author of the Declaration of Independence, and who did so much towards founding our system of government—I wonder if he had any intention that after this free government had existed over a century a man should be thrown into prison for the simple act of mailing a little pamphlet containing an honest man’s views upon a philosophical subject? Did he mean that the church party, the adherents of the system of religion which he decidedly thought to be untrue, should become the rulers of this free land to such extent that upon the merest pretext they could imprison, fine, and disgrace those who did not square their religious beliefs according to the patterns fixed up by the clergy—that sectarians should imprison unbelievers? My condition on the Fourth was not well calculated to give me as realizing a sense that there was no bondage or oppression in this country as I have felt on other occasions.

When, however, I reflect that my condition here in prison is infinitely better than that of thousands of far more unfortunate beings who were bound to floors, loaded with chains, cast into damp, moldy, stinking dungeons—mere holes in the earth—where they have been compelled to wallow in their own filth, with the very worst of food and meagre in quantity; of the thousands who have been subjected to tortures of every imaginable description, hung up

by their thumbs, their toes, their hands fastened behind them and then suspended by them; bound hand and foot and the soles of their feet roasted at a slow fire, splinters of fat pine inserted into their flesh all over their bodies and set on fire, awls and bodkins inserted into their bodies and limbs; poor wretches stretched upon racks till their joints were torn asunder, bound on wheels till their bones were broken, their tongues torn out by the roots; their eyes burned out with red-hot irons, the bones of their feet crushed with iron boots, with the hundreds of thousands who have yielded up their lives on the scaffold, at the beheading-block, and at the burning-stake—when I thus think over what my fellow-beings, only a few centuries ago, were compelled to endure from Christian persecutions in the name of religion and morality, I can realize that after all the injustice that has been done me, I have far less to complain of than millions of unfortunate victims to the Christian power who have preceded me.

During two or three days of the past week my health was somewhat impaired from an irregularity of the bowels, followed by feverishness. This was probably induced by a change of diet; they give me far more fresh meat here than I have been in the habit of using. But I am all right again, and “go a little light” on the meat.

Among the visitors who have called upon me since my last writing was W. S. Bell, on his way home from his Western lecturing trip; and I was sorry to hear from him that on the night of the 16th of June, while he was soundly sleeping in the house of Bro. E. C. Walker, Florence, Iowa, a tramp or some other intrusive individual made an entrance into his bed-

room from the outside and took his fine gold watch, worth \$120, and \$58 in money. That was very hard on Mr. Bell. He has not been earning enough by talking to the people to make such losses convenient. Over two years ago I had a gold watch taken from my pocket, without permission, which I had carried twenty years, and the borrower never had the good manners to return it. I made up my mind that I should carry no more high-priced watches, and I find that a silver Swiss watch which cost \$10 answers all purposes.

With the warmest gratitude I acknowledge the great number of petitions rolling in, well freighted with the names of those asking for my restoration to liberty. They come in at the rate of over five thousand names per day, and are duly forwarded to Washington. Over fifty thousand names have been sent in, and when all are in the number will undoubtedly amount to from one hundred to two hundred thousand names. It would seem that such a host of names asking for the performance of a simple act of justice ought to have some effect upon the heads of the Government. I am aware that a good deal of labor is necessary in securing such a vast number of names, and that many have spent days in soliciting signatures. All I can do now is to return my sincere thanks to my kind friends for engaging in this labor without hope of remuneration. Some day I may be able to do more than thank, and if so I will surely do it.

I have also to acknowledge the receipt of a very large number of sympathetic and friendly letters from friends in all parts of the country. I hereby return thanks for the same. It is not convenient for

me to see more than a small part of them myself, but I hear about them. Those in THE TRUTH SEEKER office have so much to occupy their attention that I know friends will excuse them if replies to those friendly letters are not written. I am also sorry that but a small share of them can find room in THE TRUTH SEEKER. The space is so scant that large numbers of these letters from friends are unavoidably crowded out.

My pious and villainous enemy, Comstock, is still busy in trying, so far as he can, to suppress THE TRUTH SEEKER. He has again been able to bulldoze the news companies and frighten them to the extent that a part of them refused to handle the paper. It is to be regretted that the managers of those companies have not the independence to attend to their own business and give the meddlesome Comstock to understand that it would be advisable for him to confine his attention to that which immediately concerns him. He also visits the news stands where the paper is kept for sale and orders that its sale be discontinued. He usually winds up his little speech with, "Perhaps you don't know who I am. I am Anthony Comstock." If they know a meaner man they must have a very extensive acquaintance. He has also made a couple more visits to my printer, Mr. Scott, trying to frighten him from longer doing the press-work for me, but he has not succeeded in inducing much fear in that quarter. He would gladly stop the mailing, could he do so, but he is not at present running the New York Post-office. There is a very sensible limit, placed to his power in that direction.

Comstock is represented as being extremely infu-

riated at the truthful statements I have made against him. He expected that long before this I would be in the Albany Penitentiary, where I would be allowed to have very little to say from behind the bars; and he is very indignant that it has not been the case, but he has not had quite everything his own way, and it is to be hoped that in the future he will have less than in the past.

He is very emphatic in saying that I publish lies about him. Of course it is easier for him and more natural to deny the truth than to confess it. But as the weather is now pretty warm, and Anthony is of a sanguine temperament, my advice to him is to keep as cool as possible and he will not be half so likely to have a fit of sunstroke or apoplexy. I also advise him to cease interfering with my business. There is a decided possibility of his carrying his meddlesomeness too far. The tables possibly may be turned upon him. I have already a good many items charged up to him, and some day I may call upon him for settlement. There is possibly yet a little of the article of justice to be had in our state courts, and I am happy to say he does not run them, if he does one branch of the United States courts. If he is disturbed about what I have published about him, just let him wait till I am out of prison, and I will gladly prove every charge I have made against him. He may let the news companies, the news dealers, and Mr. Scott alone, and look wholly to me. I think I will be fully able to attend to his case and give him full satisfaction. If I cannot prove every charge I have made against him, and by good witnesses too, I will forfeit \$1,000 on each charge I fail on. I will also prove much more than I

have charged upon him. There is considerable yet back that I have not named, and I may deem it my duty to show the villain up far more fully than I have already done. Let him bring a suit against me in the state courts by all means, where there will be something like an equal chance for me, and where he cannot bring the whole power of the Government—attorneys, marshals, judges, and all—to his aid without its costing him a cent. Yes, let him commence upon me in the state courts and if I do not show him up as one of the blackest of scoundrels, then I will forever hold my peace. Yes, let him come to me, and let those alone who have nothing to do with what appears in my paper.

But if he brings suit against any one who performs work on my paper—or who sells it—on a charge of libel, it will give me equally as good a chance to prove what I have charged him with, and I will take pleasure in publishing him to the world, that it may be well understood what kind of a champion the Christian church and the Y. M. C. A. have in this year of grace, 1879, and what kind of a character is selected by the United States Government to be a censor over the press, and to be a special agent of the postal department, with power to throw out such of the people's mail as he sees fit. There are yet a great number of people who know nothing about the baseness of this man; it is information they ought to have; and a trial as to whether what I have published of him is true or false would afford a splendid occasion for bringing the truth to the knowledge of the public. I will have a full report



made of the trial and publish it in immense numbers and circulate it gratuitously everywhere.

MORE OF ENGLISH JUSTICE.

I will now revert to the cases of English "justice," so called, showing how easy it was for corrupt and unjust judges to pervert the law and interpret it to suit their own perverse views and prejudices. It will be further seen that judges are often far from being perfect, and that their rulings and decisions are not always based on real justice; and this state of things is as real in our own times as two centuries ago. I shall again draw from Theodore Parker's admirable compilation, and sometimes use his own language.

Early in the reign of James I. the king sought to lay burdensome taxes on the people without any act of Parliament, and this practice was continued by his successors.

1. In 1606 came "the great case of impositions," not mentioned in the ordinary histories of England. The king assumed the right to tax the nation by his own prerogative. He ordered a duty of five shillings on every hundred pounds of currants imported into the kingdom, to be levied in addition to the regular duty affixed by act of Parliament. This was contrary to law, nay, to the Constitution of England, her Magna Charta itself providing against unparliamentary taxation. Sir John Bates, a London merchant, refused to pay the unlawful duty, and was prosecuted by information in the Star-Chamber. "The courts of justice," says Hallam, "did not consist of men conscientiously impartial between the king and the subject; some corrupt with hopes of

promotion, many more fearful of removal, or awe-struck by the fear of power." On the "trial" it was abundantly shown that the king had no right to levy such a duty. "The accomplished, but too pliant judges, and those indefatigable hunters of precedents for violations of constitutional government, the great law officers of the Crown," decided against the laws, and a Chief-Justice Fleming maintained that the king might lay what tax he pleased on imported goods. This corrupt decision settled the law for years. That passed for a precedent as much as some of the rulings under the "Comstock law" have passed for precedents in recent times. The decision of Fleming gave the king absolute power over this branch of the revenue, involving a complete destruction of the liberty of the people, for the principle would carry a thousand measures on its back. The king declared Fleming a judge to his heart's content. Comstock could not be better pleased with Benedict. Bacon's subserviency did not pass unrewarded. Soon after, James issued a decree under the great seal, imposing heavy duties on almost all merchandise "to be forever hereafter paid to the king and his successors, on pain of his displeasure." Thus the measure became a principle.

2. James, wanting funds, demanded of his subjects forced contributions of money, strangely called "benevolences," though there was no good will on either side. It was clearly against the fundamental laws of the kingdom. Sir Oliver St. John refused to pay what was demanded of him, and wrote a letter to the Mayor of Marlborough against the illegal taxation. For this he was prosecuted in the Star-Chamber in 1615 by Attorney-General Bacon. The court,

with Lord Chancellor Ellismere at its head, of course decided that the king had a right to levy benevolences at pleasure. St. John was fined £5,000, and punished by imprisonment during the king's pleasure. This decision gave the king absolute power over all the property in the realm—every purse was in his hands! With such a court the king might well say, "Where controversies arise, my Lordes the Judges chosene betwixte me and my people, shall discide and rulle me." This aggressive king could well trust to the corrupt judges, who would, to retain his good will, do anything he commanded. Comstock could feel greater confidence in Benedict.

3. Charles I. proceeded in the steps of his father. He levied forced loans. Thomas Darnel and others refused to pay, and were put in prison on a general warrant from the king, which did not specify the cause of commitment. They brought their writs of *habeas corpus*, contending that their confinement was illegal. The matter came to trial in 1627. Sir Randolf Crewe, a man too just to be trusted to do the iniquity desired, was thrust out of office, and the corrupt and infamous Nicholas Hyde appointed chief-justice in his place. The actual question was, Has the king the right to imprison any subject forever without process of law? It was abundantly shown that he had no such rights. But the new chief-justice, put in power to oppress the people, remembering the hand that fed him, thus decreed: "Mr. Attorney hath told you that the king hath done it, and we trust him in great matters, and he is bound by law, and he bids us proceed by law; . . . and we make no doubt but the king, if you look to

him, he knowing the cause why you are imprisoned, he will have mercy ; but we believe that . . . he cannot deliver you, but you must be remanded." Thus such judges as this gave the king absolute power over the liberties of the subject. (3 St. T., 1). But the matter was brought up in Parliament, and discussed by men of a different temper, who frightened the judge by threats of impeachment, and forced the king to agree to the Petition of Rights, designed to put an end to all such illegal cruelty. Before Charles I. would sign that famous bill, he asked Judge Hyde if it would restrain the king "from committing or restraining a subject without showing cause." The crafty judge answered, "Every law, after it is made, hath its exposition, which is left to the courts of justice to determine ; and although the petition is granted, there is no fear of such a conclusion as is intimated in the question !" Or in other words, the court will interpret the plain law so as to oppress the subject and please the king. As the judges had promised to amend the law the king signed it. (1 Campbell's Justices, 311.)

Charles next dissolved Parliament and threw into jail its most noble and powerful members—one of whom, Eliot, never left the prison till death set him free. The same chief-justice gave an extra-judicial opinion justifying the illegal seizure of the members—"that a Parliament man committing an offense against the king in Parliament, not in a parliamentary course, may be punished after the Parliament is ended ; that by false slanders to bring lords of the council and the judges, not in a parliamentary way, into the hatred of the people and the government, in the Star-Chamber, is an offense committed in Par-

liament beyond the office and beside the duty of a Parliament man" (Campbell).

Thus the judges struck down freedom of speech in Parliament, as Benedict & Co. have endeavored here to strike down the freedom of the press.

4. In 1634 Charles I. issued a writ levying ship-money, so-called, on some seaport towns, without an act of Parliament. London and some other towns remonstrated, but were forced to submit, all the courts being against them. Chief-Justice Finch, another "servile tool of the despotic court," generalized this unlawful tax, extending it to inland towns as well as seaboard, to all the kingdom. All land-holders were to be assessed in proportion to their property, and the tax, if not voluntarily paid, collected by force. The tax of course was unpopular, as all knew it to be clearly against the fundamental laws of England. But if the Government could not get the law on its side, it could control its interpreters, for "every law hath its exposition," as Hyde had said. So the judges of assize were ordered in their circuits to tell the people to *comply with the order and pay the money!* The king obtained an extra-judicial opinion of the twelve judges, delivered irregularly, out of court, in which they unanimously declared that in time of danger *the king might levy such tax as he saw fit, and compel men to pay it.* He was the sole judge of the danger, and of the amount of the tax.

John Hampden was taxed twenty shillings. He refused to pay, though he knew well the fate of Richard Chambers a few years before. The case came to trial in 1637 in the Court of Exchequer before Lord Chancellor Coventry, a bad, corrupt

creature, on whose shoulders had been placed the ermine by a corrupt king, for his subserviency.

It was "the great case of ship-money." The ablest lawyers in England showed that the tax was contrary to Magna Charta, to the fundamental laws of the realm, to the Petition of Rights, and the practice of the kingdom. Hampden was defeated. Ten out of the twelve judges sided with the king. Coke was the eleventh, and made up his mind to do the same, but his noble wife implored him not to sacrifice his conscience for the fear of danger, and the woman, in this case, as often happens, saved the man. Well would it have been for Benedict and Blatchford had their wives in a similar manner interfered and saved their husbands from the great wrong and the deep disgrace of which they were guilty in my case.

Attorney-General Banks thus sets forth the opinion of the Government, and the consequent "decision" of the judges. He rested the right of levying ship-money on the "intrinsic, absolute authority of the king." Banks said: "this power [of arbitrary and irresponsible taxation] is innate in the person of an absolute king, and in the person of the kings of England. All magistracy is of nature, and obedience and subjection to it is of nature. This power is not in any way derived from the people, but reserved unto the king when positive laws first began. For the king of England, he is an absolute monarch; nothing can be given to an absolute prince but what is inherent in his person. He can do no wrong. He is the sole judge, and we ought not to question him; whom the law trusts we ought not to distrust." "The acts of Parliament contain

no express words to take away so high a prerogative ; and the king's prerogative, even in lesser matters, is always saved where express words do not restrain it " (2 Hallam, 16).

This was law and justice with a vengeance. The vile Attorney-General Banks was undoubtedly endeavoring to gain such favor with the tyrant Charles as would secure a seat on the woolsack in the House of Lords for himself. It required six months of judicial labor to bring forth this result, which was of "infinite disservice to the crown." Thereupon Hallam says:

Those who had trusted to the faith of the judges were undeceived by the honest repentance of some, and looked with indignation on so prostituted a crew. The respect for courts of justice which the happy structure of our judicial administration has in general kept inviolate, was exchanged for distrust, contempt, and a desire of vengeance. They heard the speeches of some of the judges with more displeasure than even their final decision. Ship money was held lawful by Finch and several other judges, not on the authority of precedents, which must in their nature have some bounds, but on principles subversive of every property or privilege in the subject. These paramount rights of monarchy, to which they appealed to-day in justification of ship-money, might to-morrow serve to supersede other laws, and maintain more exactions of despotic power. It was manifest by the whole strain of court lawyers that no limitation on the king's authority could exist but by the king's sufferance. This alarming tenet, long bruited among the churchmen and courtiers, now resounded in the halls of justice (2 Hallam 18).

Something like the contempt, distrust, and desire of vengeance at the churchly and tyrannical rulings of the corrupt judges two hundred and fifty years ago is strongly manifesting itself now towards the sycophantic judges, cringing to priestly power, so

conspicuous in our United States courts, and it will not be strange if the same infamy awaits them.

Thus, by the purchased rulings of a corrupt judiciary, all the laws of Parliament, all the customs of the Anglo-Saxon tribe, Magna Charta itself, with its noble attendant charters, were at once swept away, and all the property of the kingdom put into the hands of the enemy of the people. These four decisions would make the king of England as absolute as the Sultan of Turkey or the Czar of Russia. If the opinion of the judges in the cases of impositions and ship-money were accepted as law, then all the property of the people was the king's; if the courts were correct in their judgments, giving the king, by the power of his mere will, the right to imprison any subject during pleasure, and also to do the same even with members of Parliament, as well as to punish them for debates in the House of Commons, then all liberty was at an end, and the king's prerogative extended over all acts of Parliament, all property, and all persons.

5. One step more must be taken to make the logic of despotism perfect and complete the chain. That work was delegated to clergymen purchased for the purpose—Rev. Dr. Sibthorpe and Rev. Dr. Roger Mainwaring. The first, in a sermon “of rendering all their dues,” preached and printed in 1627, says :

The prince, who is the head, and makes his court and council, it is his duty to direct and make laws ; “ He doeth whatsoever pleaseth him,” where the word of the king is power, and who may say unto him, What doest thou ? If princes command anything which subjects may not perform, because it is against the laws of God, or of nature, or impossible, yet subjects are bound to undergo the punishment, without either resisting, or railing, or reviling, and to yield



a passive obedience where they cannot exhibit an active one, . . . but in all others he is bound to active obedience" (Franklyn, 208; Rushworth, 422).

Mainwaring went further, and in two famous sermons—preached one on the 4th of July, 1628, the other on the 29th of the same month—declared that

The king is not bound to observe the laws of the realm, concerning the subject's rights and liberties, but that his *Royal will and command*, in imposing loans and taxes without consent of Parliament, *doth oblige the subject's conscience upon pain of eternal damnation*. That those who refused to pay this loan offended against the law of God and the king's supreme authority, and became guilty of impiety, disloyalty, and rebellion. And that the authority of Parliament is not necessary for the raising of aid and subsidies, and that the slow proceeding of such great assemblages were not fitted for the supply of the state's urgent necessities, but would rather produce sundry impediments, in the just designs of princes. *Kings partake of the omnipotence of God*" (Franklyn, 208, 592).

These two sermons were published in a volume with the title, "Religion and Allegiance, published by His Majesty's special command" (London, 1628). They breathe the same spirit of subservience to worldly power, the willingness to override the masses of the people, to declare what the will of God is, and to hurl eternal hell and damnation on the right and left to all they wish to frighten and coerce to do their bidding. The priesthood have ever been ready to trample down the dearest rights and liberties of the people, as they are now the ones who howl the loudest in favor of my conviction and imprisonment and yell the fiercest against executive clemency being extended towards me. "No clemency for Bennett," is their cry.

The English nation thoroughly enraged, Main-

waring was brought before Parliament, punished with fine and imprisonment, and both were justly suspended from their priestly offices. They clearly overdid the thing in their subserviency to the will of a tyrant, and the people loudly revolted against it. But the king, who ordered the publication of the sermons, and who undoubtedly had induced their being preached, immediately made the infamous, sycophantic Mainwaring rector of Stamford parish, soon appointed him Dean of Worcester, and finally, in 1645, made him Bishop of St. Davids. Thus have the most servile clergy co-operated with the vilest of despots, as the mercenary and aristocratic clergy are now applauding the conduct of Benedict, Blatchford, and Choate in crushing out the freedom of speech and the freedom of the press—the dearest rights of American citizens. The government of England once decreed “that every clergyman, four times in the year, should instruct his parishioners in the divine right of kings and the damnable sin of resistance” (2 Campbell, 460; 1 Rushworth, 1205). Should such a misfortune ever befall this country as for the liberties of the people to be entirely broken down, and a despot or king rule over this fair land, there is no question but what clergymen vile enough will be found to declare to their too credulous hearers that God requires implicit obedience to the powers that be, for, according to his word, they are ordained by him. The same clergymen that so heartily applaud the tyranny of Benedict and Blatchford could enjoin obedience, in the name of God, to any despot on earth.

6. After the head of one Stuart was shorn off and his son had returned, no wiser nor better than his

father, the old work of despotism began anew. Not wishing to repeat what has already been said upon the subject, I will proceed with the material facts.

In 1672, Charles II. published a proclamation denouncing rigorous penalties against all such as should speak disrespectfully of his acts, or, hearing others thus speak, should not immediately inform the magistrate. Nay, in 1675, after he had sold himself to the French king, and was in receipt of an annual pension therefrom, he had this test oath published for all to sign: "I do solemnly declare that it is not lawful upon any pretense whatever to take up arms against the king, . . . and that I will not, at any time to come, endeavor the alteration of the government either in church or state" (Carroll's Counter Revolution [London,] 99).

An oath still more stringent was enforced in Scotland with the edge of the sword, namely, to defend all the prerogatives of the crown, never, without the king's permission, to take part in any deliberations upon ecclesiastical or civil affairs, *and never to seek any reform in church or state.*"

Notwithstanding all that the Charleses had done to break down the liberty of Englishmen, still the great corporate towns held out entrenched behind their charters, and from that bulwark both annoyed the despot and defended the rights of the citizen. This also must be destroyed. So summons *quo warranto* were served upon them, which frightened the small corporations and brought down their charters. Jefferies, the Benedict of that time, was just the tool to engage in this wicked work, and on his return from his northern and western circuit, in which he had sent hundreds of his fellow-beings to death,

rich with the infamous spoils he had gathered as the reward of his murderous rule in destroying the liberty of his countrymen, the king publicly presented him with a ring, in token of "acceptance of his most eminent services." This fact was duly blazoned in the *Gazette*, and Jefferies was esteemed a "mighty favorite," which, "together with his lofty airs, made all the charters, like the fabled walls of Jericho, fall down before him, and he returned, laden with surrenders, the spoils of towns."

London, of course, remained the stronghold of commerce, of the Protestant religion, and of liberal ideas of domestic government; for though subsequently corrupted by lust of gain, which sought a monopoly, the great commercial estates and families of England were not then on the side of despotism, as in these latter times the largest cities in free America have too far become.

When the king sought to ruin Shaftesbury—a corrupt man, doubtless, but still on the side of liberty, and the enemy of encroaching despotism—a London grand jury refused to find a bill, and was warmly applauded by the city. Their vote of *Ignoramus* was a "personal liberty bill" for that time, and consequently the king's wrath was waxing extremely hot, for "Ignoramus was mounted in Cathedra," and then was a stop put to such wickedness. So London must be brought down. She refused to surrender her charter. In 1682 the king proceeded to wrest it from her by the purchased hand of the courts of law. But even they were not quite adequate to the work. So Chief-Justice Pemberton was displaced, and Saunders, a man as offensive in his personal habits of body as he was corrupt in

conduct and character, and low and groveling in mind and incentives, was put in his place. Dolbin, too just for the crime demanded of him, was turned out, and Withins made to succeed him. For "so great a weight was there at stake as could not be trusted to men of doubtful principles," said North. Saunders, who had plotted this whole matter, was struck with an apoplexy when sentence was to be given, but sent his opinion in writing. Thus, on the judgment given by only two judges, who assigned no reason for their decision, it was declared that the charter of London was forfeit, and the liberties and franchises of the city should be "seized into the king's hand."

Thus fell the charter of London, by the fiat of most corrupt judges, who have so often proved themselves the enemies of the dearest liberties and rights of the people—unprincipled tyrants who have delighted to tread into dust the most cherished heritage of man.

In 1686 James II. wished to destroy Protestantism, not that he loved the Roman form of religion, but that tyranny which it would help him to acquire and keep. So he claimed the right by his royal prerogative to dispense with any laws of the land. Of the twelve judges of England, eight were found on his side, and the four who had unexpectedly proven faithful were at once dismissed from office, and their places filled with courtiers of the king, and the court was then unanimous that the king had a constitutional right to destroy the Constitution. Then he had not only the command of the persons of his subjects and their bodies, but also of their mind and consciences, and could actually dictate the religion

of the people, as well as the official religion "of the priests." (Hallam 333.)

One state secret lay at the bottom of the Stuart's plan—to appoint base men for judges, and if by accident an honest man came upon the bench, to keep him in obscurity, or to hustle him from his post. What names they offer us—Kelyng, Finch, Saunders, Wright, Jefferies, Scroggs! Infamous creatures, but admirable instruments to destroy generous men withal, and to devise means for the annihilation of the liberties of the people. Historians commonly dwell on the field of battle, recording the victories of humanity, whereof the pike and gun were the instruments; but pass idly over the more important warfare which goes on in the court room, only a few looking on, where lawyers are either the champions or the arch-enemies of mankind, and when the battle often turns on a single sentence, nay, on a word which determines the welfare of a nation for generations to come. On such little hinges of law do the great gates of society hang, and open or shut to let in the happiness or ruin of millions of men! Nasby and Worcester are by no means unimportant places, and venerable for great deeds. Cromwell and Blake are names not likely to perish while men can appreciate the heroism that sheds blood. "But," says Parker, "Westminster Hall has rung with more important thunder than cannon ever spoke, and Pym and Selden, St. John and Hampden—nay, Penn, Bunyan, Fox, Lilburne—have done great service for mankind."

"It is difficult," says the same eloquent writer, "to calculate the amount of evil wrought by such corrupt judges as those already spoken of; they

poison the fountains of society. I need not speak of monsters like Scroggs and Jefferies, whose names were in perpetual infamy, but creatures less ignoble, like Wright, Saunders, Finch, Kelyng, Thurlow, Loughborough, and their coadjutors, must be regarded as far more dangerous than thieves, murderers, or pirates." And it might be added, a thousand times more dangerous than he who deposits an indifferent pamphlet in the mail. "A cruel, insolent judge, selecting the worst customs, the most oppressive statutes and decisions which outrage human nature, what an amount of evil he can inflict on groaning humanity!" How unfortunate it is that in our own time may be found the same oppression. Unjust judges in the very highest courts among us exhibit the same willingness to become the tools of a theological tyranny and to deliberately trample on the rights and liberties of the people! And sad it is, too, that in our own country the chances of redress are so far removed from the people. The judges in our United States courts are appointed on some political consideration, as a piece of party favoritism, or as a compensation for some menial service or dirty work they have performed. They are appointed for life, or virtually so; and however corrupt they may be, or however unjust may be their rulings and decisions, there is about as much chance of effecting their displacement as there would be of changing the location of the north pole. They are a perfect fixture—an Old Man of the Sea that cannot be shaken off.

#### JUDICIAL RELIGIOUS PERSECUTION.

"In this long history," again says Parker, "of judicial tyranny in England, there is one thing par-

ticularly plain—such judges hate freedom of speech, they would restrict the press, the tongue, yes, the thought of mankind. Especially do they hate any man who examines the actions of government and its servile courts, and their violation of justice and the laws. They wish to take exemplary and malignant vengeance on all such.” It may also be as truthfully added that our modern tyrannical judges are equally as revengeful and heavy-handed upon those who have the temerity to question the truth of the current theological creeds or doubt the truth of the representations of those who are often paid excessive salaries to continue the hoodwinking process over the too credulous people. This sort of independence highly exasperates these sectarian judges, and it gives them pleasure to let their vindictive sentences fall upon the heads of this class of offending persons brought before them, even if it has to be done under false pretenses, and a base pretext has to be employed to carry out their vile purposes.

Here follow a few instances from English history:

1. In 1410 the government made a decree, “that whatsoever they were that should rede the Scriptures in the mother tongue, they should forfeit land, catel, body, lif, and godes from their heyres forever, and so be condempned for heretykes to God, enemies to the crowne, and most errant traiters to the land.” The next year, *in one day, thirty-nine persons were first hanged and then burned for thus reading the Scriptures.* (1 St. Tr., 252.)

2. In 1590 Mr. Udall, a Puritan minister, published a book, “Demonstrations of Discipline,” not agreeable to the authorities. He was brought to



trial for a felony—not merely a misdemeanor, the jury were ordered by the judge to find him guilty of that crime if they were satisfied that he published the book—for the court was to judge whether the deed amounted to that crime. Cannot the reader here see the close analogy of the judge's charge in that case to Judge Benedict's charge in my case, with the definition and test which he reserved to himself the right to lay down to the jury? Mr. Udall was found "guilty" as easily as I was, and the poor man died in jail after nearly three years of cruel imprisonment, which I hope may not be my fate. (1 St. Tr., 1371; 1 Neal's Puritans, 290.) This very possibly is where Judge Benedict obtained his style of charging a jury. It is singular, too, that juries can be induced to be as subservient now to the will of the judge as three hundred years ago.

3. In 1619 one Williams of Essex wrote a book explaining a passage in the book of Daniel as fortelling the death of James I. in 1621. He inclosed the manuscript in a box, sealed it, and secretly conveyed it to the king. For this he was tried for high treason, and of course convicted. "*Punitur effectus, licet non sequatur effectus,*" said the court, for "*scribere est agere.*" "Punish the wish, though the object be not reached," for "writing is doing." (2 St. Tr., 1085.)

The rulings by which this poor man was convicted were not unlike those of Judges Clarke and Benedict who presided at the trials of Heywood and myself, and of Clifford and Blatchford who sustained them. As Heywood presumed to use arguments in opposition to the marriage institution, and he and Bennett told them, they must necessarily be *obscene*, and

shou'd occupy a felon's cell. How completely history repeats itself!

4. In 1664 Mr. Keach, a Baptist, published a "Child's Instructor, or a New and Easy Primer," in which he taught the doctrines of his sect, that "children ought not to be baptized," but only adults, and that "laymen may preach the gospel. He was brought before Lord Chief-Justice Hyde, who, after insulting the prisoner, thus charged the grand jury: "He is a base and dangerous fellow, and if this be suffered, children by learning of it will become such as he is, and therefore I hope you will do your duty." Of course a loyal jury thus charged indicted him. The "trial" took place before Judge Scroggs. The jury were at first divided in opinion; "But," said the judge: "you must agree!" So they found him guilty. He was fined £20, twice set in the pillory, and bound to make public submission. How like my case to this! (St. Tr., 687.)

5. In 1679 George Wakeman and others were tried for high treason before Scroggs, whose conduct was most atrocious, in consequence of which several pamphlets were published, commenting on the ridiculous and absurd conduct of this functionary, "Lord Chief-Justice Scroggs." One Richard Radley, in a bantering talk, had said, "Go to Weal Hall, to my Lord Scroggs, for he has received money enough of Dr. Wakeman." Radley was indicted for "speaking scandalous words of Chief-Justice Scroggs," whereupon, at the opening of the court, that eminent officer, who did not disdain to wreak public and judicial vengeance on heads that wrought his private and personal grief, made a speech setting forth his magisterial opinions on the liberty of

the press. It would seem that some of our modern Scroggses and Jefferieses might have taken the utterances of this lord-chief as authority to guide them. Here is a specimen or two of Scroggs' style on this occasion .

For these hireling scribblers who traduce it [the fairness and equity of the trial, in which he had been notoriously unfair and unequal], who write to eat, and lie for bread. I intend to meet them with another way, for they are only safe while they can be secret ; but so are vermin, so long as they can hide themselves. . . . They shall know that the law has the power to punish a libelous and licentious press, nor a revolution to exact it. And this is all the answer fit to be given (besides a whip) to these hackney writers. However, in the meantime, *the extravagant boldness of men's pens and tongues are not to be endured, but shall be severely punished*; for if once causes come to be tried with complacency to particular opinions, and shall be innocently censured if they go otherwise, public cause shall all receive the doom as the multitude happen to be possessed ; and at length any cause shall become public. . . . At every session the judges shall be arraigned, the jury condemned, and the verdicts overawed to comply with the popular wish and indecent shouts. There are a set of men . . . that too much approve and countenance such vulgar ways, . . . that embrace all sorts of informations, true or false, likely or impossible, nay, though never so silly and ridiculous, they refuse none. So shall all addresses be made to them, and they be looked upon as the only patrons of religion and government" (6 St. Tr., 701).

His associates chimed in with the same infamous sentiments. Judge Jones declared :

We have a particular case here before us, as a matter of scandal against a great judge, *the greatest judge in the kingdom*, in criminal cases [The Lord Chancellor was greater in civil cases]; and it is a great and high charge upon him. And certainly there was never any age, I think, more licentious than this in aspersing governors, scattering of libels

and scandalous speeches against those that are in authority; and without all doubt it doth become the court to show their zeal in suppressing it. [The offense was resisting an officer.] That trial [of Dr. Wakeman] was managed with exact justice and perfect integrity. And therefore I do think it very fit that this person be proceeded against by an information, that he may be made a public example to all such as shall presume to scandalize the government, and the governors with any false aspersions and accusations.

Accordingly Mr. Radley, for that act, was convicted of speaking "scandalous words against Lord Chief-Justice Scroggs," and fined £200. (7 St. Tr., 701.)

That was rather a hard sentence for a few harmless words, half truthful, half playful. I hope Judge Benedict will not be able to impose similar sentences on me.

Mr. Hudson said of the Star-Chamber: "So tender the court is of upholding the honor of the sentence, as they will punish them who speak against it, with great severity" (2 Collect. Juridica, 228).

6. In 1680 Benjamin Harris, a bookseller, sold a work called "An Appeal from the Country to the City for the Preservation of His Majesty's Person, Liberty, Property, and the Protestant Religion." He was brought to trial for a libel, before Recorder Jefferies and Chief-Justice Scroggs, who instructed the jury they were only to inquire *if Harris sold the book*, and if so, find him guilty. It was for the court to determine what was libel. (How like Judge Benedict in my case. It is not difficult to see where this illustrious judge found his precedents and authority.) Mr. Harris was fined £500, and placed in the pillory. The Chief-Justice wished that he might also be whipped. (7 St. Tr., 925.)

7. The same year Henry Carr was brought to trial. He published a periodical—"The Weekly Packet of Advice from Rome, or the History of Popery"—hostile to Romanism. Before the case came to court, Scroggs prohibited the publication on his own authority, and of course found him guilty. The character of that court also was judgment against natural right. Jane Curtis and other women were in like manner punished for speaking or publishing words against the same "great judge." (7 St. Tr., 1,111.)

It was held to be a misdemeanor to publish a book reflecting on the justice of the nation—the truer the book the worse the libel! It was "obstructing an officer," and of course it was a greater offense to "obstruct" him with justice and truth than with wrong and lies. The greater the justice of the act the more dangerous the "crime." If the language did not hit any one person it was "malice against all mankind."

In 1684 Samuel Barnardiston was brought to trial charged with a "high misdemeanor." He had written three private letters to be sent—it was alleged—by post to his friend, also a private man. The letters did not appear designed for any further publication or use; they related to matters of news, the events of the day and comments thereon, and spoke in praise of Algernon Sidney and Lord Russell, who were so wickedly beheaded about the time the letters were written. It would require a microscopic eye to detect any evil lurking there. Jefferies presided at the trial, and thus instructed the jury:

The letters are factious, seditious, and malicious letters,

and as base as the worst of mankind could ever have invented. And if he be guilty of it, the greater the man is, the greater the crime, and the more understanding he has, the more malicious he seems to be; for your little ordinary sort of people, that are of common, mean understanding, they may be wheedled and drawn in, and surprised into such things; but men of a public figure and of some value in the world, that have been taken to be men of the greatest interest and reputation in a party, it cannot be thought a hidden surprise upon them; no, it is a work of time and thought; it is a thing fixed in its very nature, and it shows so much venom as would make one think the whole mass of his blood was corrupt. Here is the matter he is now accused of, and here is in it malice against the king, malice against the government, malice against both church and state, malice against any man that bears any share in the government, indeed malice against all mankind that are not of the same persuasion with these bloody miscreants. Here is . . . the sainting of two horrid conspirators. Here is Lord Russell sainted, that blessed martyr! Lord Russell, that good man! that excellent Protestant! he is lamented. And here is Mr. Sidney sainted! what an extraordinary man he was! Yes, surely he was a very good man—and it is a shame to think such bloody miscreants should be sainted and lamented who had any hand in that horrid murder [The execution of Charles I.] and treason! . . . who could confidently bless God for their being engaged in that good cause [as they call it] which was the rebellion that brought the blessed martyr to his death. It is high time for all mankind that have any Christianity, or fear of heaven or hell, to bestir themselves, and rid the nation of such caterpillars and such monsters of villainy as those are. (7 St. Tr., 1333.)

As may easily be supposed the packed jury found the accused man "guilty," and the court imposed upon him a gentle sentence—a fine of £10,000, equal, the times being considered, to \$100,000 now. A pretty high price indeed to pay for writing three private letters. It is rather harder but much of the

same character as paying \$300 and being imprisoned at hard labor for thirteen months for dropping in the mail an indifferent, harmless pamphlet that any man, woman, or child in the country has a perfect right to deposit there.

But such laws, such judges, with such rulers and courts, have hundreds of thousands of times trampled upon the dearest rights of the people. Theodore Parker, when arraigned before the United States Court in Boston on the charge of a "misdemeanor" and "obstructing an officer," uttered these noble sentiments: "Sad indeed is the condition of a nation when thought is not free. Where the lips are sewed together and the press is chained! Yet the evil which has ruined Spain, and made an Asia Minor of papal Italy, once threatened England. It required the greatest efforts of her noblest sons to vindicate for you and me the right to print, to speak, to think. Milton's 'Speech for the Liberty of Unlicensed Printing,' is one monument of the warfare which lasted from Wickliffe to Thomas Carlyle. But other monuments are the fines and imprisonments, the exile and beheading of men and women! Words are 'sedition,' 'rebellion,' 'treason'; nay, even now, at least in New England, a true word is a 'misdemeanor,' it is 'obstructing an officer.' At how great cost has our modern liberty of speech been purchased! Answer John Lilburne; answer William Prynne, and Selden, and Eliot, and Hampden, and other noble men, who

"In the public breach devoted stood,

And for their country's cause were prodigal of blood."

Answer Fox, and Bunyan, and Penn, and all the hosts of Baptists, Puritans, Quakers, martyrs, and

confessors—it is by your stripes that we are healed ! Healed ! are we healed ? Ask the court if it be not a ‘misdemeanor’ to say so !”

The boon which the lives and the blood of these noble martyrs in the past few centuries have won seems to culminate in our times in confining people in prisons for mailing their own opinions and the opinions of others ; and the convenient charge on which those offending in this direction are arrested, as is now well known, is “ mailing obscene literature.” The charge is as false as the charges of “ treason,” “ sedition,” “ libel,” etc., etc., that a few centuries ago were brought against those apostles of liberty just named.

#### LIBERTY OF THE PRESS.

A despotic government hates implacably the freedom of the press ; and when freedom of the press is not tolerated, the government has become despotic to all intents and purposes. In 1680, the lord chief-justice of England declared the opinion of the twelve judges: “ Indeed, all subscribe that to *print or publish any news-books, or pamphlets of news whatsoever, is illegal ; that it is a manifest intent to the breach of the peace, and they may be proceeded against by law for an illegal thing.*” “ And that is for a public notice to all people, and especially printers and booksellers, that *they ought to print no book or pamphlet of news whatsoever without authority.*” “ *They shall be punished if they do it without authority, though there is nothing reflecting on the government*” (7 St. Tr., 1127). This was the kind of *freedom of the press* that the lord chief-justice was anxious to bestow upon the people of England, and it must be admitted that it reads a good deal like the



“ Comstock law” which our Judge Benedict is so fond of convicting under. Lord Campbell informs us that the family and name of “ Scroggs ” have both become extinct in England ; and it is only to be regretted that his doctrines have found an echo in the supposed free land of America. It is possible that all the Scroggses came over to America, changed their names, and their descendants became members of the Forty-Second Congress, and some of them judges of the United States Circuit Court in New York city.

In 1731 Sir Philip Yorke, attorney-general, solemnly declared that an editor is “ *not to publish anything reflecting on the character, and reputation, and administration of his Majesty or his ministers ;* if he breaks that law, or exceeds that liberty of the press, he is to be punished for it.” Where did he get his law? In the third year of Edward I. in 1275? But that statute of the Dark Ages was held to be good law in 1731 ; it was held to be good in Theodore Parker’s time in 1855, and it is held to be good law now in 1879. It is to be regretted that the attorney-general capable of uttering such an atrocious sentiment was soon promoted to be chief-justice, a “ consummate judge,” a peer, Lord Hardwicke, and lord chancellor. (17 St. Tr., 674 ; 5 Campbell, 57.)

Lord Mansfield had not a much higher opinion of the liberty of the press ; indeed, in all libel cases, he assumed it was exclusively the function of the judges to determine whether the words published contained malicious or seditious matter, the jury were only to find the fact of publication. (20 St. Tr., 900.) Regular Benedict doctrine. Thus the party

in power, with their Loughboroughs, their Thurlows, their Jefferies, their Scroggses—shall the names of Taney, Clark, Benedict, and Blatchford be added as the grand American stars in this galaxy?—are the exclusive judges as to what shall be published relating to the party in power, or in relation to any theological or philosophical subject! It is to be hoped that the practice of law, especially the wearing of the ermine or sitting in the judge's seat, is not inimical to the spirit of freedom and the liberty of the press, but it is to be regretted that so many who have occupied that position have seemed to drink in the spirit of despotism and in the name of law to spread it over the land, enslaving thousands and millions—depriving them of what was dearer to them than life.

Parker justly said, "It was the free press of England—Elizabeth invoked it—which drove back the 'invincible Armada;' this which stayed the tide of papal despotism; this which dyked the tyranny of Louis XIV. out from Holland. Aye, it was this which the Stuarts, with their host of attendants, sought to break down and annihilate forever; which Thurlow and Mansfield so formidably attacked and temporarily stamped under their feet."

#### DAWN OF A BETTER ERA.

But spite of all these impediments in the way of liberty, and all the legal tyranny, the voice of humanity could not always be silenced. Now and then a virtuous, high-minded judge appeared in office—like Hale or Holt, Camden or Erskine. Even in the worst times there were noble men who lifted up their voices. Let two examples be selected from

men not famous, but whose names, borne by other persons, are still familiar to the legal world.

In 1627, Sir Robert Phillips, member from Somersetshire, in his place in Parliament, thus spoke against the advance of despotism :

SENTIMENTS OF SIR ROBERT PHILLIPS.

I read of a custom among the old Romans, that once every year they had a solemn feast for their slaves, at which they had liberty, without exception, to speak what they would, thereby to ease their afflicted minds ; which being finished, they severally returned to their former servitude. This may, with some resemblance and distinction, well set forth our present state ; where now, after the revolution of some time, and grievous sufferings of many violent oppressions, we have, as those slaves had, a day of liberty of speech ; but shall not, I trust, be hereafter slaves, for we are free. Yet what new illegal proceedings our estates and persons have suffered under, my heart yearns to think, my tongue falters to utter. They have been well represented by divers worthy gentlemen before me ; yet one grievance, and the main one as I conceive, hath not been touched, which is our religion. Religion, Mr. Speaker, made vendible by commission, and men, for pecuniary annual rates, dispensed withal ; judgments of law against our liberty there have been three, each latter stepping forwarder than the former upon the rights of the subject, aiming, in the end, to tread and trample under foot our law, and that even under the form of law.

The first was the judgment of the Postnati (the Scots).

The second was the judgment upon impositions in the Exchequer Court by the barons, which hath been the source and fountain of many bitter waters of affliction unto our merchants. The third was the fatal late judgment against the liberty of the subject, imprisoned by the king, argued and pronounced but by one judge alone. I can live although another who has no right be put to live with me ; nay, I can live although I pay excises and impositions more than I do ; but to have my liberty, which is the soul of my life, taken from me by power, and to have my body pent up in a jail,

without remedy by law, and to be so adjudged ; Oh, improvident ancestors ! Oh, unwise forefathers ! to be so curious in providing for the quiet possession of our lands, and the liberties of parliament, and to neglect our persons and bodies, and to let them lie in prison, and that *duranti bene placito*, remediless ! If this be law, why do we talk of liberties ? Why do we trouble ourselves with a dispute about law, franchises, property of goods, and the like ? What may any man call his own, if not the liberty of his person ? I am weary of treading these ways. (2 Parl. Hist., 232 )

These were indeed most grand utterances to be delivered two hundred and fifty years ago. Most heartily can I say *amen* to those truthful words. Who has any right to take away a person's liberty of his own body and his own mind, when he has done nothing but exercise the rights which nature and a free government give him ? Shall it indeed be delegated to Anthony Comstock and Charles L. Benedict to deprive a fellow-being of that which is most dear to him and with which they have not the slightest business ? Sir Robert Phillips spoke from actual experience, for three years previous to the making of that speech he had been thrown into the Tower by that tyrant, James I. And as I sit here in my jail cell, solitary and alone, my soul goes out in sympathy to Sir Robert Phillips, and I pronounce him among the grandest and noblest of the human race—a true lover of personal, bodily, and mental liberty ! His memory should be revered and cherished in the hearts of men, when the recollection of such names as Jefferies, Scroggs, Kelyng, Finch, Thurlow, Loughborough, Taney, and Benedict shall have passed into eternal execration.

In 1641 Sir Philip Parker, knight, of the shire of Suffolk, in his place in Parliament, had the man-

hood to speak these noble words in behalf of liberty :

The cries of the people have come up to me ; the voice of the whole nation tingles in my ears. 'Tis true, I confess, we have tormented ourselves with daily troubles and vexations, and have been very solicitous for the welfare of the commonwealth ; but what have we performed ? what have we perfected ? Mr. Speaker, excuse my zeal in this case, for my mouth cannot imprison what my mind intends to be let out ; neither can my tongue conceal what my heart desires to promulgate. Behold the Archbishop [Laud], that great incendiary in this kingdom, lies now like a fire-brand raked up in the embers ; but if he ever chances to blaze again, I am afraid that what heretofore he had but in a spark, he will burn down to the ground in a full flame. Wherefore let us begin, for the kingdom is pregnant with expectation on this point. I confess there are many more delinquents, for the judges and other knights walk *in querpo* ; but they are only thunderbolts forged in Canterbury's fire. (2 Parl. Hist., 287 )

It is quite probable had Sir Phillip lived in our time, he would have had the courage to have spoken in thunder tones against the tyranny of some of our United States judges and of their subserviency to the ecclesiastical power. As a result of his brave words, it must be recorded that, soon after they were spoken, six of those corrupt, tyrannical judges were brought to trial.

#### INTOLERANCE IN AMERICA.

Although not a tithe of the legal oppressions in England have been narrated, let us drop them for a while and come over on this side of the Atlantic Ocean and take a view of what the judges and the courts did for the liberties of the people here. I shall continue to freely follow Parker.

The same threefold experiment of despotism which was attempted in England was tried also in her colonies in America by the same tyrannical hand. Here, also, the encroaching power put creatures of its arbitrary will in judicial offices; they then, by perverting the laws, punished the patriots, and next proceeded to destroy the best institutions of the land itself. Here I shall take but a few examples, selected from the colonial history of New England.

After capturing the great fortress of freedom at home by taking away the charter of London, Charles proceeded to destroy the freedom of the colonies; the charter of Massachusetts was wrested from its citizens on a *quo warranto* in 1683, and the colony lay at the feet of the monarch. In privy council it had already been determined that our rights should be swept into the hands of greedy officials from the court. In 1686, James II. sent Sir Edmund Andros to New England as a "commissioner" to destroy the liberty of the people. He arrived in Boston in the "Kingfisher, a fifty-gan ship," and brought two companies of British soldiers, the first ever stationed in that town, to dragoon the people into submission to an unrighteous law. Edward Randolph, the most determined enemy of the colony, greedily caressing the despotic hands that fed him, was his chief coadjutor and assistant—his secretary in that wicked work. Andros was authorized to appoint his own council, and, with their consent, enact laws, levy taxes, to organize and command the militia. He was to enforce the hateful "Acts of Trade." He appointed a council to suit the purpose of his royal master, to whom no opposition was allowed

Dudley, the new chief-justice, told the people who appealed to Magna Charta, "they must not think the privileges of Englishmen would follow them to the end of the world." Episcopacy was introduced. "No marriage was to be allowed lawful but such as were made by the minister of the church of England." Accordingly, all must go to Boston to be married, for there was no Episcopal minister outside of its limits. It was proposed that the Puritan churches should pay the Episcopal salary and the congregational worship be prohibited. He threatened to punish any man "who gave two pence" toward the support of a nonconformist minister. All fees of the officers of the new government were made exorbitantly great. Only one probate office was allowed in the province, and that was in Boston, and one of the creatures of despotic power was prophetically put in it. Andros altered the old form of oaths and made the processes of the courts to suit himself.

He sought to wrest the charters from the colonies ; that of Rhode Island fell into his hands ; Connecticut escaped as by a miracle.

"The Charter Oak—it was the tree  
That saved our sacred liberty."

The charter government of Plymouth was suspended. Massachusetts was put under arbitrary despotism ; towns were forbidden to meet except for the choice of officers ; there must be no deliberation ; "discussion must be suppressed." He was to levy all the taxes ; he assessed a penny in the pound in all the towns. Rev. John Wise, one of the ministers of Ipswich, advised the people to resist the

tax. "Democracy," said he, "is Christ's government in church and state; we have a good God and a good king; we shall do well to stand to our privileges." One of the council said, "*You have no privileges left you but not to be sold as slaves.*" Even that was not likely to last long. The town of Ipswich refused to pay the tax, because invalid; the governor having no authority to tax the people, "they will petition the king for liberty of assembly before they make any rates." The minister and five others were arrested. The Rev. Mr. Wise was held to be guiltiest of all; he did it with a word, an idea. They were taken to Boston and thrown into jail "for contempt and high misdemeanors." They claimed the *habeas corpus*; Chief-Justice Dudley refused it on the ground that it did not extend to America. They were tried before a packed jury, and such a court as James II. was delighted to honor. The patriots pleaded the laws of England and Magna Charta. It was all in vain. "I am glad," said the judge to his packed jury, "there are so many worthy gentlemen of the jury so capable to do the king service; and we expect a good verdict from you, seeing the matter hath been so sufficiently proved against the *criminals*." The jury of course found them guilty. They were fined from £15 to £50 apiece. The whole cost to the six was over £400. "It is not for his majesty's interest that you should thrive," said one of those petty tyrants—a tide-waiter of despotism. (1 Hutchinson, 316; 2 Hildreth's History, 108; 2 Bancroft, 425.)

Andros denied the colonial title to land, claiming that as the charter was declared void, all the lands held under its authority escheated to the crown—



“the calf died in the cow’s belly.” A deed of purchase from the Indians “was worth no more than the scratch of a bear’s paw.”

“The men of Massachusetts did much quote Lord Coke” for their titles ; but Rev. John Higginson, minister of the first church in Salem, son of the first minister ever ordained in New England—ancestor of T. W. Higginson of our own time, who was arrested with Theodore Parker—found other laws for their claims, and insisted on the citizens’ just and natural right to the lands they had claimed from the wilderness. Andros said, “You are either subjects, or else you are rebels ;” and in either case their lands would be forfeit.

Andros hated freedom of speech and thought. He would allow no unlicensed printing. Randolph was appointed censor of the press, and ordered the printer to publish nothing without his approbation, nor “any almanac whatever.” There must be but one town-meeting in a year, and no “deliberation” at that ; no “agitation,” no discussion of grievances. There must be no preaching on the acts of the government. Rev. Dr. Increase Mather, one of the ablest men in the colonies, was the special object of his hatred. Randolph advised the authorities to forbid any nonconformist minister to land in New England without the special consent of the governor, and that he should restrain such as he saw fit to silence. The advice was not lost on such willing ears. John Gold, of Topsfield, was tried for “treasonable words,” and fined fifty pounds. (Obscenity is the more convenient charge now.) Fifty pounds at Topsfield at that time was far more than three hundred dollars now in New York. Rev. Increase

Mather had opposed the surrender of the charter of Massachusetts, and published his reasons ; but with such prudence—for he was careful how he “evinced an express liking” for justice—that it was difficult to take hold of him. So the friends of the government forged a letter with his name (a regular Comstock proceeding) to a person in Amsterdam. Randolph showed the letter to persons whom he wished to prejudice against the alleged writer. When Mr. Mather learned the facts, he wrote a letter to a friend, clearing himself, and charging the forgery on Randolph or his brother. Randolph brought an action for a libel, claiming £500 damages. But it came to nothing then, but times are somewhat different now. Comstock and Benedict had not come in fashion then, and the juries, with a Sunday-school superintendent for foreman, were perhaps hardly as controllable as now.

Col. Pynchon, of Springfield, one of the officers in the new state of things, was empowered to bind over all persons suspected of riots, “outrageous or abusive *reflecting words and speeches against the government.*” “The spirit of justice was banished from the courts that bore the name” (1 Hutchinson, 327).

But notwithstanding the attempt to stifle speech, a great, tall minister of Rowley called Andros “a wicked man.” For that offense he was seized and placed in prison. He also, like Higginson, had descendants who have since honored the state of Massachusetts and the whole land. The minister’s name was Robert Phillips, an ancestor of Wendell Phillips.

But even this wicked state of things had an end.

If the courts would not render justice, there was a rougher way of arriving at it, or of having it done. Civil war, revolution by violence, came in the place of the simple forms of equity, which the judges had set at naught. William of Orange, a most valiant son-in-law, drove the foul tyrant of Old England from that island, where the Stuarts have ever since been only "pretenders," and on the 19th of April, 1689, the people of Massachusetts had the tyrant of New England put solemnly in jail! We were rid of that functionary forever, and all such "commissioners" have been held odious in New England ever since the days of Andros. Eighty-six years later came another 19th of April, also famous. "Well," said Secretary Randolph, "Andros had to do with a perverse people," they would not bow to such tyranny in 1689.

Catholic James II. sought to establish arbitrary power in America, as in England, by his prerogative—the omnipotence of the king. He failed; the high-handed despotism of the Stuarts went to the ground. The next attempt at the same thing was the Legislature—the omnipotence of Parliament—for a several-headed despotism took the place of the old and ruled at home with milder sway. It tried its hand in America; there were no more requisitions from a king hostile to the colonies, but acts of Parliament took their place. After the French power in North America had given way, the British Government sought to tame down and break in the sturdy son, who had grown up in the woods so big and rough, as obstinate as his father. Here are the measures of subjugation, all flowing from the same fountain of principle—vicarious government by a feudal superior:

1. All the chief colonial officers were to be appointed by the king, to hold office during his pleasure, to receive their pay from him. Such was the tenure of the executive officers who had a vote on all colonial legislation, and of the judicial officers. Thus the power making and administering the laws fell from the people, distributed everywhere, into the hands of the distant government, centralized in the king.

2. A standing army of British soldiers must be kept in the colonies to overawe the people and enforce the laws thus made and administered.

3. A revenue was to be raised from the colonies themselves—from which the king would pay his officers and provide for the army that enforced his laws. The eagle is to feather the arrow which shoots him in mid-heaven.

This law was a threefold cord wherewith to bind the strong Puritan. But his eyes were not put out—not then. Blindness came at a later day—when he had laid his head in the lap of a not attractive Delilah. With such judges and governors, backed by a standing army of hirelings, how soon would her liberty go down, and the Anglo-American states resemble Spanish America?

In 1760 Francis Bernard was made governor of Massachusetts, and thus officially put at the head of the judiciary, a man wholly devoted to the crown, expecting to be made a baronet! He did not wish an annual election of counselors, but wanted the sovereign powers to enforce its decrees by violent measures. Thus Thomas Hutchinson was made chief-justice in 1760, and afterwards lieutenant-governor—continually hostile to the Constitution of

his native land. Thus Andrew Oliver—"Governor Oliver," "hungry for office and power"—was appointed secretary, commissioner of stamps, and lieutenant-governor; and Peter Oliver—"Judge Oliver"—though not bred a lawyer, was made chief-justice, the man who refused to receive his salary from the treasury of Massachusetts, preferring the money of the crown which owned him. In the revolutionary times, *of the five judges of Massachusetts, four were tories.*

Accordingly, when the stamp act was passed, March 22d, 1765, there were judicial officers in the colonies ready to declare it "constitutional," executive magistrates ready to carry out any measures interested in them. "I will cram the stamps down their throats with the end of my sword," said an officer in New York. Governor Bernard wanted soldiers sent to Boston to enforce submission; so did Hutchinson and "Governor Oliver." The governor of New York thought, "if judges be sent from England, with an attorney general and solicitor-general, to make examples of some very few, the colony will remain quiet" (5 Bancroft, 358).

In 1768, John Hancock was arrested at Boston on a "misdemeanor." The government long sought to procure indictments against James Otis—who was so busy in forcing out despotism—Samuel Adams, and several other leading friends of the colony, but the case seems to have been too weak to be successful, and the scheme fell through. No indictment for that "misdemeanor," then. Boston had the right kind of men to do anything for the crown, but they did not happen to get upon the grand jury.

King George III. spoke in his Parliament of the

patriots of Boston, as "those turbulent and seditious persons." In the House of Commons, Stanley called Boston an "insolent town;" "its inhabitants must be treated as aliens;" "its charter and laws must be changed so as to give the king the appointment of the council, and to the *sheriffs* the sole power of *returning jurors*;" then the Stamp Act could be carried out and a revenue raised without the consent of the people. The plan was admirably laid; an excellent counsel.

It was moved in Parliament to address the king "to bring to condign punishment" such men as Otis, Adams, and Hancock. Chief-Justice Hutchinson declared Samuel Adams "the greatest incendiary in the king's dominions." Hutchinson was right for once. Samuel Adams lit a fire which burned not only in Boston, but throughout New England and all the American colonies until freedom reigned over all the land; aye, in the heart of millions of men, and kept on burning, and will long after Hutchinson ceases to be remembered with hate and Adams with love. "The greatest incendiary!" so he was. Hutchinson also thought there must be "an abridgment of what are called English liberties," thinking the colonists were not entitled to the same liberties which the citizens of the mother country enjoyed. He evinced the same characteristics which some in our own time are so conspicuous for—*abridging the liberties of the people*. Hutchinson wished the law of treason to be extended so that it might catch all the patriots of Boston by the neck. He thought it treasonable to deny the authority of Parliament. Men suspected of "misdemeanors" were to be sent to England for trial.

What a trial it would have been—Hancock and Adams in Westminster Hall, with a jury packed by the government, Thurlow acting as attorney-general, and another Thurlow growling on the bench expecting further office for fresh injustice! Truly, there would have been “an abridgement of English liberties.”

The object in wishing to send those patriots to England for trial was to throw them where every feeling and prejudice would be against them; where a conviction would be as sure to follow a trial as in Benedict's court on a charge of obscenity, with Comstock for principal witness, informer, and prosecutor.

Bernard, Oliver, and Hutchinson were busy in getting evidence against the patriots of New England, especially against Adams. Affidavits were sent out to England to prove that he was a fit subject to be transported for “trial” there. And an old statute was found from the enlightened and merciful reign of Henry VIII. authorizing that mode of trial in case of such “misdemeanors.” Commissary Chew wished that two-thirds of the lawyers and printers were shipped off to Africa “for at least seven years.” Edes & Gill, patriotic printers in Boston, and all the authors of numberless treasonable and seditious writings, were to go with them. They were all guilty, very guilty! In the eyes of those oppressive officials they had been guilty of such offenses as should deprive them of every liberty. “The dog it was that died.” Edes & Gill never saw Africa; the patriotic lawyers and printers made no reluctant voyage to England.

“THE DOG IT WAS THAT DIED.”

Bernard, Hutchinson, and Oliver, and their coadjutors, went over the seas for punishment, after being tried at home by a law older than the statute of Henry VIII.; a law haply not yet repealed, the higher law which nature has invariably written in the hearts of mankind, and indignant America pronounced sentence—traitors, traitors! Commissary Chew learned a lesson at Saratoga in 1777. And the Franklins, the Mayhews, the Hancocks, the Adamses, they also were tried at home and not found wanting; and the verdict? My readers, you know what verdict America has pronounced on those men and their kinfolk! And that verdict has never been reversed by any appellate court.

In 1765 it was too late to conquer America. What Andros and Randolph could accomplish in 1686 with sixty soldiers could not be done in 1768 with all the red-coats that Britain could send out, and in 1778 with all the Hessians she could purchase. The 19th of April, 1689, foretold another 19th of April—as that many to-morrows after to-day. In the House of Lords, Camden and Pitt thought the Parliament not omnipotent. Samuel Adams declared, “Acts of Parliament against natural equity are void;” prayed that Boston might become a Christian Sparta, looked for a law of omnipotence somewhat higher than a king or a court. He not only had justice but also the people on his side. The fate which befel the attempt to establish despotism at that time, it is to be hoped, will follow all similar attempts. Let us go back to the



## CASE OF PETER ZENGER.

John Peter Zenger, in 1733, established a newspaper in New York City, called *The New York Weekly Journal*, the second paper published in this city. The province of New York was then ruled by Governor Cosby. In some numbers of his paper Mr. Zenger complained in a modest manner of various grievances in the administration of affairs pertaining to the province. He made use of this language: "As matters now stand, their (the people's) liberties and properties are precarious; and slavery is to be entailed on them and their posterity if some past things be not amended." He published the remarks of some one who said, he "should be glad to hear that the assembly would exert themselves, as became them, showing that they have the interest of their country more at heart than the gratification of any private view of any of their members, or being at all affected by the smiles or frowns of a governor, both of which ought equally to be despised when the interest of the country is at stake." "We see men's deeds destroyed, judges arbitrarily displaced, new courts erected without consent of the Legislature, by which, it seems to me, trials by juries are taken away when a governor pleases." "Who, then, in that province can call anything his own, or enjoy any liberty longer than those in the administration will condescend to let him do it?"

In October, 1734, Chief-Justice Delancey gave a charge to the grand jury, urging them to indict Mr. Zenger for a libel. He said: "It is a very high aggravation of a libel that it tends to scandalize the government by reflecting on those who are intrusted with the administration of public affairs, which

. . . has a direct *tendency* to breed in the public a dislike of their governors." "If he who hath either read a libel himself, or hath heard it read by another, do afterwards maliciously read or report any part of it in the presence of others, or lend or show it to another, he is guilty of an unlawful publication of it."

But the judge—though he had packed the grand jury with care, and though he dwelt with considerable force on the word *tendency*, which above all other words is the one which Judge Benedict depends on to carry over his juries to decide as he wishes them to—did not succeed in his wishes. No bill was found. Thereupon the governor's council sent a message to the General Assembly at New York, complaining of Mr. Zenger's journal as "tending to alienate the affections of the people of this province from his Majesty's government," and asking them to inquire into the said papers, and the authors thereof. The council requested that the obnoxious numbers might be burned by hands of the common hangman or whipper, near the "pillory." The assembly let them lie on the table. The Court of Quarter-Sessions was applied to to burn the papers, but as that body refused, the sheriff "delivered them into the hands of his own negro, and ordered him to put them into the fire, which he did."

Mr. Zenger was imprisoned by a warrant from the governor, a *lettre de catchet*, and "for several days denied the use of pen and ink and paper, and the liberty of speech with any person." An *ex officio* information was brought against him, charging him with "malicious and seditious libel." His counsel, Messrs. Alexander and Smith, took exceptions to the

proceedings. The chief-justice would neither hear nor allow the exceptions, "for," said he, "you thought to have gained a great deal of applause and popularity by opposing this court, . . . but you have brought it to that point, that either we must go from the bench or you from the bar, therefore we exclude you." So for "contempt of court" their names were struck from the list of attorneys. The case came for trial. The clerk of the court sought to pack his jury, and instead of producing the "freeholders' book" to select the jury from, presented a list of forty-eight names which he said he had taken from that book. Those familiar with the business know how easy it is to fix up a panel with such names as are desired and can be depended upon when a foregone conviction is to be secured. Of the forty-eight in this case some were not freeholders at all; others held commissions and offices at the governor's pleasure; others were of the late displaced magistrates, who had a grudge against Mr. Zenger for exposing their official conduct; besides, there were the governor's baker, tailor, shoemaker, candlemaker, and joiner. But that wicked list was set aside after much being said, and a jury summoned in a legal manner. The trial went on. Andrew Hamilton of Philadelphia defended Mr. Zenger with law, wit, learning, and eloquence. He admitted the fact of printing and publishing the documents, and rested the defense on the truth of their assertions. The Attorney-General, Mr. Bradley, said, "Supposing they are true, the law says they are not the less libelous for that; nay, indeed, the law says, *their being true is an aggravation of the crime.*" He did "not know what could be said

in defense of one who had so notoriously scandalized the governor and principal magistrates . . . by charging them with depriving the people of their rights and liberties, and taking away trials by juries, and in short putting an end to the law itself. If this is not a libel I know not what is one. Such persons as take such liberties . . . ought to suffer for stirring up sedition and discontent among the people."

The chief-justice declared from the bench, that "it is far from being a justification of a libel that the contents thereof are true, . . . since the greater appearance there is of truth, so much the more provoking it is. The jury may find that Mr. Zenger printed and published these papers, and *leave it to the court to judge whether they are libelous.*" That would be to put the dove's neck into the mouth of the fox, and allow him to decide whether he would bite it off. Mr. Hamilton replied, and his remarks are good enough to reproduce:

This idea of leaving it to the judgment of the court whether the words are libelous or not, in effect renders juries useless (to say no worse) in many cases. If the faults, mistakes, nay even the vices of such a person be private and personal, and don't affect the peace of the public or the liberty or property of our neighbor, it is unmannerly to expose them, either by word or writing. But when the ruler of the people brings his personal failings, but much more his vices, into his administration, and the people find themselves affected by them, either in their liberties or properties, that will alter the case mightily; and all the high things that are said in favor of rulers and of deputies, and upon the side of power; will not be able to stop people's mouths when they feel themselves oppressed; I mean in a free government. It is true *in times past it was a crime to speak the truth*: and in that terrible court, the Star-

Chamber, many worthy and brave men suffered for doing so ; and yet, even in that court, and in those hard times, a great and good man durst say, what I hope will not be taken amiss of me to say in this place, namely : “ The practice of informations for libels is a sword in the hands of a wicked king and an arrant coward, to cut down and destroy the innocent ; the one cannot because of his high standing, and the other dares not because of his want of courage, redress himself in another manner.”

It is a right which all persons claim and are entitled to, to complain when they are hurt ; they have a right to publicly remonstrate against the abuses of power, in the strongest terms ; to put their neighbors upon their guard against the crafty or open violence of men in authority ; and to assert with courage the sense they have of the blessings of liberty, the value they put upon it, and their resolution at all hazards to preserve it as one of the greatest blessings heaven can bestow. It is a duty which all good men owe to their country, to guard against the unhappy influence of ill men when intrusted with power, and especially against these creatures and dependants, who, as they are generally more necessitous, are surely more covetous and cruel.

According to the judge, the jury had but one question before them, “ Did Zenger publish the words charged in the information ? ” That fact was clear ; nay, he did not deny it, he confessed it in court.

My readers will probably notice several points of similarity between Zenger’s case and my own. Both were publishers of a weekly paper in New York ; both had published matter more or less offensive to the ruling powers. The first jury selected in each case were secured in a singular manner, which looked extremely like “ packing.” In each case the conviction was settled upon before the trial was commenced. The judges in either case

were bitterly opposed to the accused. In both cases the words "tendency" and "tending" played a conspicuous part. It was aimed in both cases to convict on a "tendency." Testimony was not admitted in Zenger's case as to whether the matter was libelous, neither was it admitted in my case to show the pamphlet complained of was not obscene. The jury in Zenger's case were only asked to decide whether he published the words complained of, the judge reserving the right to decide whether it was libelous or not. It was practically the same in my own case; Judge Benedict reserved the right to define obscenity, and did it in such a way as to actually compel the jury to decide the pamphlet obscene. The judge in Zenger's case strongly charged against the accused; the same was true in my case. But there is a point where the parallel does not continue. In Zenger's case the jury had the independence to maintain their own opinion and to bring in a verdict according to the facts and according to justice—not guilty. In my case it was not so; the jury was subservient to the will of the judge, and brought me in "guilty." Zenger retained his liberty and conducted his own business. I wish the similarity continued, but I am in prison, and my business suffers in consequence. It is seriously to be regretted that justice has so degenerated in this city in one hundred and forty-five years, and that juries so often fail to do their duty.

Let me give another little instance where power undertook to trample to earth the rights of a private citizen. It once happened that Governor Nicholson, of New York, became offended with one of the clergymen of the province. They met one day in

the public highway. The governor accosted the clergyman in a very coarse, brutal manner, as was his usual custom, and threatened to cut off the minister's ears, slit his nose, and at last to shoot him through the head. The minister being a meek man, as well as a reverend, continued during the delivery of the governor's ungentlemanly tirade with his head uncovered in the hot sun until he found an opportunity to fly to a place of shelter both from the abuse and the scorching rays. He ran to a neighbor's house and fell ill of a fever and wrote for a doctor, relating the facts, and concluding that the governor was crazy, for no man in his right mind could behave so ill. The doctor showed the letter; the governor brought a prosecution against the minister for publishing "a scandalous, wicked, and seditious libel." It is very likely the governor could have found a judge who would have entered vigorously into the prosecution of the minister and have convicted him of *sedition* and *libel*, but fortunately for the minister, before a jury was *constructed* to convict him, and before it went to trial, the prosecution was withdrawn by order of Queen Anne.

ANOTHER MEAN ARTICLE FROM THE "WITNESS."

Before closing this already lengthy letter I will give another contemptible extract from the *Witness*, the ultra-religious daily of this city, of July 2d. It is difficult to decide whether the article was written by its friend Anthony Comstock, or whether it is by the editor and proprietor, Mr. Dougall. By the number of falsehoods it contains one would be justified in according the paternity of the article to Anthony himself. That he, at least, inspired it there can be very little doubt.

## D. M. BENNETT.

On the fifth of last month, D. M. Bennett was sentenced to thirteen months' imprisonment in the Albany Penitentiary by Judge Benedict, of the United States District Court, for sending obscene matter through the mails. Since that time Bennett has occupied cell 36 in Ludlow Street Jail, not the first effort being made to remove him. Who is to blame for setting at defiance the order of the court, and why is this man who openly and boastingly defied judge, jury, and prosecutor allowed to remain in Ludlow Street Jail? Every week this man edits from his cell a sheet containing the grossest, vilest, and most libelous articles against the persons who strive to protect the morals of our community by suppressing just such evil-doers as D. M. Bennett. He takes occasion in this vile sheet to misrepresent the law, proclaiming himself a persecuted man, not because he sold obscene books (which is virtually admitted) but because his theological views do not harmonize with current opinions. In this manner he has obtained unwarranted sympathy from people who have signed the petition for his pardon, and who are entirely ignorant of the facts in the case.

On the 12th of last month we published fifteen reasons why Bennett should not be pardoned, and since that time we have seen nothing to change our opinion.

Every effort is being made to secure his pardon, and we are informed that a well-known lawyer of this city has been secured for a retainer of \$500 to push the petition at Washington. Letters and appeals have been sent all over the country asking for signatures to the petition, which does not give the first evidence of penitence, but is a bitter attack upon the courts, and a denial of the constitutionality of the law under which he was convicted. The Constitution provides that Congress has a right to say what shall or shall not be sent through the mails, and the laws of 1868, 1872, and 1873 specify what is prohibited and declared illegal matter. In fact, the entire petition is based upon misrepresentations.

The President is reported as saying that the facts in the case relative to the pardon of E. H. Heywood, Bennett's



partner, were misstated, and that had he known what he now does, Heywood would never have been pardoned. He is also reported as saying that of all men unworthy of pardon, a vender of obscene pictures or literature is that person. It is to be hoped that the Pardon Clerk in the Attorney-General's office will not repeat the course adopted when Heywood petitioned for his pardon, thereby grossly misleading the President. In the meantime we look for Bennett's removal to the penitentiary to which he was sentenced.

There is at least a dozen lies in this short article. It possibly was not a good day with the *Witness* for lies; but the meanness and base insinuations of the article will make up for the paucity of falsehoods. Let's enumerate them:

1. Judge Benedict is not of the United States District Court. He is of the United States Circuit Court.
2. Efforts have been made to remove me to the Albany Penitentiary. Comstock has urged the matter upon the Assistant District-Attorney with his entire ability, and he has been very angry because I have not been so removed.
3. My papers do *not* weekly contain libels or falsehoods against Comstock. They contain truths, provable truths, if Comstock will only take the legal steps to have them demonstrated.
4. I have *not* misrepresented the law nor proclaimed myself different from what I am. A gross outrage has been committed upon me.
5. I have *not* sold obscene books. I have hardly seen one for twenty-five years.
6. I have *not* virtually admitted that I have sold any obscene or indecent books, but have constantly persisted to the contrary.
7. I have *not* obtained unwarranted sympathy. The amount extended has been great, it is true, but there have been legitimate grounds for all of it.
8. Those who have signed the petitions are

*not* ignorant of the facts of the case. They have generally been well informed. The *Witness* has *no* chance to know anything about what the information of signers is. 9. Every effort has *not* been made to secure a pardon for me. Comstock, Benedict, Colgate, the *Witness*, the Christian press, the clergy, and a large part of the members of the churches, have made no effort in that direction. 10. A lawyer in this city has not been retained to push the petition in Washington for a retainer of \$500 or any other sum. 11. The Constitution does *not* provide that Congress has the right to say what shall or shall not be sent through the mails (in a moral point of view). 12. The petition is *not* based upon misrepresentations. There is not a word of misrepresentation connected with it. Every word is true. 13. I don't believe the President used any such language as the *Witness* attributes to him, but that it is simply one of Comstock's lies.

The admonition and hint to the Pardon Clerk is wholly uncalled for. He undoubtedly understands his business far better than the *Witness* is able to tell it to him. It is only a piece of sectarian insolence for it to undertake to dictate to that able officer. This self-righteous sheet should not allow its hatred of an oppressed man thus to get the better of the good sense an intelligent sheet ought naturally to have. It also needlessly shows its venom in being so extra anxious to have me conveyed to the Albany Penitentiary. It is hardly probable, were Jesus here, that he would be so very solicitous that I should be subjected to a worse prison. Perhaps he knows how it is himself; he had much to feel from

the enmity and cruelty of bad men ; and I have often thought what a pity it is that the religion he is said to have founded should make men so cruel, so oppressive, so bloodthirsty, so intolerant, and so mean. Let the *Witness* rest assured that there is good reason for my being retained here for the present, and it is by the orders of those who have the right to direct. Let it try and possess its soul in patience, if it has a soul.

Another word of advice to the *Witness*. If it is in the habit of letting Anthony Comstock's articles into its columns as editorials, it had better discontinue the practice at once. He will be likely to fill it with more lies than half a dozen other contributors. If Mr. Dougall writes those lying articles, and they are the best he can do, he had better pick up his traps, hasten back to Montreal, confine himself to the parent establishment of the *Witness*, and try to learn to tell the truth.

Dear readers, I will detain you no longer at this time. Good-bye till next week. D. M. B.

CELL 36, LUDLOW ST. JAIL, July 14, 1879.

DEAR READERS OF THE TRUTH SEEKER: Day succeeds day, week succeeds week, inside prison walls much as outside, though the days seem longer and the weeks seem to move along more slowly to one who is deprived of liberty. In the busy cares of life there is so much to occupy the attention—so much to be accomplished—that the days seem too short and the weeks flit away all too rapidly. In prison it is not so. The yearning for liberty and the pleasures of active life is constant, and the continual realization that life is being robbed of its sweets, and that a gross injustice is being done, makes the hours, the days, and the weeks hang heavily, and take themselves away with stolid indifference. Still they do pass, and the sixth week of my imprisonment is now pretty well spent. My health is pretty good again, and my mind in as equable a state as could be expected under the circumstances.

The question that occupies my own mind, as well as the minds of many thousands of sympathizing friends all over the country, is, Will the President open my prison doors and bid me enjoy the liberty to which I am justly entitled? There is, probably, reasonable progress being made in this direction. The appeals to the President from the two opposing

parties are strong and persistent. The party or influence which placed me where I am is most anxious that I should be retained in prison. Most unjust demands from the religious press, from the highest dignitaries of the church, the clergy of this city almost *en masse*, large numbers of the ordinary clergy of the country, and influential members of the laity, have been warmly and persistently urged against me. Probably in no case in the history of our country has there been such a spontaneous interest manifested by the religious or sectarian portion of the country to have the stern rigors of the law meted out to a condemned man. To a disinterested and uninformed observer, the opinion must be strong that I am a very vile and dangerous character, and that having my liberty for the next twelve months would endanger the virtue and happiness of the entire country. How different are the facts. I am one of the most inoffensive of individuals, as earnestly in search of the truth as any person in the whole wide land. If I find the truth, I delight in making it known, and for this reason those who are interested in perpetuating antiquated errors and in keeping the people in ignorance and trusting credulity regard me as an enemy. I am sure they are mistaken. I am not the enemy of any honest, truthful person, and I know I wish to act the part of a friend to the mass of my fellow-beings. If I see them struggling under a load of error, I instinctively wish to relieve them of their burden, to turn them from the ways that lead to mental bondage, and to set their feet in the beautiful paths of truth and peace. If I could do this by all my fellow-mortals, so that life might be a pleasure to them instead of

an existence of fear, foreboding, and terror, the cup of my happiness would be filled.

It gives me great pleasure to announce that my friends are far from idle. Such an uprising on the part of the people in favor of an oppressed man—asking that simple justice be done him—has never been known in this country, and probably in no other.

I am hardly at liberty to speak of just what is being done, but may say that every reasonable effort is being made in my behalf. On the 9th inst. two of my friends had an audience of some three hours with the President, and the merits of my case were pretty thoroughly discussed. The President, in alluding to the appeals that had been made to him to restore me to liberty, said it surpassed anything that had ever been known since the nation had an existence. It was estimated that petitions from all parts of the country, bearing, in the aggregate, one hundred and ten thousand signatures, besides some twelve thousand private letters in the same direction, had been received. While the conference was being held, a petition was brought in from Brooklyn with five thousand names. They are still coming in at the rate of five thousand names per day. The entire aggregate will undoubtedly exceed two hundred thousand names. When was the like ever known before? If any man ever had cause to be grateful for the sympathy and interest manifested by his fellow-men, I certainly am that man. I am sure I shall never be able to discharge the debt which has thus been laid upon me. And if I ultimately have to serve out my entire term, the memory of the kindness that has been shown towards me by so many good friends will cheer my heart and

make the dreary days pass far more pleasantly. It is most *happifying* to realize that the world is not all made up of Comstocks, Colgates, and Benedicts.

It would seem, in view of the fact that three United States judges had passed upon my case and had not seen fit to grant me a new trial, that the President had about concluded not to interfere in the matter and to let the sentence of the court be carried out; but the demand for justice for me has been so great and widespread, and he has become so well convinced that I have committed no offense against law or morality—that I did not have a fair and impartial trial; that it was impelled by a mixed feeling of revenge, intolerance, and oppression on account of difference of religious views—that my friends now think he will ultimately deem it his duty to interpose and prevent a great wrong being enforced against an unoffending individual.

The President is undoubtedly placed in a very embarrassing position. On the one hand the rich and powerful Christian element of the country are clamoring that my incarceration be continued until the sentence is executed. They represent me as a great criminal, and insist that my sentence is too light; that the judge was far too merciful towards me, and that the cause of morality and the welfare of the rising generation will be greatly endangered if I am set at liberty. On the other hand is this surging tide flowing in, wave after wave, dashing against the solid rock of the government, asking for justice and mercy for one who has done no wrong and injured no one. Probably the Chief Magistrate would gladly have this cup pass by him and not be obliged to interfere, but that is impossible; he must

either, by withholding his hand, decide that I must remain in prison still a year, or he must perform an act of justice and open the prison doors which now shut me from the pleasant outside world and deprive me of intercourse with my fellow-men. Let it be hoped that the Executive will deem it his duty to do what he considers right and just in the premises.

It is believed that the President is fully convinced that the statute under which I am convicted is wrong and should be repealed. He agrees with Attorney-General Devens and the Department of Justice that it is not the province of the general Government to take cognizance of acts of obscenity or dealing in obscene publications, and that such matters belong wholly to the state governments where the offenses are committed. He is also aware that this is a case of sectarian persecution, because I have the independence to avow and maintain unpopular opinions ; and he has been informed that the proceedings were inaugurated by an unprincipled enemy who was actuated by a spirit of personal revenge. With most good men, he doubtless regrets that it is possible for such an individual to be able to wield and manipulate the courts of the United States to execute his petty revenges and crush any person who has offended him.

In view of all these facts—that the trial was very unfair ; that the judge charged the jury in such a way, and laid down such definitions that, if they regarded his instructions, they could not help bringing in a verdict of guilty ; that the offense, if an offense at all, was extremely trivial and not deserving of such severity ; that the charge was only a



pretext used for the purpose of exercising religious intolerance and rigor—let us all hope that the President will see the justice and propriety of staying the hand of oppression that is raised over a prostrate individual, and say to him, “Arise ; go forth from prison ; be free!”

Let me recur to various prosecutions that have taken place in the times that have passed.

#### TRIALS UNDER THE SEDITION LAWS.

I will next give a very limited number of cases under the justly odious Alien and Sedition laws, which, ninety years ago, were considered as constitutional as the Comstock postal law has been within the last six years.

In 1788, Matthew Lyon, a native of Ireland, a Revolutionary soldier, a member of Congress, and an editor of a newspaper in Vermont, was brought to trial under the sedition law for “a false, malicious, and seditious libel.” He had published in his newspaper a somewhat severe attack upon the Federalists then in power. The article alleged to be “seditious” was a letter written and mailed at the seat of government seven days before and published nine days after the passage of the sedition law itself. The trial was a political one. Judge Patterson, United States Circuit Judge of Vermont (the same grade of office filled by Benedict), charged that the jury had nothing whatever to do with the constitutionality of the sedition law. “Congress has said that the author and publisher of seditious libels is to be punished.” “The only question you are to determine is, . . . Did Mr. Lyon publish the writing? . . . Did he do so seditiously, with

the intent of making odious or contemptible the President and Government and bringing them both into disrepute?"

Mr. Lyon was found guilty and punished by a fine of \$1,000 and imprisonment for four months. The "seditious libel" would now be thought quite a moderate editorial, or "letter from our correspondent;" but his imprisonment was enforced with such rigor that his constituents threatened to tear down the jail, which he restrained them from doing. (Wharton, 333; 4 Jefferson's Works, 262.)

CASE OF THOMAS COOPER.

In 1799, Thomas Cooper, a native of England, residing at Northumberland, Pennsylvania, published a handbill reflecting severely upon President John Adams. He was prosecuted by an information *ex officio* in the Circuit Court for Pennsylvania, and brought to trial before Judge Chase, already referred to, charged with "a false, scandalous, and malicious attack" on the President. Judge Chase charged the jury in this way: "A republican government can only be destroyed in two ways—the introduction of luxury, or the licentiousness of the press. This latter is the more slow, but most sure and certain means of bringing about the destruction of the government." He made a fierce and violent harangue, arguing the case against the defendant with as much spirit as has since several times been evinced by United States judges, and as was shown in my case. In fact, the judge was the prosecutor as really as was Judge Benedict. The pliant jury, as in my case, found the accused "guilty," and he was fined \$400 and sent to prison for four months. (Wharton, 959.)

## CASE OF MR. CALLENDER.

In 1799 and 1800, Mr. Callender, a native of England, then residing at Richmond, Virginia, published a pamphlet called "The Prospect Before Us," full of the common abuse of Mr. Adams and his administration. He was indicted for a false, malicious, and seditious libel, and brought to trial before the same Judge Chase, who pressed the sedition law with inquisitorial energy and executed it with intolerant rigor. As he started for Richmond to hold the trial, he declared "he would teach the lawyers in Virginia the difference between the liberty and the licentiousness of the press." He told the marshal "not to put any of those creatures called Democrats on the jury," and he likened himself "to a schoolmaster who was to turn the unruly boys of Virginia courts over his knee and give them a wholesome chastisement."

Some of the ablest lawyers of Virginia were engaged for the defense. But they could not secure any decent regard for the common forms of law or the claims of justice. The judge would not grant the delay usual in such cases and indispensable to the defense. He refused to allow the defendant's counsel to examine their most important witnesses, and allowed them to put none but written questions which had been subjected to and approved of by him. The defendant was not allowed to prove the truth of any statements alleged to be libelous by establishing the truth of one part through one witness and another through a different one. His counsel was not allowed to argue to the jury that the law was unconstitutional. Said the judge, "We all know that ju-

ries have the right to decide the law as well as the fact, and the Constitution is the supreme law of the land." "Then," said Mr. Wirt, counsel for the defendant, "since the jury have a right to consider the law, and since the Constitution is law, it is certainly syllogistic that the jury have a right to consider the Constitution ;" whereupon the judge exclaimed, "A *non sequitur*, sir ! Sit down, sir !" Mr. Wirt took his seat. The judge declared "a right is given to the jury to determine what the law is in the case before them, and not to decide whether a statute is law or not, or whether it is void under an opinion that it is unconstitutional." "It appears to me the right now claimed has a direct *tendency* to dissolve the Union. No citizen of knowledge and information will believe without very strong and indubitable proof that Congress will, intentionally, make any law in violation of the Federal Constitution. If such a case should happen, the mode of redress is pointed out in the Constitution." It was obvious that Congress had made laws in violation of the Constitution, and he insisted the jury should enforce those laws against their own conscience. After all his violent injustice he, of course declared "the decisions of courts of justice will not be influenced by political and local principles and prejudices." The packed jury found the prisoner guilty, and he was sentenced to imprisonment nine months and to pay a fine of \$200. (Wharton, 45, 688.)

But Virginia was too high-spirited to bear this. Yes, my readers, the whole nation was too fond of justice and liberty to allow such wickedness to proceed in the name of law. "Virginia was in a flame;" the lawyers "throughout the country were stung to

the quick." The Alien and Sedition laws ruined the administration, and sent Mr. Adams—who never favored them—to private life. His successor, Thomas Jefferson, said, "I discharged every person under punishment or prosecution under the sedition law, because I considered, and now consider, that law to be a nullity as absolute and as palpable as if Congress had ordered us to fall down and worship a golden image" (4 Jefferson, Correspondence, in Wharton, 721). It is not difficult to understand what the same Thomas Jefferson would now say, were he here, in reference to the law passed by Congress in 1873, authorizing postmasters and their clerks to examine into the moral quality of mail matter and to throw out such as they found did not come up to the regulation standard. It is very safe to conclude that he would not agree upon this subject with Judges Benedict and Blatchford. There is some consolation in knowing that Judge Chase was impeached by the House of Representatives, tried by the Senate, and only escaped condemnation by the prejudice of political partisans. As it was, a majority were in favor of his condemnation, but the Constitution properly requires two-thirds. Judge Chase escaped by this provision, but his influence was gone. He never was popular again. It would be but justice if some of our present United States judges were served in a similar way.

The Alien and Sedition laws, which sought to gag the people and crush the liberty of the press, soon were wiped from the statute books. On the Fourth of July, 1840, Congress passed a law to pay Mr. Lyon and others the full amount of the fine and costs levied upon them, with interest to date of pay-

ment. A committee of the House had made a report on Lyon's case, stating that "the law was unconstitutional, null, and void, passed under a mistaken exercise of undelegated power," and that the mistake ought to be remedied by returning the fine so obtained, with interest thereon. (2 Sess. 26 Cong. Doc. 86, Ho. Rep., Wharton, 344, 679.)

It would be but a similar act of justice should our present Congress, during its session next winter, declare the Comstock postal law of March 3, 1873, "unconstitutional, null, and void, passed under a mistaken exercise of undelegated power," and pass an act restoring to every person who has been unjustly fined and imprisoned under it the amount of the fines and costs, with interest, as well as a reasonable allowance for the time and detriment to business on the part of those who have been imprisoned under it. That would be nearer simple justice than anything Congress has enacted for many a day. The Alien and Sedition law, went by the board. The Fugitive Slave law, and all the laws pertaining to hunting down fugitives from bondage, went by the board; and now let this vile, unconstitutional Comstock law, which seeks to crush free speech and free press, also go by the board.

#### CASE OF GERVINUS IN GERMANY.

Perhaps it will be well, in connection with the oppression of the freedom of speech and of the press in England and America, to give an instance from Germany. The effort of tyranny to crush out the natural liberties of man has been much the same in all countries.

In 1853 Dr. Gervinus, Professor of History in the

University of Heidelberg, in Germany, published a little volume of about two hundred pages, "An introduction to the History of the Nineteenth Century." He was one of the most enlightened men of his time—a man of great genius for philosophical investigation of human history, and endowed with such culture and learning as is not common, even in that home of learned men. His book, designed only for scholars, and hardly intelligible to the majority of readers, even in America, sets forth the great fact—the democratic tendency of mankind—as shown in all history.

Gervinus was seized and brought to trial on the 24th of February, 1853, at Mannheim, charged with publishing a work against constitutional monarchy, intending thereby to depose the lawful head of the state, the Grand Duke Charles Leopold, and with changing and endangering the Constitution, "disturbing the public tranquillity and order, and incurring the guilt of high treason." For his trial the judge purposely selected a small room, that many people might not be able to hear what Gervinus had to say. But that my readers may know some of the things he did say, I will here quote some passages of the English translation of the preface to the little volume.

I offer nothing purely theoretical or speculative, and as few opinions and conclusions as can possibly be given in a historical narrative. The work finally reaches a period when the present and the future becomes its subject, and when, therefore, it can no longer relate any events of history which have been completed, and is confined to a simple statement of the *fact* that opposite opinions exist, and may yet be advanced, concerning the problem of the future. These opinions are themselves weighed against one another,

but their value is not determined by dogmas, or phrases, or declamations, but simply by facts. If the balance incline toward a more liberal form of government, toward democratic institutions, and therefore toward self-government, and the participation of the many rather than of the few in the affairs of the state, I am not to blame, nor is it my ordinance, but that of history and of Providence. My work is only what all historical narration should be—a vindication of the decrees of Providence; and to revolt against them appears to me neither pious, in a moral point of view, nor wise in a political. That which is proved by the most remarkable facts of history will not be altered in the smallest degree by the suppression of my work or by my condemnation. The charge on this head is absurdity, since no rational end can be attained by it. It aims at the suppression of truth, which, should I not tell it, will be ever louder and louder proclaimed by the *facts of history*.

To believe such a thing possible is a proof how limited an idea exists in the eager inquiring going on after knowledge and truth, the source and origin of all knowledge. There will always be so eager a demand for a history of the present time that, even should I be prevented, ten others would arise only to proclaim the louder and to repeat the oftener the truth which is here suppressed. To believe that the philosophy of history can be silenced by persecution, argues an entire ignorance even of the external mechanism of philosophy. A political pamphlet, intended to serve a particular purpose at a particular period, may be suppressed. The author of such a pamphlet, bent on agitation, can easily console himself for its suppression. It has cost him little time and trouble; it is only a means to an end; one means out of many means, any of which, when this is lost, will serve the author as well. But it is not thus with philosophical works. It is not thus with the work before me. This book is deeply rooted in the vocation of my whole life, and is the end of my philosophical research; I have prepared myself for it by the labor of years, and the labor of years will be necessary for its completion. I have reached a time of life when I can neither change my vocation nor even cease to labor in this vocation. I am also so imbued with



my philosophy, that even if I could change, I would not. I may be hindered in the prosecution of the work for four months, but in the fifth I shall return to it. For a judicial sentence cannot arrest (like a mere pamphlet) the philosophical scheme interwoven into a whole existence.

If it is possible that this introduction can be condemned in Germany; that it can be prohibited; that by these means the work should be strangled in its birth, then the philosophy of history no longer has a place in Germany. The tribunal of Baden will have given the first blow in pronouncing judgment on a matter which is purely philosophical; and Germany, whose freedom of philosophical research has been her pride and her boast, of which even the various administrations of the nation have never been jealous, will receive a shock such as she never before sustained.

My book is on so strictly a philosophical plan, and treats of such comprehensive historical questions, that, properly, no judgment of any value could be pronounced upon it by the professional historian, of whom there not two dozen in Germany. Among them there has not, to this hour, been found one competent to give an opinion in a few weeks on a book which is the fruit of half a life. On the other hand, there was soon a whole set of fanatical partisans and obstreperous bunglers in a neighboring press, who in eight days had condemned this work, in some instances, by calling it a historical commonplace, and in others a political pamphlet with "*destructive tendencies.*" At the same time, in a manner easily accounted for, under the influence of such an expression of public opinion, and almost before another could make itself heard, accusations were made against the book, and it was confiscated. Let no one take it amiss if, in the urgency of my defense, I for a moment lay aside modesty, as far as such modesty might prove injurious to my cause. My work demonstrates a law of historical development, which I do not claim as my property or as originating in me, but which had been demonstrated more than two thousand years ago by the greatest thinkers of all ages, derived from observations on the history of the Grecian state. To repeat a law which has already been demonstrated ought to appear but a trifling circumstance, and indeed might merit

the term of an historical commonplace ; we could even suppose it might be mentioned in a popular as well as a philosophical book. Nevertheless this law has been scarcely twice repeated in the course of two thousand years, and then only by two imitators, who scarcely understood its whole purport, though they were the most thinking heads of the most thinking nations—Machiavelli in Italy and Hegel in Germany. I solemnly ask of the whole philosophical world if my words can be gainsaid, and to name for me the third, by whom the Aristotelian law, of which I speak, has been repeated and understood. I have ventured to consider the thought of Aristotle, and to apply it to the history of modern European states, and I found it confirmed by a series of developments which have occupied two thousand years. I also found that the whole series of events confirmatory of this law (self-deduced from experience) are not yet entirely fulfilled. Like the astronomer, who, from a known fraction of the path of a newly discovered planet, calculates its whole course, I venture to divine that which is still wanting, and which may yet take centuries to complete. I turned silently to those whose profession was the study of history, to prove the justice of my calculations ; I handed my book over to coming generations and coming centuries, with the silent demand, when the required series of events shall be fulfilled, then to pronounce the final sentence, whether this case, in its purport as now explained, be just or not. This is the philosophical character, and these the contents of my book—no more than was indispensably necessary to make this calculation. And now comes the charge and pronounces that in the character of the pamphleteer I have endeavored to excite a revolution in the Grand Duchy of Baden or in the German Confederation.

On the 8th of March the trial came to a close. On account of his hostility to constitutional monarchy, and his declaration of its weakness, his denial of its good will (towards the people), and his representing that the American Democracy was “a universal necessity and a desirable fact,” sentence

was pronounced against him, condemning him to an imprisonment of four months and ordering his book to be destroyed. Here is a striking instance of empty-headed despots trampling to the dust a man of thought, whose only purpose was to give the development of history and to thereby benefit his race. It was of the same character as is the oppression now sought to be imposed on the intellect and the free expression of opinion on philosophical subjects in our own country. Despotism is ever the same.

#### TYRANNY IN NEW ENGLAND.

The same disposition to punish a man for daring to think and express his thoughts on historical subjects has been shown in New England within the present century. In July, 1834, Rev. George R. Noyes, a Unitarian minister at Petersham, Massachusetts, a retired scholar, a blameless man of fine abilities and very large attainments in theological learning, wrote an elaborate article in the *Christian Examiner*, the organ of the "Liberal Christians" in America, in which he maintained that Jesus of Nazareth is not the Messiah predicted in the Old Testament. "It is difficult," said this accomplished theologian, "to point out any predictions which have been properly filled in Jesus." Peter and Paul found the death and resurrection of Jesus in the 16th Psalm, but they "were in an error, which should not surprise us, for the evangelists and apostles never claimed to be inspired reasoners and interpreters." "They partook of the errors and prejudices of their age in things in which Christ had not instructed them." "The commonly received doctrine of the inspiration of all the writings included

in the Bible is a millstone hung around its neck [the neck of Christianity] sufficient to sink it."

The article was written with remarkable candor and moderation, and indicated a devout and holy purpose in the author.

The doctrines were by no means new. But Hon. James T. Austin, who was the attorney-general of the state, his attention being called to it by an anonymous writer in a newspaper, attacked Mr. Noyes' article, thus giving vent to his opinion thereon: "He considers its learning very ill bestowed, its research is worse than useless, and that its tendency is to strike down one of the pillars on which the fabric of Christianity is supported." "Its *tendency* is to shock the pious, confound the unlearned, overwhelm those who are but moderately versed in the recondite investigations of theology, and above all to open an arsenal whence all the small wits of the Infidel army may supply themselves with arms. Its greater evil is to disarm the power of public opinion." "It certainly disarms to a great degree the power of the law" (16 Examiner, 321; 17 *ibid*, 127).

What is the freedom of opinion and the rights of conscience worth to such a man clothed in a little brief authority? This attorney-general was a Comstock and a Fiero combined in one. The chance for an unbeliever would be about as good in his hands as in theirs. How similar the charge also that has been brought against me by the religious press and by my prosecutors to that brought against the mild and moderate-spoken Rev. Mr. Noyes. They think "my researches worse than useless," "That the *tendency* (there is that word *tendency* again) of my writings is to strike down the pillars on which

the fabric of Christianity is supported. " (If it had been the fables and fallacies on which it rests, it would have been more correct.) " Their *tendency* is to shock the pious, confound the unlearned, overwhelm those who are but moderately versed in the recondite investigations of theology," etc., etc. That is what Colgate, Crosby, Joe Cook, Benedict, Blatchford, Comstock, Prime, Dougall, Abbott, and all the rest of them hate me so for. They are afraid that the *tendency* of what I have to say will expose the hypocrisy of their pretensions; that I will induce people to examine and think for themselves, and that I shall thereby spoil the nice trade by which seventy thousand clergymen manage to live in ease and luxury upon the hard earnings of the working classes, without having to soil their hands or their fine broadcloth by doing so much as to raise a hill of beans with which to feed themselves and their families. They dislike me for this far more than for mailing a copy of "Cupid's Yokes." If I would only let their little game alone, they would not object to my selling all the "Cupid's Yokes" I please.

But though the Rev. Mr. Noyes was presented to the grand jury, and an attempt was made to indict him for blasphemy, a bill was not found against him. It probably contained men of sounder sense than those who composed the petit jury by which I was tried. They deemed it prudent to let the learned Rev. Mr. Noyes continue to entertain such views as his conscience and reason dictated. The trial was never carried to completion, and he afterward became Professor of Theology in the Divinity

school at Cambridge. He was an honor to himself, his sect, and to his race.

When laws are unjustly severe, demanding a punishment highly excessive, juries often refuse to convict, though I am sorry to say that on my trial it was not the case. Judges cannot always coerce juries to bring in such verdicts as they wish. Examples of this kind are not uncommon in trials for capital offenses, and this is more the case now than a few centuries ago, when judges usurped more the duties and privileges of juries than they have dared to undertake in later times. The judge, however, who prosecuted me, and pretended to act the part of an impartial arbiter, presumed about as far in this direction as was attempted by Kelyng, Scroggs, or Jefferies.

“Do you take notice of that juryman dressed in blue?” asked one of the judges in the Old Bailey, on a certain occasion of Judge Nares. “Yes,” was the response. “Well, then, take my word for it, there will not be a single conviction to-day for any capital offense.” And so it turned out. The “gentleman in blue” thought it unjust and wicked, contrary to justice and the ultimate purpose of law, to hang men, and he was faithful enough to adhere to his convictions and his sense of right and not send his fellow-men to the gallows. There was hardly a “gentleman in blue” on the jury that tried me. It is to be hoped the time will come when juries will be partially composed, at least, of “gentlemen in blue.”

To prevent the moral independence of juries from defeating the despotic aim of interested judges and attorneys, the court often questions jurors before-

hand and excludes from the panel all who have the independence to think the statute improper or unfit for application. This is a piece of tyranny which should not be tolerated in a free country. It would be as unfair to exclude men from legislatures and from the polls on such a pretext as from the jury box.

#### JUDGES AND JURIES.

Sometimes the statute is so framed that the jurors by their verdict tell an apparent falsehood or commit a great injustice. When it was a capital offense in England to steal forty shillings, and evidence made it plain that the accused had actually stolen eight or ten times that value, juries frequently brought in a verdict of *stealing thirty-nine shillings*. They preferred telling what seemed to be a lie to sending a man to his death for stealing fifteen or twenty dollars. The verdict of *not guilty* would have been equally just and merciful, but they were compelled to admit that the accused had stolen.

Tyrannical and corrupt judges have often sought to frighten juries from the exercise of all commendable discretion, either moral or intellectual. To that end they have often threatened before the verdict, and punished them when the decision was not as desired. To compel the jurors to agree in a unanimous verdict, they have often been kept without "fire or water, food or bed," until they came to a conclusion. If eleven were of one mind and the twelfth not convinced, the refractory juror was fined or put in jail. (Forsyth, 241, 243.) If the verdict, when unanimously given, did not satisfy the judge, the jurors were often punished. Who acquitted Throkmorton and Penn? When John Lilburne was

tried for his life in 1653, he censured the authorities which prosecuted him, and appealed to the "honorable jury—the keepers of the liberties of England." They found him *not guilty*, and were themselves brought before the council of state for punishment. "Thomas Greene, of Snowhill, tallow-chandler, foreman of the jury, being asked what were the grounds and reasons that moved him to find Lilburne not guilty, said that he discharged his conscience in what he then did, and that he would give no further answer to any questions which should be asked him upon that matter" (1 St. Tr., 445). This was in the time of Cromwell; but as the people were indignant at his tyrannical conduct in that matter, and his insolent attempt to punish the jurors, they escaped without fine or imprisonment.

Indeed, more than one hundred and twenty-five years before this, Thomas Smith had declared "such doings to be very violent, tyrannical, and contrary to the liberty and customs of the realm of England." Sir Matthew Hale said at a later day, "It would be a most unhappy case for the judge himself, if the prisoner's fate depended upon his directions; unhappy also for the prisoners, for if the judge's opinion must rule the verdict, the trial by jury would be useless" (6 St. Tr., 967).

The infamous Judge Kelyng was particularly hostile to the jury, throwing aside "all regard to moderation and decency." He compelled the grand jury of Somersetshire to find an indictment against their conscience—reproaching Sir Hugh Wyndham, the foreman, as "the head of a faction." He said to the jury, "You are all my servants, and I will make the best in England stoop." He said it was a misde-



meanor for them to discriminate between murder and manslaughter; that was for the court to determine.

Let it be remembered that, after the verdict had been rendered in my case, a part of the jury declared that but for the definition and demands of Judge Benedict, a verdict of acquittal would readily have been rendered.

Several persons in Kelyng's time were indicted for "attending a conventicle"—a place of worship. The jury acquitted them, contrary to his wish, and he fined the jurors \$334 apiece, and put them in jail until it was paid. On another occasion this servile creature of Charles II. fined and imprisoned all the jurors because they convicted of *manslaughter* a man whom he wanted to hang. Judge Benedict was subjected to no such necessity. He found his jury very easily molded to his wishes.

In 1680 Chief-Justice Scroggs was brought up before the House of Commons for discharging a refractory grand jury." Sir Francis Winnington said: "If the judges, instead of acting by law, shall be actuated by their own ambition, and endeavor to get promotion rather by worshiping the rising sun than doing justice, this nation will soon be reduced to a miserable condition. As faults committed by judges are of more dangerous consequence than others to the public, so there do not want precedents of severer chastisements for them than for others" (4 Parl. Hist., 1,224). This gentleman had a lively appreciation of the tyranny and corruption of unprincipled and bigoted judges.

But in spite of the continued attempts to destroy the value of the trial by jury, and take from the

people their ancient sevenfold shield, the progress of liberty is perpetual. Now and then arose lawyers and judges—Sir Matthew Hale, Holt, Vaughan, Somers, Camden, and Erskine—who reached out a helping hand. No politicians came up to its defense. But the great power which has sustained and developed it is the sturdy and unconquerable love of individual liberty which is one of the most marked characteristics of the Anglo-Saxon, whether Briton or American. The common people of England, sent juries, as well as regiments of iron-sides, to do battle for the right. Let us duly appreciate the blessing we enjoy in this particular, and take heed that this blessing of trial by jury suffers no detriment at our hands, but is an unending aid in maintaining personal and American liberty.

#### TRIAL BY JURY.

I can hardly do better, my readers, than to lay before you Theodore Parker's views and suggestions on "Trial by Jury," and I will give you his opinions largely in his own language.

Trial by jury is an invaluable protection against two classes of foes to the welfare of mankind:

1. Against such as would commit offenses upon the property or persons of men, without law and contrary to the form of law—against criminals of all denominations. Against such it is a sword—to resist and punish.

2. Against such as would commit offenses upon the property or persons of men, with the form of law and by means of its machinery—against unjust legislators, corrupt judges, and wicked magistrates; against such it is a shield defending the public head.

In all the states of Anglo-Saxon origin there are two great popular institutions—democratic legislation and democratic administration of law.

In the process of its historical development, the first has come to be the representative form of democratic legislation—popular law-making by a body of sworn delegates met in an assembly, local or federal, subject to a constitution, written or only traditional, which is the people's power of attorney authorizing them to do certain things pertaining to law-applying. These are a jury of special law-apppliers.

Neither of them as yet has reached its perfect and ultimate form; both are still in a state of transition. These two are the most valuable constitutional safeguards against unorganized selfishness in the community—against thieves, robbers, murderers, traitors and the like, against the organized selfishness which gets into places of delegated power and would misuse the form of law so as to prevent the people from attaining the purpose of law.

There is also a body of men intermediate between the two—the law explainers—the judges. Speaking theoretically, they are not ultimately either law-makers or law appliers, yet practically, in their legitimate function they certainly have much to do with both the making and applying of laws. For it is their business not only to preside at all trials, and determine many subordinate questions of mere form to expedite the process, but also from the whole mass of laws, oral or written, statutes and customs, to select such particular laws as they think require special attention—this is like the work of law-makers; and also in their charges to the grand and petit juries to suggest the execution thereof in such cases

as the times may bring—this is the work of the law-apppliers.

#### JUDGE AND JURY.

The good judge continually modifies the laws of his country to the advantage of mankind. He leaves bad statutes, which aim at or would promote injustice, to sleep until they become obsolete, or parries their insidious thrusts at humanity; he selects good statutes which enact natural justice into positive law, and mixes his own fresh instincts of humanity with the traditional institutions of the age. All this his official function—or his oath to keep and administer the laws—binds him to look to the purpose of law, which is and should be the eternal principle of justice. After the jury declares a man guilty the judge has the power to fix the quantity, and sometimes the quality, of his punishment. And the discretion of a great, noble man will advance humanity.

In this way a good judge may do a great service to mankind, and correct the mistakes, or repel the injustice of the ultimate makers and appliers of law, and supply their defects. Thus, in England, those eminent judges, Hale, Somers, Hobart, Holt, Camden, Mansfield, and Brougham, have done large service to mankind. Each had his personal and official faults, some of them great and glaring faults of both kinds, but each in his way helped enact natural justice into positive law, and so promoted the only legitimate purpose of human legislation, securing natural rights to all men. To such judges mankind owes a great debt.

But a wicked judge may do great harm to mankind, as has already been abundantly shown. For

we have inherited a great mass of laws—customary or statutory ; the Legislature repeals, modifies, or adds to them ; the judge is to expound them, and suggest their application to each special case. The jury is to apply or refuse to apply the judge's "law." In all old countries some of these laws have come from a barbarous, even from a savage period ; some are the work of tyrants who wrought cruelly for their own advantage, not justly, or for the good of mankind ; some have been made in haste and heat, the Legislature not intending to do an unjust thing. Now, an unjust judge has great power to select wicked statutes, customs, or decisions ; and in no country has he more power for evil than in the Federal courts of the United States. For as in England, where the king-power makes a wicked law, the judge, who is himself made by the same power, may declare it just, and execute the heinous thing. Thus all the value of the Constitution to check despotism is destroyed, and the fortress of freedom is betrayed into the hands of the enemies of liberty.

But barbarous laws must not be applied in a civilized age ; nor unjust laws enforced by righteous men. While left unrepealed, a fair and conscientious jury will never do injustice, though a particular statute or custom demand it and a wicked judge insist upon the wrong ; for they feel the moral instinct of human nature, and look not merely to the letter of a particular enactment, but also to the spirit and general purpose of the law itself, which is justice between man and man. The wicked judge, looking only to the power which raised him to his place, and may lift him higher still, or consulting his own meanness of nature, selects the wicked laws, and

makes a wicked application thereof. Thus, even in America, under plea of serving the people, he can work most hideous wrong.

#### GOOD AND BAD JUDGES.

Besides, the judges are lawyers, with the technical training of lawyers, with the disposition of character which comes from their special training and profession, and which marks the manners, the language, and looks of a lawyer. They have the excellence of the lawyer, and also his defects. Commonly they are learned in their profession, acute and sharp, circumspect, cautious, skillful in making nice technical distinctions, and strongly disposed to adhere to historical precedents on the side of arbitrary power, rather than to obey the instinctive promptings of the moral sense in their own consciousness. Nay, it seems sometimes as if their moral sense became extinct, and the legal letter took the place of the spirit of justice which gives life to the people. So they look to the special statute, its technical expositions and applications, but not to justice, the ultimate purpose of human law. They preserve the means and miss the end, put up the bars in the nicest fashion, and let the cattle perish in their pen. Like the nurse in the fable, they pour out the baby, and carefully cherish the wooden bath-tub. The letter of the statute is the idol of the Judicial Den, whereunto the worshiper offers sacrifices of human blood. The late Chief-Justice Parker, one of the most humane and estimable of men, told the jury they *had nothing to do with the harshness of the statute*, but must execute a law, however cruel and unjust, because somebody has made it a law ! How often juries refuse to obey the statute, and by its

means do a manifest injustice ! but how rarely does a judge turn off from the wickedness of the statute to do justice, the great purpose of human law and human life ! I once knew a noble-minded judge—a man with an enlarged mind and a woman's nicer sense of right—who said thus to the jury : “ Such is the law, such the decisions ; such would be its application to this particular case. But it is unjust ; it would do a manifest and outrageous wrong if thus applied. You, as jurors, are to do justice by the law, not injustice. *You will bring in a verdict according to your consciences.*” They did so. That judges' name was not Benedict.

#### JUDGES NOT ALL TO BE LAWYERS.

When the New York Convention assembled in 1846, to revise the Constitution of the state, some powerful men therein felt the evil of having the court of last appeal consist wholly of lawyers. Mr. Ruggles thought the judges who reëxamine the decisions and pronounce the final judgment in disputed cases, and determine the constitutionality of laws, should be men who are “ brought into direct contact with the people and their business.” He wished that of the eight judges of this appellate court, four should be justices of the Supreme Court and four more should be elected by the people on a general ballot, thus securing a popular element in the highest court. By this popular element, representing the instinctive justice of humanity, he hoped to correct that evil tendency of professional men which leads them away “ from the just conclusions of natural reason into the track of technical rules, inapplicable to the circumstances of the case, and at variance

with the nature and principles of our social and political institutions." "Such judges," said another lawyer, "would retain more of the principles of moral justice, . . . the impulses of natural equity, such as . . . would knock off the rough corners of the common law, and loosen the fetters of artificial and technical equity" (Debates in New York Convention, 371).

Commonly in America, as in England, for judges the Federal government appoints lawyers who have done some party service, or are willing to execute the designs and purposes of the ruling power, regardless alike of the interests of the people and the protestations of the conscience of mankind. You are aware how Hardwicke and Thurlow obtained office in England, how they filled it, and what additional recompense followed each added wickedness. Unfortunately America is able to add names to this ignoble category.

Still further, these judges thus appointed become familiar with fraud, violence, cruelty, selfishness—refined or brutal—which comes before them; they study the technicalities of the statutes, balance the scruples of advocates; they lose their fresh intentions of justice, becoming more and more legal, less and less human, less natural, and more technical; their eye is microscopic in its niceness of discrimination, microscopic also in its narrowness of range; they forget the universality of justice—the end which laws should aim at; they direct their lynx-eyed attention to the specialty of the statutes, which is only the means—of no value save as conducting to that end. Their understanding is as sharp as a mole's eye for the minute distinctions of the



technicalities of their craft ; but, as short-sighted as the mole, they cannot look at justice. So they come to acknowledge no obligation but the legal, and know no law except what is written in black letter on parchment, printed in statute books, reported in decisions ; the law written by the God of nature on the souls of men they know not, only the statute and decision bound in pale sheepskin. In the logic of legal deduction, technical influence, they forget the intuition of conscience ; not what is right, but what is law, is the question, and they pay the same deference to a wicked statute as a just one. So the true Mussulman values the absurdities of the Koran as much as its noblest wisdom and tenderest humanity.

Such a man, so appointed, so disciplined, will administer the law fairly enough in civil cases between party and party where he has no special interest to give him a bias—for he cares not whether John Doe or Richard Roe gains the parcel of ground in litigation before him. But in criminal cases he leans to severity, not mercy ; he suspects the people ; he reverences the government. In political trials he never forgets the hand that feeds him—whether Charles Stuart, George Guelph, the slave power of America, or the ecclesiastical power of the church.

These things being so, the exceeding value of an honest jury must be easily seen—a jury who are not office-holders, under obligation to the hand that feeds them ; not office seekers, willing to prostitute their faculties to the service of some overmastering lust ; not lawyers, wonted to nice technicalities ; not members of a class, with its special discipline and peculiar prejudices ; but men with their moral instincts

normally active, and unsophisticated humanity in their hearts. Hence the great value of the jury in criminal trials.

#### HISTORICAL DEVELOPMENT OF THE JURY.

1. In the barbarous periods of the Teutonic family, it seems the "whole people" came together at certain regular seasons to transact the business of the nation. There was also a meeting of the inhabitants of each district or neighborhood at certain times—a "regular meeting," and sometimes a special meeting to provide for some emergency—a "called meeting." If one man had wronged another, the matter was inquired into at those popular meetings. One man presided—chosen for the occasion. In early ages it appears he was a priest, afterwards a noble or some distinguished man selected on the spot. The whole people investigated the matter, made the law—often an *ex post facto* law—applied it to the special case, and on the spot administered the punishment—if corporal, or decree of recompense, if pecuniary. The majority carried the day. Thus at first the body of the people present on the occasion were the law-makers, the law-apppliers, and law-executors. Each law was special—designed for the particular case in hand, retrospective for vengeance more than prospective for the future welfare.

2. Then, in process of time, there came to be a body of laws—fixed and understood by the people. Partly these came from the customs of the people, and represented past life already lived; but partly, also, from the decrees of the recognized authorities—theocratic, monarchic, aristocratic, democratic—representing the desire for a better life, a rule of

conduct for the future. Then at their meetings, to punish an offender, the people did not always make a new law, they simply used what they found already made. They inquired into the fact, the deed done, the law, and applied the general law to the special fact, made their decree, and executed it. Thus extemporaneous making of law for the particular case gradually passed away, and was succeeded by the extemporaneous declaration of the law previously made and its application to the matter in hand.

3. By and by it was found inconvenient for a multitude to assemble and make the laws, so a body of select men took a more special charge of that function. Sometimes a chief or king usurped this for himself, or men were chosen by the people, and took an oath for a faithful discharge of their trust. Thus came popular law-making by sworn delegates, representatives of the people, who had a certain special power of attorney, authorizing them to make laws. These might be priests, as at the beginning, or nobles of priestly stock, as at the next stage; or military chiefs, as in all times of violence; or powerful private men, summoned from the nation, of their own accord undertaking the task, or chosen by their various neighborhoods—the whole process seems to have been irregular and uncertain, as, indeed, it must be among rude people.

So, back in those early times, there were two sources of law-making :

(1) The unorganized people—the primary source, whose unconscious life flows in certain channels and establishes certain customs, rules of conduct, obeyed before they are decreed, without any formal enactment. These were laws *de facto*.

(2) The organized delegates—priestly, kingly, nobilitary, or warlike—the secondary source. These made statute laws. All this was a self-conscious and organized body, having an object distinctly set before its mind and devising means for its purposes, it easily appropriated to itself the chief part of the business of law-making. Statutes became more and more numerous and important; they were the principal—the customs were only subsidiary—laws *de jure*, enacted before they are obeyed by the people. Still new customs continued to flow from the primitive source of legislation, the people, and of course took new forms to suit the conditions of national life.

4. Still the people came together to apply the laws—customary or enacted—to the special cases which occurred. There were fixed periods when they assembled without notice given—"regular law days;" and if an emergency occurred, they were summoned on "extraordinary law days." Here wrongs between party and party, and offenses against the public, were set right by the "country," the "body of the country;" that is, the bulk of the population. The majority ruled.

5. At length it was found inconvenient for so large a body to investigate each particular case or to determine what cases should be presented for investigation.

(1) So this preliminary examination was delegated to a smaller body of men, sworn to discharge the trust faithfully, who made inquiry as to offenses committed, and reported the criminals for trial to the fall meeting of the actual "body of the country." Here, then, is the first organized and sworn

jury, "the grand inquest;" here is popular indictment by delegates.

(2) Then it was found inconvenient for a large body—the whole country—to investigate the cases presented. Men were busy with their own work, and did not wish to appear and consume their time, so a smaller body of men were summoned to attend to any special case which was presented by the grand inquest. These were also sworn to do their duty. They were to try the men indicted. Here is trial by sworn delegates who represent the body of the people. They were still called the "country," as any spot of the Atlantic is called the "ocean." Here is the trial by jury. They must be taken from the neighborhood of the parties concerned, for at this stage the jurors were also the witnesses, and other sworn witnesses were not then known. All the jurors must concur in the vote of condemnation before the magistrate could hurt a hair of the accused's head.

Still, after the people had delegated their law-making to one body of sworn representatives, and the twofold function of law-applying by indictment and trial to other sworn representatives, there was yet a great concourse of people attending the court on the "law days," especially when important matters came up for adjudication; then the crowd of people took sides with plaintiff or defendant, with the authorities which accused, or with the man on trial, as the case might be. Sometimes when the jury acquitted, the people tore the suspected man to pieces; sometimes when the jury condemned, they showed their indignation—nay, rescued the prisoner.

But the old tradition of actual trial by the "body of the country" still prevailed.

6. At length the jurors are no longer the witnesses in the case. Others testify before them, and on the evidence which is offered, the *grand jury* indict, or not, and the *trial jury* acquit or condemn. Then the jurors are no longer taken from the immediate neighborhood of the party on trial, only from his district or county, but sworn witnesses from the neighborhood depose to the facts. There is no longer a great concourse of people in the open air, but the trial is carried on in a small court house, yet with open doors, in the face of the people, *coram populo*—public opinion still influences the jury.

As most of the jurors were unlearned men, not accustomed to the intricate questions, it became necessary for the presiding judge, a man of more culture, to prepare rules of evidence which should prevent the matter from becoming too complicated for the rustic judgment. Thence came the curious and strange "rules of evidence" which prevail in all countries where trial by jury is established, but are unknown in lands where the trial is conducted solely by experts, educated men. But as the mass of the people, as in America, become well informed, the old rules appear ridiculous and will perish.

The number of sworn judges varies in different tribes of the Teutonic family, but as twelve has long been a sacred number with the Anglo-Saxons, that was gradually fixed upon for the jury. Twelve consenting voices are indispensable for the indictment or the condemnation.

#### HISTORICAL FUNCTION OF THE JUDGE.

Such is the form of the jury as we find it at this

day. The other officers have also undergone a change. A brief sketch of the historical formation of the function of the judge in the same ethnological origin may not be out of place. Four steps or stages will be named.

1. At the meetings of the people to make, apply, and execute the laws, some one must preside to keep order, put the question, and declare the vote. He was the moderator of the meeting. At first it would seem that some important man, a priest, or a noble, or some other wise, distinguished, or popular man performed that function. The business over, he dropped into his private place again. A new one was chosen at each meeting.

2. If the former moderator had shown skill and aptness, he was chosen the next time; again and again; at length it was a matter of course that he should permanently preside. He studied the matter and became "expert in all the manners and customs of his nation." This happens in most of the New England towns, as well as in other states, where the same man is moderator at the town meetings many years in succession. Men love to walk in the path they have once trodden, even if not the shortest way to their end.

3. When the nation is organized more artificially, and the laws chiefly proceed from the secondary source, the government—elective or usurpatory—a judge is appointed by the central authority to visit the districts (counties) and assist at the administration of justice. As the law is made by the distant delegates, the judge they send down declares and explains it to the people, for they, the people, have not made it before, directly, nor found it ready.

made, an old inherited custom, but only receive it as the authorities send it down from the capital. The law is *written*—the officer can read, while they have no copy of the law, or could not read it had they the book. Hence the necessity of a judge learned in the law. Still the people are to apply the written law or apply it not. Besides, the old customs remain, the unwritten laws of the people, which the judge does not understand so well as they. He represents the written law, the assembly the unwritten custom or tradition. The judge is appointed that he may please the central power; the people are only to satisfy such moral convictions as they have. There is often a conflict between the statute and the custom, a conflict of laws; and still more between the judge and the jury—a conflict in respect to the application of the law.

4. Then comes the critical period of the trial by jury. For the deputed judge seeks to enlarge his jurisdiction, to enforce his law, often against the customs and consciences of the people, the jury, who only seek to enlarge justice. He looks technically at the statute, the provisional means of law, not at justice, the ultimate purpose of law. To the "country," the "body of the people," or to the jury of inquest and of trial, he assumes not to suggest the law and its application, but absolutely to *dictate* to them. He claims the exclusive right to decide on the law and its application; the jury is only to determine the fact—whether the accused did the deed charged or not.

If the judge succeeds in this battle, then tyranny advances step by step; the jury is weakened; its original function is curtailed; certain classes of



cases are taken from its jurisdiction ; it becomes only the tool of the government, and finally is thrown aside. Popular law-making is gone ; popular law-applying is also gone ; local self-government disappears, and one homogeneous centralized tyranny takes the place of the manifold freedom of the people. So the trial by jury faded out of all the South-Teutonic people, and even from many regions of the German and Scandinavian North. But the Anglo-Saxon, mixing his blood with Danes and Normans, his fierce kinsfolk of the same family, has kept and improved this ancient institution. When king or parliament made wicked laws, or appointed corrupt and cruel men for judges, the people have held this old ancestral shield between the tyrant and his victim. Often cloven through and thrust aside, the Saxon-Briton never abandons this. The Puritan swam the Atlantic with this on his arm, and now all the Anglo-Saxon tribe reverence this defense as the Romans their twelve Ancilia, the mystic shields which "fell from heaven."

#### FUNCTIONS OF JURORS.

The present function of the jury, Parker states as follows :

I. They are to decide the *question of fact*, the matter charged, and determine whether the accused did the deed alleged to be done. That is the first step to determine the *fact*.

II. They are to decide the *question of law*, the statute or custom supposed to apply to the deed done, and determine whether there is such a statute or custom, and whether it denounces such a deed as a crime assigning threats and punishment. That is the second step—to determine the law.

III. They are to decide the *question of the application of the law to the fact*, and to determine whether that special statute shall be applied to the particular person who did the deed charged against him. That is the third step—to determine the *application of the law*.

A few words on each of these points :

I. The jury is to *decide the question of fact* ; to answer, Did the accused do the deed alleged, at the time and place alleged, with the alleged purpose, and producing the alleged result ? The answer will be controlled by the evidence of sworn witnesses, who depose under a special oath to “tell the truth, the whole truth, and nothing but the truth.” Their evidence is the testimony as to the *fact*, the sole testimony ; the jury is the ultimate arbiter to decide on the credibility of the evidence, part by part, and its value as a whole. Sometimes it is an easy matter to answer this question of fact ; sometimes exceedingly difficult. If there be doubts they must weigh for the accused, who is held innocent until proved guilty.

With us the theory that the jury is the exclusive judge of the question of fact is admitted on all sides. But in England it has often happened that the judge instructs the jury to “find the facts” so and so, that is, undertake to decide the question of the fact. In libel cases it is very common for judges in many of our states to undertake to determine what constitutes a libel, and to decide on the intentions of the accused, that is, to decide the more important part of the complex and manifold question of fact. For it is as much a question of fact to determine what constitutes a libel as what consti-

tutes theft, the *animus libellandi* as much as the *animus furandi*. Sometimes juries have been found so lost to all sense of manhood, or so ignorant of their duties, as to submit to this judicial insolence and assumption. If the jury decide the question of fact in favor of the accused, their inquiry ceases at that step, they return their verdict, "*not guilty*," and the affair is ended. But if they find he did the deed as charged, then comes the next function of the jury.

II. The jury are to decide *the question of law*. Is there a statute or custom denouncing a penalty on that special deed? Is the statute constitutional? To determine this matter, there are three sources of evidence external to their own knowledge:

1. *The testimony of the government's attorney*. The government itself is his client, and he gives such a statement of the law as suits the special purposes of the rulers and his own private and particular interest, selects such statutes, customs, and decisions as will serve their purposes, and declares, Such is the law. Nay, he makes inferences from the law, and thereby infers new customs, constructs new statutes, and invents new crimes. He treats the law as freely as he treats the facts—making the most that is possible against the party accused. You see already what tricks government attorneys have played, how they pervert and twist the law, making it assume shapes never designed by its original makers. He gives his opinion as to the law, as he gave an opinion as to the fact. This is not necessarily his personal and actual, but only his official and assumed opinion—what he wishes the jury to think is law in this particular case.

2. *The testimony of the defendant's attorney.* The accused is his client. He is to do all he can to represent the law as favorable as possible to the man on trial. He gives an opinion of the law, not his personal and actual, but his official and sentimental opinion—what he wishes the jury to think is law in this particular case.

3. *The testimony of the judge on the bench.* But in the English courts and the Federal courts of the United States he is commonly no more than a government attorney in disguise; I speak only of the general rule, not the exceptions to it. He has received his office as the reward for party services—made a judge because he was one-sided as a lawyer. In all criminal cases he is expected to twist the law to the advantage of the hand that feeds him. Especially is this so in all political trials, that is, persecutions for opposition to the party which the judge represents. The judge may be impartial or partial, just or unjust, ignorant or learned. He gives an opinion of the law—not his personal and actual, but his official and assumed opinion—what he wishes the jury to think is law in this particular case. For the court also is a stage, and the judges, as well as the attorneys, may be the players.

“And one man in his time plays many parts.”

Of these three classes of witnesses no one gives evidence under special oath to tell the law, the whole law, and nothing but the law, or if it be so understood, then all these men are sometimes most grossly and notoriously perjured. The examples that have been cited show that the judge often takes quite as wide a range as the attorney-general or the prisoner's counsel.

As the juror hears the manifold evidence of facts, and then makes up his mind thereon and decides the question of fact, often rejecting the opinion of various witnesses as ignorant, partial, prejudiced, or plainly false or forsworn, so will the jury hear the manifold and often discrepant evidence as to the law, and thus make up their mind thereon and decide the question of law, often rejecting the opinions of various witnesses thereupon as ignorant, partial, prejudiced, or plainly false and forsworn.

In regard to the *fact*, the jury is limited to the evidence adduced in court. What any special juror knows from any other source is not relevant there to procure conviction. But in regard to the *law* there is no such restriction; for if the jury know the law better than these three classes of witnesses for it in court, then the jury are to follow their better knowledge. At any rate, the jury are to make up their minds on this question of law, and for themselves determine what the special law is.

Every man is to be held innocent until proved guilty—until the special deed charged is proved against him, and until that special deed is proved a crime. The jury is not to take the government attorney's opinion of the fact, nor yet the judge's opinion thereon, but to form their own opinion from the evidence offered to make up their own judgment as to the fact. So, likewise, they are not to take the government attorney's opinion of the law, or the prisoner's counsel's opinion of the law, nor yet the judge's opinion thereon, but from all the evidence offered, not otherwise known to them, to make up their own judgment as to the law. After they have done so—if they decide the law in favor of the ac-

cused—the process stops there. The man goes free, for it does not appear that his deed is unlawful. But if the jury find the law against the deed, they then proceed to their third function.

III. The jury is to decide the question of the *application of the law to the fact*. Here is the question, “Ought the men who have done this deed against the form of law to be punished thereby?” The government attorney and the judge are of the opinion that the law should be thus applied to this case, but they cannot lay their finger on him until the jury, specially sworn, “well and truly to try and true deliverance make,” have unanimously come to that opinion, and say, “Take him and apply the law to him.”

The deed may be clear and the statute clear, while the application thereof to the man who did the deed does not follow. For,

1. It is not designed that the full rigor of every statute shall be applied to each deed done against the letter thereof. The statute is a great sleeping lion, not to be aroused up when everybody passes that way. This is seen from the daily practice of the courts. It remains in the discretion of the attorney to determine what offenses he will present to the grand jury; he passes by many, and selects such as he thinks ought to be presented. It remains in the discretion of the grand jury to determine what they will indict, for sometimes, when the fact and the law are clear enough to them, they yet find “no bill,” or ignore the matter. And after the man is indicted, it still remains in the discretion of the attorney to determine whether he will prosecute the accused or pass him by.

2. Besides, in deciding this question, the jurors are not only to consider the one particular statute brought against the prisoner, but the whole complex of customs, statutes, and decisions making up the *body of law*, and see if that requires the application of this special statute to this particular deed. Here are two things to be considered :

(1) The general purpose of the body of laws, the object aimed at, and

(2) The means for attaining the end. No other purpose of law being the main thing, and the statute only subsidiary to that purpose, the question comes, "Shall we best achieve that purpose by thus applying the statute or by not applying it?" This rests with the jury in their discretion to determine.

3. Still more, the jury have consciences of their own which they must be faithful to, and which no official position can morally oblige them to violate. So they are to inquire, "Is it right, in the light of our own consciences, to apply this special statute to this particular case and thus punish this man for that unlawful deed?" They are also to ask, "Was the deed *naturally wrong*; done from a wrong motive, for a wrong purpose?" If not, then be the statute and the whole complex of laws what they may, it can never be right for a jury to punish a man for doing a right deed, however unlawful that deed may be. No oath can ever make it right for a man to do what is wrong or what he thinks wrong—to punish a man for a just deed.

But if the twelve men think the law ought not to be applied in this case, they find "not guilty," and he goes free; if otherwise, "guilty," and he is delivered

over to the judges for sentence and its consequences, and the judge passes such sentence as the law and his discretion point out.

The judge commonly, and especially in political trials, undertakes to decide the last two questions himself, determining the *law* and the *application* thereof, and that by his discretion. He wishes to leave nothing to the discretion of the jury, who have thus only the single function of deciding the question of *fact*, which is not a matter of discretion—that is, of moral judgment—but only a logical deduction from evidence, as the testimony compels. He would have no moral element enter into their verdict. The judge asks the jury to give him a deed of the ground on which he will erect such a building as suits his purpose, and then calls the whole thing the work of the jury, who only granted the land.

But this assumption of the judges ultimately and exclusively to decide the question of law and its application is a tyrannous usurpation.

(1) It is contrary to the fundamental idea of the institution of Trial by Jury.

(2) It leads to monstrous tyranny by putting the property, liberty, and life of every man at the mercy of the government officers, who determine the law and its application, leaving for the jury only the bare question of *fact*, which the judge can so manage in many cases as to ruin most virtuous and deserving men.

(3) Not only in ancient times did the jury decide the three questions of *fact*, of *law*, and of its special *application*, but in cases of great magnitude they



continue to do so now, in both America and England, and sometimes in direct contradiction to the direct commands of the judges.

#### EXAMPLES FROM THE ENGLISH COURTS.

Mr. Parker continues at length in giving the function of the jury, and applies his remarks in scathing language to the action of certain United States judges in connection with cases tried in the interest of American slavery, and more particularly under the Fugitive Slave law under which he was himself arrested. He shows most conclusively that judges of the United States have been as far severed from the principle of right and justice as were the infamous judges of England; and the record which he presents is enough to make an American hang his head in shame, to think that the power and courts of the great *free* nation should be wielded to aid and perpetuate one of the greatest wrongs that ever had an existence—"the sum of all villainies"—human slavery. I propose to introduce some of these slavery cases in another letter, but for the present will give a few more examples from the English courts of attempts on the part of judges to establish despotism. What took place in England within the last few centuries ought to serve as a warning to us, and arouse us to the realization of how easy it is for courts to pervert justice, and establish the most repulsive despotism. It is very well for us to study the past lessons of history, and thereby estimate the danger possible to ourselves.

1. In April, 1554, Sir Nicholas Throckmorton, a

gentleman of distinguished family, was brought to trial for high treason. He had held a high military office under Henry VIII. and Edward VI., but made himself "obnoxious to the papists by his adherence to some of the persecuted reformers." With his two brothers he attended Anne Askew to her martyrdom when she was burnt for heresy, when they were told, "Take heed to your lives, for you are marked men." He was brought to trial April 17, 1554, the first year of Bloody Mary. Of course he was allowed no counsel; the court was insolent, and demanded his condemnation. But the jury acquitted him, whereupon the *court shut the twelve jurors in prison!* Four of them made their peace with the judges and were liberated; but eight were kept in jail till the next December, and then fined—three of them £60 apiece, and five were fined £225 apiece. (1 St. Tr., 869.)

This is one of the bravest juries on record. They utterly refused to be coerced and controlled by the judge. I think I would have been quite safe with such a jury.

2. In September, 1670, William Penn, afterwards so famous, and William Mead, were brought to trial before the Lord Mayor of London, a creature of the king, charged with causing "a tumultuous assembly." For the Quaker meetinghouse in Grace Church street had been forcibly shut by the government, and Mr. Penn had preached to an audience of dissenters in the street itself. The court was exceedingly insolent and overbearing, interrupting and insulting the defendants continually. The jury found a special verdict—"guilty of speaking in Grace Church street." The judge sent them out to return a verdict

more suitable to the desire of the government. Again they substantially returned the same verdict. "This both the mayor and recorder resented at so high a rate that they exceeded the bounds of reason and civility." The recorder said: "You shall not be discharged till we have a verdict that the court will accept; you shall be locked up without meat, drink, fire, or tobacco; you shall not think to abuse the court; we will have a verdict by the help of God, or you shall starve for it!"<sup>a</sup> When one attempted to speak, the recorder roared out, "Stop that prating fellow's mouth, or put him out of court." The jury were sent out the third time, and kept all night, with no food, or drink, or bed. At last they returned a verdict of "not guilty," to the great wrath of the court.

The judge fined the jurors forty marks apiece (about \$140), and put them in jail until they should pay the sum. The foreman, Edward Bushel, refused to pay his fine, and was kept in jail until discharged on *habeas corpus* in the following November. Here the attempt of a wicked government and a cruel judge was defeated by the noble conduct of the jurors, who dared be faithful to their duty. (6 St. Tr., 691, Dixon's Life of Penn.) Oh, that I could have been tried by such a jury!

3. In 1681 an attempt was made to procure an indictment against the Earl of Shaftesbury for high treason. The bill was presented to the grand jury at London. Chief-Justice Pemberton gave them the charge at the king's desire—it was Charles II. They were commanded to examine the evidence in public in the presence of the court, in order that they might be overawed and forced to find a bill, in which case

the court had matters so arranged that they were sure of a conviction. The court took part in examining the witnesses, attempting to make out a case against the earl. But the jury returned the bill with *Ignoramus* on it, and so found no indictment. The spectators rent the air with their shouts. The court was in great wrath, and soon after the king seized the charter of London, as has already been shown, seeking to destroy that stronghold of liberty. Shaftesbury escaped; the jury were discharged. Roger Coke said: "But as the Knights of Malta could make knights of their order at eight pence apiece, yet could not make a soldier or seaman, so these kings [the Stuarts], though they could make what judges they pleased to do their business, yet could not make a jury."

4. Next comes the case of William Owen. In 1750 there was a contested election of a member of Parliament for Westminster. Hon. Alexander Murray, an anti-ministerial member of the commons, was denounced to the House for his conduct during the election, and it was ordered that he should be confined a close prisoner in Newgate, and that he receive his sentence on his knees. He refused to kneel, and was punished with great cruelty by the bigoted and intolerant House. Mr. Owen, who was a bookseller, published a pamphlet, entitled "The Case of Alexander Murray, Esq.," detailing the facts and commenting thereon. For this an information was laid before him, charging him with publishing a wicked, false, scandalous, seditious, and malicious libel." On the trial, Attorney-General Ryder thus delivered himself:

What! shall a person appeal from that court, who are

the only judges of things belonging to them, the House of Commons I mean. An appeal! To whom? Appeal to the good people of England, particularly the good people of Westminster! The House of Commons are the good people of England, being the representatives of the people. The rest are—what? Nothing—unless it be a mob. For the clear meaning of this libel was an appeal to violence, in fact, and to stigmatize the House. Then he charges the House with sinking material evidence; which in fact is accusing the House of injustice. This is a charge the most shocking, the most severe, and the most unjust and virulent against the good and tender House of Commons—that safeguard of our liberty and guardian of our welfare. This libel will be found the most powerful invective that the skill of man could invent. I will not say the skill, but the wit, art, and false contrivance of man, instigated by Satan. To say this is not a libel is to say there is no justice, equity, or right in the world.

The solicitor-general told the jury that they were only to inquire *if Mr. Owen published the pamphlet; the rest follows of course; you are under your oaths; you judge of the facts, . . . and only them.*” Chief-Justice Lee summed up the evidence, “and delivered it as his opinion that the jury ought to find the defendant guilty; for he thought the fact of publication was fully proved; and if so they could not avoid bringing in the defendant guilty.”

This jury, however, returned, “Not guilty;” but Ryder, the attorney-general, put this question, “Do you think the evidence is not sufficient to convince you that Owen did sell the book?” The foreman stuck to his general verdict, “Not guilty,” “Not guilty;” and several of the jurymen said, “That is our verdict, my lord, and we abide by it.” “Upon which the court broke up, and there was a prodigious shout in the hall.” In that case the jury pre-

sumed to judge as to *facts, law, and justice of the whole* and therefore did not answer the leading question so artfully put to them. (18 St. Tr., 1,203.)

It was a different jury from the one that tried my case, but they vindicated the right of speech and a free press. It may be remarked, in closing, that the insolent attorney-general was soon made "Lord Chief-Justice," and *rode* the bench after the manner of other tyrannous judges who had preceded him.

#### CASE OF JOHN MILLER.

5. The trial of Mr. Miller in 1770 for reprinting Junius' Letter to the King created much excitement in its day, and was of great value in establishing the right of juries and in protecting the rights of citizens.

Mr. Miller was the publisher of a newspaper called the *London Evening Post*, and therein, on Dec. 19, 1769, he reprinted Junius' celebrated Letter to the King. For this act an information *ex officio* was laid against him, wherein he was charged with publishing a false, wicked, seditious, and malicious libel. A suit had already been brought against Woodfall, the publisher of the *Public Advertiser*, in which the letter originally appeared, but the prosecution had not turned out to the satisfaction of the government, nor had the great question been definitely settled. So this action was brought against Mr. Miller, who reprinted the original letter the day of its first appearance.

Solicitor-General Thurlow opened the case for the Crown thus :

I have not of myself been able to imagine . . . that there is a serious man of the profession in the kingdom who has the smallest doubt whether this ought to be deemed a

libel or not ; for I neither do, nor ever will, attempt to lay before a jury a cause in which I was under the necessity of stating a single principle that went to intrench, in the smallest degree, upon the avowed and acknowledged liberty of the subjects of this country, even with regard to the press. The complaint I have to lay before you is that liberty has been abused, so turned into licentiousness, that under the notion of arrogating liberty to one man, that is the writer, printer, and publisher of this paper, they do . . . annihilate and destroy the liberty of all men, more or less. Undoubtedly the man that has indulged the liberty of robbing on the highway has a very considerable portion of it allotted to him. The defendant has published a paper in which, concerning the king, concerning the House of Commons, and concerning the great officers of state, concerning the public affairs of the realm, there are uttered things of such *tendency* and application as ought to be punished. When we are come to that situation when it shall be lawful for any men in this county to speak of the Sovereign (George III.) in terms attempting to fix upon him contempt, abhorrence, and hatred, there is an end of all government whatsoever, and then liberty is indeed to shift for itself. He quotes from the paper thus : " He (the king) has taken a decisive personal part against the subjects of America, and those subjects knew how to distinguish the Sovereign and a venal Parliament, upon one side, from the real sentiments of the English nation on the other." For God's sake, is that no libel ? To talk of the king as taking a part of hostile sort against one branch of his subjects, and at the same time to connect him . . . with the Parliament which he calls a venal Parliament ; is that no libel ?

Lord Mansfield, the bitterest enemy of the citizens' right of speech and of the trial by jury, charged the jury thus : " The question for you to try . . . is whether the *defendant did print*, or publish, or both, *a paper of the tenor*, and of the meaning, so charged by the information." " If it is the tenor and meaning set out in the information,

the next consideration is whether he did print and publish it. If you find the defendant not guilty, the fact established by that verdict is, *he did not publish a paper of that meaning* ;” “the fact finally established by your verdict, if you find him guilty, is that he printed and published a paper, *of the tenor and of the meaning set forth in the information, but you do not give an opinion whether it is or is not lawful to print a paper of the tenor and meaning of the information* ;” “if in point of fact it is innocent, it would be an innocent thing” (20 St. Tr., 813, 895, 869 ; 2 Campbell’s Justices, 363).

Thus practically the judge left the jury only one thing to determine, Did Mr Miller print Junius’ Letter to the King? If the jury said, “Guilty,” the court had the defendant in their claws, and all the wrath of the most malignant tories would fall upon him and rend him in pieces. But the jury (unlike what they did in my case) fell back on their legitimate function to determine the *fact*, the *law*, and the *application* of the law to the fact, and returned a verdict of “not guilty,” which a great multitude repeated with loud acclamations. That same jury would hardly have sent a man to prison for publishing or selling a dry, philosophical pamphlet, like “Cupid’s Yokes.” As Junius’ Letters outlived the tyrannical judicial efforts to crush them, so such dissertations as “Cupid’s Yokes,” treating upon questions most vital to the welfare of the human family, will continue to be published and read long after such men as Thurlow, Benedict, and Comstock are dead and forgotten.

#### REIGN OF TERROR IN ENGLAND.

6. Next a few cases will be mentioned in which



the English government set all justice at defiance, and clove down the right of speech by means of submissive juries. In 1790 and following years, while the French Revolution was in progress, the thoughtful eyes of England fell upon her own country. America was already a republic, just recovering from the shock of violent separation from her mother; young, poor, but not unprosperous, and full of future promise too obvious to escape the sagacious politicians who there saw a cause—

——“ With fear of change,  
Perplexing kings.”

The people of France, by a few spasmodic efforts, broke the threefold chain of priest, king, and noble, and began to lift up their heads. But Saxon England is sober, and so went to work more solemnly than her mercurial neighbor. And besides, the British people had already a firm, broad basis of personal freedom to stand upon. Much was thought, written, and spoken about reform in England, then most desperately needing it. The American Revolution had English admirers whom no court could silence. Nay, at first the French Revolution delighted some of the ablest and best men in Britain, who therein beheld the carrying out the great principles which Aristotle and Machiavelli had laid down as the law of historical development and social evolution of mankind. But of course there was a strong opposition made to all changes of this kind. Parliament refused to relieve the evils which were made obvious. The upper House of Nobles was composed of the elder sons of the families which had a social and pecuniary interest in oppressing the people, and the lower

House "consisted mainly of the younger sons of the same families, or, still worse, the purchased dependants" of their families. Societies were organized for reform, as the "London Corresponding Society," the "Friends of the People," etc., etc. The latter contained many literary, scientific, and political men, and thirty members of Parliament. Great complaints were made in public of the inequality of members of Parliament. Stormy debates took place in Parliament itself, such as have scarcely yet been heard in America. Pitt and Fox were on opposite sides ;

———"And such a frown

Each cast at the other, as when two black clouds,  
With heaven's artillery fraught, come rattling on  
Over the Caspian, then stand front to front,  
Hovering a space, till winds the signal blow  
To join their dark encounter in mid air."

At that time the House of Commons was mainly filled with creatures of a few powerful men ; thus 91 commoners elected 139 members of the Commons, and 71 peers also elected 163 ; so 302 British members of the Commons, besides 45 more from Scotland—347 in all—were returned by 162 persons. This was called "representation of the people." From the party who feared to lose their power of tyranny, then went out the decree, "Discussion on the subject of national grievances must be suppressed in Parliament and out of Parliament." Violent attempts were made to suppress discussion. A system of tyranny was attempted to be fastened upon the necks of the people which should crush out free speech and a free press, but fortunately the attempt did not prove eminently successful.

(1) In 1792, John Lambert and two others published an advertisement in the London *Morning Chronicle*, with which they were connected as printers or proprietors, addressed "To the friends of free inquiry and the general good," inviting them in a peaceful, calm, and unbiased manner to endeavor to improve the public morals in respect to law, taxation, representation, and political administration. They were prosecuted on *ex officio* information for "a false, wicked, scandalous, and seditious libel." The government made every effort to secure conviction, but failed. The jury were not sufficiently submissive. (22 St. Tr., 923.)

(2) In the same year, Duffin and Lloyd, two debtors in the Fleet Prison, one an American citizen, wrote on the door of the prison chapel: "This house to let. Peaceable possession will be given by the present tenants on or before the first day of January, 1793, being the commencement of liberty in Great Britain. The republic of France having rooted out despotism, their glorious example and success against tyrants render infamous bastiles no longer necessary in Europe." These men for this inscription were also indicted for a "wicked, infamous, and seditious libel," and were found guilty. Lloyd was put in the pillory. (22 St. Tr.)

(3) In 1793, William Frend, of the University of Cambridge, published a harmless pamphlet entitled, "Peace and Union Recommended to the Associated Bodies of Republicans and Anti-Republicans." He was brought to trial, represented as a heretic, Deist, Infidel, and Atheist, and by sentence of the court was banished from the University. (22 St. Tr., 523.)

(4) In the same year, 1793, John Frost, Esq., "a

gentleman" and attorney, when slightly intoxicated after dinner, and provoked by others, said: "I am for equality. I see no reason why any man should not be upon a footing with another; it is every man's birthright." And when asked if he would have no king, he answered, "Yes, no king; the Constitution of this country is a bad one." This took place in a random talk at a tavern in London. But for these harmless words he was indicted as a person of a "depraved, impious, and disquiet mind, and of a seditious disposition, contriving, practicing, and maliciously, turbulently, and seditiously intending the peace and common tranquillity of our lord, the king, and his laws to disturb," "to the evil example of all others in like case offending." He was sentenced to six months in Newgate, and one hour in the pillory! He must find sureties for good behavior for five years, himself in £500, two others in £100 each, be imprisoned until the sureties were found, and be struck from the list of attorneys! (22 St. Tr., 471.)

(5) Rev. William Winterbotham, the same year, in two sermons, exposed some of the evils in the Constitution and administration of England, and for that was fined £200 and sentenced to jail for four years. (A good deal more severe than \$300 and thirteen months' imprisonment.) (22 St. Tr., 823.)

(6) In the same year, Thomas Briellat, a London pump-maker, in a private conversation said: "A reformation cannot be effected without a revolution; we have no occasion for kings; there never will be any good time until all kings are abolished from the face of the earth; it is my wish that there were no kings at all." "I wish the French would land five

hundred thousand men to fight the government party." He was tried, found guilty, and sentenced to a fine of £100 and sent to jail for a year. (22 St. Tr., 909.)

(7) A charge, in the same year, was brought against Rev. Thomas Fyshe Palmer, formerly a senior fellow of Queen's College, Cambridge, and then a Unitarian minister at Dundee. He wrote an address which was adopted at a meeting of the Friends of Liberty, and published by them, which, in moderate language, called on the people "to join us in our exertions for the preservation of our perishing liberty, and the recovery of our long lost rights." He distributed copies of this address. He was prosecuted for "leasing-making," for publishing a "seditious and inflammatory writing." The jury found him guilty, and the judges sentenced him to *transportation for seven years*. (23 St. Tr., 237.)

(8) Richard Phillips was sent to jail in the same year for eighteen months for selling Paine's "Rights of Man." For the same offense two other booksellers were fined and sent to Newgate *for four years*. A surgeon and a physician were sent to Newgate for two years for having "*seditious libels in their possession*." Thirteen prisoners were indicted at one time. Publishing and selling pamphlets, it seems, has, under tyrants and bigots, proved a dangerous business. (22 St. Tr., 471.)

(9) 1793 was a bad year in England for those who dared to exercise the right of freemen. W. Campion was sentenced for blasphemy.

(10) The same year, Mr. Bathmore was brought to trial for having a copy of "The Rights of Man" in his possession.

(11) Payne and Waldron were indicted for publishing Thomas Paine's political writings.

(12) Mr. Holt was convicted for selling "The Rights of Man."

(13) Messrs. Robinson were convicted for the same offense.

(14) A youth, not grown, was arrested for avowing himself a believer in Paine's political writings.

(15) Peast and Belcher were convicted for selling Paine's works.

(16) In 1794, Margarot was transported for fourteen years for advocating reformatory measures.

(17) T. Gerrould was transported on a charge of sedition.

(18) In 1795, Redhead York was brought to trial for a "seditious libel."

(19) Mr. Williams was sent to prison for selling Paine's "Age of Reason."

(20) In 1798, one Mealmaker was sentenced to transportation for fourteen years for advocating reform.

(21) In the same year, Shears Brothers were sent to prison for treason.

(22) Joidon & Johnson, in the same year, were condemned for selling Paine's works.

(23) In 1803, Robert Emmett, the great Irish orator, was executed for "treason"—defending the rights of his countrymen.

(24) In 1810, William Cobbett, the brilliant English writer, was sentenced for sedition.

(25) In 1812, D. J. Eaton was imprisoned for publishing Paine's "Age of Reason."

(26) In 1817, J. Cushman was hanged on a charge of treason.

(27) In the same year, three Nottingham rioters were hanged for "high treason."

(28) In the same year, Mr. Horne was tried for publishing "Political Litany," and on the following day was again brought to trial for publishing "Secularists' Creed."

(29) In 1819, seven persons were imprisoned for selling Richard Carlile's *Republican*.

(30) In the same year, Richard Carlile, publisher and writer, was convicted and imprisoned on a charge of blasphemy.

(31) In 1820, Wedderborn, Unitarian, was sent to prison on a charge of blasphemy.

(32) Same year, H. Hunt and nine others were brought to trial on a charge of "conspiracy."

(33) In 1821, Jane Carlile, wife of Richard Carlile, was forced to trial for publishing and selling Paine's works while her husband was in prison for the same offense. She was also sent to prison.

(34) In July, 1822, S. Wright was brought to trial for printing R. Carlile's works.

(35) In the same year, a sister of Richard Carlile was also tried and imprisoned for publishing Paine's works after her brother and his wife were imprisoned for the same offense. Was she to be commended or censured for her bravery in defending her brother's rights and her own? I say COMMENDED. She helped largely to break down that infernal tyranny.

(36) April 24, 1824, J. Watson was imprisoned for selling "Palmer's Principles."

(37) In June, 1824, Haswell, one of Carlile's shopmen or employees, was selling Paine's works while his employer, his wife, and sister were still in prison. Those who condemn me for selling a pamphlet which

Comstock says must not be sold, would doubtless condemn Haswell for his great imprudence and rashness in selling a condemned book, but I honor him for it. He knew he possessed the right to sell Paine's works, and he persisted in exercising it and at length the victory was gained. True, the Vice Society was in active operation at that time. The Comstocks, the Colgates, and the Benedicts were in their glory. But since that time, scores of thousands of copies of Paine's works have been sold with impunity, and the hands of intolerant bigots have not been raised in opposition. If everybody at that time had yielded their rights, as some timid Liberals think I ought to have done, Paine's works would have been thoroughly suppressed, and the world would have lost the greatest benefits they have conferred. The dearest rights of man have been secured by struggling for them.

(38) Jan. 11, 1831, Richard Carlile was again sent to prison for publishing "The Prompter." He performed most valuable services in the cause of Freethought.

(39) July 4, 1831, ex-Rev. Robert Taylor, the eminent scholar, writer, and Freethinker was imprisoned for blasphemy. He had also been convicted on the same charge in 1827. He dared to exercise his rights.

(40) Sept. 28, 1831, H. Hethrington, unbeliever, was convicted on a charge of "selling unstamped publications."

(41) July 17, 1832, William Cobbett, was again tried on a charge of "seditious libel." He was a man who believed in expressing his convictions, and he exercised that right. He was no coward.



(42) Dec. 18, 1840, Hethrington was again sent to prison for publishing "Haslam's Letters."

(43) Jan. 15, 1842, Charles Southwell, a distinguished Freethinker, was imprisoned for "blasphemy."

(44) Aug. 15, 1842, George Jacob Holyoake, the accomplished author and public speaker, was sentenced and imprisoned for "blasphemy." He was among the last persons imprisoned in England on the bigot's charge of "blasphemy." He still lives and is honored by thousands of his countrymen and by a large number in America.

(45) On the same day, G. Adams was sentenced for selling "The Oracle of Reason."

(46) Oct. 14, 1842, T. Cooper was tried at Stafford for sedition.

(47) Jan. 27, 1843, T. Patterson was sentenced for issuing "profane playcards."

(48) T. Finley was tried for blasphemy, March 8, 1843, and imprisoned June 3d, following.

(49) Jan. 24, 1844, Matilda Roalfe was imprisoned for blasphemy.

(50) July 1, 1857, T. Pooley was sentenced for blasphemy; and this was probably the last arrest and conviction on that contemptible charge.

(51) May 9, 1877, Edward Truelove, a worthy publisher and bookseller, nearly seventy years of age, at the instance of the London Vice Society, was convicted and sent to prison for four months for publishing and selling the Hon. Robert Dale Owen's "Moral Physiology," a valuable work, which for nearly two score of years had had free circulation in both England and America. Blasphemy having become no longer a tenable charge on which to arrest

and imprison people, the feasible but false one of "obscenity" was adopted, which pretext has been taken up in this country.

(52) June 28, 1877, Charles Bradlaugh and Mrs. Annie Besant were convicted and sentenced for publishing and selling a pamphlet by Dr. Charles Knowlton called "Fruits of Philosophy," a little work which had been sold on both sides of the Atlantic for more than forty years. But through the able management of their own cases the sentence was ultimately set aside and the right to sell the "Fruits of Philosophy" fully vindicated. There are many points of resemblance between this case and my own. They are Freethinkers; so am I. They were publishers of Freethought works; so am I. They were obnoxious to Christian bigots; so am I. They were arrested on a charge of selling an obscene pamphlet; so was I. The pamphlet they sold treated of sexual relations; so does the one I sold. They sold it after they knew the Vice Society condemned it and another had been arrested for selling it; so did I. They sold it, not because they took any particular interest in the pamphlet or because they thought in it the subject treated was handled in the best possible taste, but to vindicate their unquestionable right to sell it. It was precisely the same with myself. They did not care for "Fruits of Philosophy," I do not care for "Cupid's Yokes," the principle was the thing at stake, with both. They were convicted and sentenced; so was I. The points of dissimilarity are these: They succeeded—on the ground that the indictment did not set forth the objectionable passages in the pamphlet—in having the

whole proceeding set aside; I failed in the same attempt, although my grounds were precisely the same as theirs. I had different judges to decide the matter. They were not sent to prison; I was; I am now in a prison cell. But I do insist upon this point. If I am guilty of indiscretion in selling a pamphlet which had been denounced by the Vice Society, as some of my professed friends hold, so were they. If I was rash and unwise, so were they. If I deserve punishment, so did they. But I believe they by their fearless stand aided largely in sustaining free thought, free speech, and a free press; and I trust the time will come when my friends will accord me the same credit. This fight had to be met on both sides of the Atlantic, and I was not disposed to shirk my share of it. They stand high as advocates of free thought and personal liberty, and I am content to work side by side with them.

#### CASE OF THOMAS MUIR.

I return somewhat to give more in detail the case of Thomas Muir, who in 1793 was brought to trial in Edinburgh on a charge of "leasing-making," or public libel. He was a promising young lawyer, with liberal tendencies in politics, desiring the education of the great mass of the people and a reform in Parliament. He was a member of various reform societies, and sometimes spoke at their meetings in a moderate tone, recommending only legal efforts—by discussion and petition—to remedy the public grievances. His Honor, Mr. Curtis, who belonged to a family so notoriously "democratic" in the beginning of this century, and so eager in its denunciations of the Federalists of that period, knew that

the law, even of England—which they so much hated—allowed that. It appeared that Mr. Muir also lent a copy of Thomas Paine's "Rights of Man" to a merchant who asked the loan as a favor. For these offenses he was indicted for sedition, charged with instituting "a society for reform," and with an endeavor "to represent the government of this country as oppressive and tyrannical, and the legislative body as venal and corrupt." It was alleged in the indictment that he complained of the government of England as "costly," the monarchy as useless, cumbersome, and oppressive; that he advised persons to read Paine's "Rights of Man," and circulated copies of a periodical called "The Patriot," which complained of the grievances of the people. On the trial he was treated with great insolence and harshness, reprimanded, interrupted, and insulted by the agents of the government—the court. An association of men had offered a reward of five guineas for the discovery of any person who circulated the writings of Thomas Paine. Five of the fifteen jurors were members of that association, and in Scotland a bare majority of the jurors convicts. Mr. Muir defended himself, and that ably. Lord Chief-Justice Clark thus addressed his packed jury :

There are two things which you should attend to, which require no proof. The first is that the British Constitution is the best in the world. Is not every man secure in life, liberty, and property? Is not happiness in the power of every man? Does not every man sit under his own vine and fig-tree, and none shall make him afraid? The other circumstance . . . is the state of the country during last winter. There was a spirit of sedition and revolt going abroad. I leave it for you to judge whether it was per-

fectly right or not in Mr. Muir to go about . . . among the lower classes of the people . . . inducing them to believe that a reform was absolutely necessary to preserve their safety and their liberty, which, had it not been for him, they would never have suspected to have been in danger. He ran a parallel between the French and English Constitutions, and talked of their respective taxes, . . . and gave a preference to the French. He has brought many witnesses to prove his general good behavior, and his recommending peaceable measures and petitioning to Parliament. Mr. Muir might have known that no attention could be paid to such a rabble; what right had they to representation? He could have told them the Parliament would never listen to their petition. How could they think of it? A government in any country should be just like a corporation; and in this country it is made up of the landed interest, which alone has a right to be represented.

Of course the jury found him guilty. There is no trouble in securing convictions where judge and jury are *en rapport*. The judge sentenced him to *transportation for fourteen years*. Lord Swinton quoted from the Roman law that the punishment for sedition was crucifixion, or exposure to be torn to pieces by wild beasts, or transportation. "We have chosen the mildest of these three punishments." This sentence was executed with great severity. This is another miserable sample of what passes for "justice" in this world—to banish a man from his native country for fourteen years for simply breathing the natural inspiration of a man who loves life and liberty. Still the highest official under the king declared that such punishments were dictated by a "sound discretion." (23 St. Tr., 117; 30 Parl. Hist., 1,486.)

For like offenses several others underwent similar punishment. These enormities were perpetrated by the government in Scotland—where the Roman law

had early been introduced, and had accustomed the semi-Saxons to forms of injustice foreign to ethnologic instincts and historic customs of the present tribe. But "begun is half done." Emboldened by their success in punishing the friends of humanity in Scotland, the ministry proceeded to attempt the same thing in England itself. Then began the British Reign of Terror, which lasted longer than the French, and brought the liberties of the people into such peril as they had not known since William of Orange hurled the last of the Stuarts from his throne. Dreadful laws were passed, atrocious as our own "Fugitive Slave law," and the "Comstock postal law." First came the "Traitorous Correspondence bill," next the "Habeas Corpus Suspension act," and then the "Seditious Practices act," with the "Treasonable Attempts bill," by legislative exposition establishing "constructive treason." All these iniquitous measures were brought forward in Parliament by Sir John Scott—then attorney-general, one of those North Britons who find the pleasantest prospect in Scotland is the road to London. He was also vehemently active in defending the tyranny of the Scotch judges just referred to, as indeed all judicial insolence and legal wrong. (30 Parl. Hist., 581 ; 31 Parl. Hist., 520, 929, 1,153.) He opposed all attempts to reform the law which punished with death a theft of five shillings. In two years there were more prosecutions for seditious libel than in twenty years before. But Scott had his reward, and was made Lord Chancellor in 1801, and was elevated to the peerage as Lord Eldon. (7 Campbell, 119 ; 1 Townsend's Judges.)

## THE "WITNESS" MAN ONCE MORE.

Before closing this already lengthy letter, I must take a brief notice of another characteristic and venomous article from this self-righteous organ of bigotry, hypocrisy, cant, and Comstockism, of the 9th inst., headed "Obscene Booksellers, Abortionists, Signers of Petitions on their Behalf, and Reckless Pardon Granters." The title is pretty long, and the article itself is in proportion—too long to be given here, and too mean to be printed anywhere. The intent of the hypocritical howl is to associate me with condemned abortionists and dealers in obscenity, to prevent anybody's being pardoned, to cast vile slurs on those who ask for my liberation, and to take everybody concerned to task because I am allowed to remain in this prison and not sent to the Albany Penitentiary, to be shaven and shorn, dressed in prison uniform, set at hard labor, not allowed to speak or raise my eyes, and to be shut off from all communication with the outside world.

It is in bad taste for this British subject to busy himself so greatly and to have so much censure relative to the acts of members of this government. It would be well enough for him to understand that the powers that be have nearly as much sense as he has, and are quite competent to attend to their business without his officious dictation. When a man is in a foreign country it shows a degree of modesty and decency not to undertake to run the government or to take members of it to task for their official acts.

This hypocrite calls me a "miscreant." It is wrong for him to apply epithets which belong far more to himself. I want nothing that belongs to

him. I have never attempted to do business on a capital of piety and holiness, as he does ; but if our lives and conduct are compared, I am sure mine will not suffer by the comparison. I have tried to live honestly through life, and to wrong none of my fellow-beings. I have tried to pay my honest debts, and to contract no debts I did not intend to honestly pay, dollar for dollar. As much of a "miscreant" as I am, if he or any one else will visit the different places where I have lived, and inquire of those who have known me from childhood, it will be found that my character stands quite as fair as John Dougall's does in Montreal or in this city. I am sure I never contracted a large debt in Glasgow or elsewhere under the promise of paying dollar for dollar, or pound for pound, for value received, to afterwards pay it off with 3s. and 6d. on the pound, or 16 cents on the dollar. That may be a very *pious* way of doing business, but there are many men who do not regard it as honorable or honest.

It may be very godly to prate a great deal about "temperance ;" but temperance does not consist wholly in abstaining from spirituous liquors. There is intemperance in eating as well as drinking. It comes with an ill grace for a gormandizing glutton to set himself up as an apostle of "temperance."

He says he has Mr. Comstock's evidence that "Cupid's Yokes" is a very bad book. I have already advised him not to take Comstock for authority unless he wants to be led astray. Comstock's opinion or his word is of very questionable value. If he and the *Witness* man should swear a thousand times that "Cupid's Yokes" is *obscene* it would still be false. A lie, though repeated ever so oft, is a lie still. Hun-



dreds and thousands of the best of American citizens, including writers, authors, literary men, publishers, booksellers, and readers, have read the little book and pronounce it not *obscene*, whatever else it may be. Comstock and Dougall may lie about it till they drop into their graves, but it will not change it. The author of "Cupid's Yokes" is a far honester and purer man than either Comstock or Dougall.

The hypocritical sheet attempts to make a point because I sold the pamphlet after Comstock and his judges had pronounced it obscene. To this I have only to repeat that I knew it was *not* obscene, that a hundred thousand others also knew it, that I had a perfect right to sell it, and that I did not propose that Anthony Comstock should deprive me of any right I chose to exercise. Such judges as Clark and Benedict deciding against the pamphlet proves no more than those English bigots of judges deciding the selling of Thomas Paine's works criminal—sending numerous persons to prison for it. But, spite of their Christian intolerance, tyranny, and cruelty, Paine's works were triumphant; hundreds of thousands of his pamphlets and entire works have since been sold, and are now selling faster than ever, while most of those persecuting judges are moldering in their graves. So it will be here. Such works as "Cupid's Yokes" will be sold and read long after Comstock, Colgate, Benedict, and Dougall, or all that is left of them, have mixed with mother earth and are forgotten.

The *Witness* man talks about my petition being signed by "free-lusters." He is a vile slanderer of his betters. The class of people who have signed that petition are as pure, as high-minded, and as

honorable as any people in the United States. If he wants "free-lusters," he has only to turn his eyes in the direction of the Christian churches, and especially to the clergy. He will find more free-lusting and nest-hiding there than anywhere else. He need not let his sensual eyes stray far away from home.

His greatest grief is that I am allowed to remain in Ludlow Street Jail, where I can write for my own paper and speak the words of truth. He would of course far rather see me confined in a noisome dungeon or stretched upon a rack till my joints were torn asunder; his church has been particularly fond of that kind of amusement and God-serving.

What I have said about the court before which my mock trial took place is simply the truth—not a word of exaggeration or misrepresentation. There is much about the courts and judges of this city, and doubtless other parts of the country, that ought to come to the light. Almost every day I live I learn more of the venality, tyranny, injustice, and corruption of judges, courts, referees, detectives, etc., etc. If this chapter is ever written, it will make a volume of most damnable villainy and deep wrong, disgraceful to the nation. One thing is most sure: Among the worst enemies of justice, liberty, human rights, and human happiness have been judges—pretended ministers of justice. Judges and priests have been the greatest enemies to the peace and welfare of mankind.

The canting sheet has a good deal of advice to give those who exercise the pardoning power, especially warning them not to approve or sign a pardon for me. This is gratuitous, self-righteous insolence and dictation. This officiousness is not wanted nor

needed. It may be deemed just by the authorities that I remain in prison the entire term named by Judge Benedict, and it may not ; if so, I may be able to survive it, and I may not ; it may be an honor to our Government and courts, or it may not ; but whatever the result may be, I am very sure that John Dougall and his friend Comstock have nothing in the world to do with it. It will be far better for the *Witness* man to attend to his own business, to try and lead an honest, upright life, to be something higher and better than a begging cheat and fraud, and to simply let other people's business alone.

Dear readers, let me take my leave of you till another week, when you will hear from me again.

D. M. B.

## REMARKS OF CONTEMPORARIES.

[From the (N. Y.) National Journal.]

## HE SHOULD BE PARDONED AT ONCE.

President Hayes has received voluminous petitions from various parts of the country for the pardon of D. M. Bennett, who was arrested by Comstock for selling "Cupid's Yokes." Mr. Bennett should be pardoned at once, for his sentence was anything but just.

[From the Burlington (Kan.) Independent.]

## THE GRANDEST FARCE ON THE DOCKET.

D. M. Bennett, editor of *THE TRUTH SEEKER*, an Infidel paper, has been sentenced to thirteen months' imprisonment in the Albany Penitentiary and fined three hundred dollars for publishing a pamphlet called "Cupid's Yokes." The book is the weakest exponent of a Liberal thought that we have read in a long time, but it is not at all dangerous. The compliment of making it the pivot for the prosecution of D. M. Bennett is entirely unearned. There is no more objectionable matter in it than in the standard English poets, or in parts of the Bible. The only just verdict it can receive is that it was a very weak argument in favor of a very unwise condition of society. This trial has been the grandest farce on the docket of an American court. Evidence to prove the character of the prosecution, the nature of the book, the fact that more indecent literature was daily mailed without objection, even the reading of the entire book before the jury, was excluded by Judge Benedict. The shame in this transaction rests entirely with the prosecution. We have nothing to say in Mr. Bennett's defense more than that he is past sixty years old, that he has in an eminent degree obeyed the dictum of ancient law—to "live honestly, hurt nobody, and render to every one his just due."

[From Dr. Feste's Health Monthly.]

ARE THEY SINCERE ?

The professed object of the societies nominally for the prevention of vice is the suppression of articles, pictures, and publications which pander to corrupt tastes. They affect to believe that "Freethought" publications are to be catalogued with these. In one of their annual reports they speak of this stamping out process, which leads the public to suspect that they are not sincere. People are beginning to believe that their "bustling activity" is simply for the purpose of attracting attention to themselves, and obtaining the support of those who would really like to have such works suppressed. The reason for this growing suspicion is the palpable fact—apparent to every one who gives any attention to the subject—that *they are doing more to circulate such literature* than the parties who write, print, or sell such publications. Before these amateur societies commenced their labors, Knowlton's pamphlet had been in print and before the public for about forty years with a limited circulation of only a very few thousand copies ; probably 10 000 copies would be a large estimate. When the English Vice Society struck at this publication by the arrest of Mr. Bradlaugh and Mrs. Besant, a demand suddenly sprang up for the work, and not only in the English language but in other languages. It was translated into French and German, and for aught we know into the Spanish also. At any rate, it became a publication of great interest, and within a few brief weeks reached a sale of nearly 130,000 copies ! When Mr. D. M. Bennett was arrested the first time, on the pretext of having issued some objectionable tracts, but in reality because he was the editor of a Freethought weekly newspaper, a periodical which was only known to a chosen few, and which had a limited circulation, the paper was almost immediately increased in size to double its former dimensions, and by the persecutions of the New York Society since that time it has reached a circulation of not far from 10 000, and is read by not less than 50,000 people each week. Moreover, all his book publications have received an impetus no other plan, however carefully devised, could have given

them. It is true that while these persecutions are going on Mr. Bennett's expenses in his defense exceed his profits to some extent, but the indications are manifest that if they are to continue, the veteran editor will be one of the best known men in the United States, while his publications will be sought for in every part of the world! When Mr. Heywood was arrested for sending his "Cupid's Yokes" through the mails, that publication, although before the public for some years, had really obtained but a very limited circulation; probably 3,000 would be an over-estimate. But under the encouragement of the New York Society for the Suppression of Vice, which has called more attention to the publication than \$100,000 worth of advertising could have done, this pamphlet has sold to the extent of not less than 80,000, and still the demand increases! Moreover, as quickly as one is struck down for selling it, half a dozen more rise up ready to supply it, and we have no doubt that this publication will reach a circulation as large as that which the Knowlton pamphlet has attained. When we were attacked for our little pamphlet, originally prepared for answering a score of questions frequently asked of medical men, and having for one of its prominent aims the encouragement of "prudential checks" to the increase of the family, having in view the improvement of humanity at the germinal point, *Dr. Foote's Health Monthly* was not in existence; but in resistance to such persecution it has had its birth and reached an average circulation of 3,000 copies per month, while the pamphlet before alluded to probably did not circulate to the extent of 100 per month. Moreover, two active publishers and several who have not as yet engaged in the publishing business, have besought us to let them issue the condemned pamphlet which cost us a fine of \$3,500. Not having had much of the quality of pugnacity in our mental constitution, and being more disposed to work for the repeal of a bad law than to act in defiance of it, or of its interpreters, we have not yet acceded to these propositions. But, so far as giving circulation to our views on medical and physiological reform is concerned, the *Health Monthly* is doing ten times greater work than the pamphlet with its limited thirty-two pages could possibly have done.

In view of these facts, then, we say it is evident that the vice societies are, as some writer has expressed it, "attitudinizing" themselves before the public, pretending to do "a great work," which great work they are indeed doing, but in a direction opposite to that in which they profess to be doing it, or for which they are receiving the contributions of those who are in sympathy with their *professed* work. If really sincere, would it not be well to let Freethought literature alone, and confine themselves to the suppression of works which are always ready to skulk when attacked? Obscene literature always does this, while the literature of the advanced mind flourishes under persecution.

## LETTER VII.

CELL 36, LUDLOW ST. JAIL, July 21, 1879.

DEAR READERS OF THE TRUTH SEEKER: Still another week has passed away, and part of it has been swelteringly hot; two days the mercury reached 100 degrees above zero in the shade even in this safe retreat. Sunstrokes and prostrations are reported in all directions, but none occurred here. The temperance of habits in eating and drinking, the freedom from exposure, and the lack of necessity for making great exertions on the part of the inmates of this institution, serve to protect them from the fiery darts and bolts of Old Sol. While those in the outside world are broiling in his fierce rays, and great numbers are succumbing in all directions to the force of his power, the inmates of Ludlow are happily protected from all these. They walk the corridors in undress, they speak to each other in subdued tones as they pass, glancing almost furtively between the bars and grates, asking the memorable and ever-impertinent question, "Well, is it hot enough for you?" I said to one or two, as we chanced to meet, "Well, we are protected here from sunstrokes, midnight robbers, temptations to intoxication, debauchery, and all that." "Yes," was the reply, "that's all very well, but I had far rather take all those risks and have my liberty than be shut



up here this hot weather." I noticed the sentiment found a response in my own heart.

As overpowering as Old Sol is when he seems to get on the rampage, as he has in this heated term, I am constrained to rejoice that he still possesses his power as of yore. He is a grand old institution; the visible source of organization, motion, sensation, life in the myriad forms in which it exists; the supreme power in our solar system. There are, of course, unseen subtle forces, fluids, and currents working in connection with him, but he is the potential generator of all life, all growth, all development, all physical perfection, and all mental phenomena. He is the object more worthy of the worship and adoration of mankind than all else that has an existence. I have often sympathized with the sun-worshippers of olden times, who used to ascend to the tops of mountains and erect altars to the sun, and bow down in adoration before him as he showed himself in the eastern horizon and grandly sped on his course through the heavens to hide himself at even behind the western hills. He is the grandest object of worship that blind man ever bowed before; and though all the homage they could pay him did him no good nor contributed aught to help him on his journey, he nevertheless dispensed blessings on every side; he caused vegetation of all kinds to spring up, the grasses of the fields, the trees of the forests, the herbs, the vegetables, and the fruits, to perfect themselves; it was he that gave to animal life all it possesses. If man must needs worship anything, whether real or imagined—save, perhaps, his fellow-beings in their entirety—

there is no object so deserving their homage and gratitude as the glorious, ever-beaming Sun.

I am glad Old Sol does still possess his power as of old. There is a certain class of men who would have us believe that his power is waning, that his forces are being spent, and that after a certain period the earth, from the loss of heat derived from his rays, must become colder and colder, darker and darker, until it relapses into eternal frost and night. That is a fearful condition to contemplate our old mother earth falling into, and one that is to be hoped may be deferred a few decillions of ages. Yes, I am glad to receive proofs within the last few days that this chilling, deathly argument and prediction is without foundation, that the sun still retains his primitive power and potency, and that for millions of years to come, as he has in the millions that have passed, he will continue to roll and rule in grandeur and glory. If his rays do dart down upon us rather fiercely when he is most directly over us; if, during a few days in the year, his strength is a little in excess of our powers of endurance, let us not mind that; let us be glad that his might and brilliance are not waning, that there is nothing to be feared about his growing old and feeble and after a time sinking into dotage and death, compelling his satellites, planets, and asteroids to do the same, with all the life they contain. I take great stock in Old Sol, and I will not complain if, now and then, he is a trifle more ardent in his caresses than is just agreeable. All hail, the glorious old Sun forever!

Mutability is the order of exercises in Ludlow Jail, as it is elsewhere. A few new faces have been admitted within the last week, but some twenty-five

have been discharged. They have gone out into the outside world, and will now be compelled to seek their "grub" elsewhere. Among the happy number are my good-looking friend, Smitt, who had been charged with some military offense, and my other friend, William Homel, who sold lager beer for the tricky German widow, and was put in here because he was unable to pay for the beer at the end of the week. He was so overjoyed to bid good-bye to the Ludlow castle that he hastened away without stopping to tie his shoes, or to adjust his hat or his clothes. I repeated to him the elder Weller's sage advice, to "bevare of the vidders," and hope he will not disregard it.

The inmates of this establishment are now reduced to less than half a hundred, and there are nearly fifty of that number who are anxious to obtain their walking-papers and take their chances out in the wide, wide world. I can see that many chafe and fret at their continued confinement. Nearly all are doing everything they can to shorten their imprisonment; but still, with all their outside friends can do for them, with their own exertions thrown in, they find the iron doors will not open for them. They find it much easier to get into jail than to get out.

The sheriff is charged with having an interest in keeping here all he can. He obtains seventy-five cents a day from the county for each prisoner for the food he gives them, on which he probably makes a net profit, daily, of sixty-five cents per head; and on the boarders who pay \$15 per week, it is not hard to see that a decided profit is realized. Some of the inmates here charge the sheriff with refusing to obey writs of *habeas corpus* to take them

before the courts, that an examination may be had as to why they are deprived of liberty, and this that he may retain them as boarders. This is a hard charge, and it is charitable to hope that it is not true. It is sad to think that any man, fit to be a sheriff, would willfully keep a fellow-being in prison for the pittance he can make by boarding him. From the reports of the examination now being had, it appears that the sheriff makes a very handsome profit on prisoners who are able to get out on bail, as \$20 is often charged for filling out a bail-bond—a printed form with blanks to be filled out, and requiring but a few minutes' time. One party informed me within the last few days that \$300 was paid in one instance for filling out a bail-bond. But when a man is in prison he is willing to do almost anything in his power to regain his liberty. It is to be feared there is a great deal of dishonesty and rascality in this world.

Among the ones anxious to be free again is another friend, Charley Black, who often brings me my meals. He seems to be confined here quite unjustly. Charley, unfortunately, has a faithless wife, and she became enamored with another man who has more money and possibly more attractions than he. She decided to leave Charley and take up with this other less honorable man, and the course she pursued was still more reprehensible than following her unholy inclinations. She accused Charley of adultery with a female friend who stopped with them for a few days, and commenced an action for divorce against him, making oath that he was about to leave the city, and upon that charge caused him to be put in this prison under

\$2,000 bail. Then the false woman proceeded to strip the house of everything, including Charley's wardrobe and their only child, went off with the other fellow, and is living adulterously with him. Charley, of course, feels very unhappy under this state of things, and is doing all he can to change it. The lady with whom his wife falsely accused him of committing adultery has made oath that the charge is utterly false, and Charley's bail has been reduced from \$2,000 to \$100; and though obtaining bail when one is in prison is often not an easy thing to do, as soon as Charley's friend returns to the city from a temporary absence, he will undoubtedly be free again, when the faithless wife may take a turn at imprisonment, just to see how agreeable it is. Charley seems like a very honorable, faithful man; but if he has such a wife, he is cursed indeed.

My own case and chances seem unchanged. The petitions and private letters continue to flow in to the President in my behalf, but still I hear of no liberation papers being signed to open my prison doors, although my hopes are steadily in that direction. As he must be fully conscious that I am unjustly imprisoned, that my offense was nothing, that my trial was most unfair, with the urgent request of between 125,000 and 200,000 persons asking for my release, it would seem that there must be a strong adverse influence working upon him to prevent him from performing so simple an act of justice. But it is to be hoped that he will not allow this adverse influence to unduly prevent him from performing the simple act of justice aforesaid. Probably he does not wish to act hastily or without thought. The weather is warm, and excessive haste would not be

advisable; but if he himself were in prison, he might possibly feel a little more in a hurry than he seems to now. It takes some people a good while to make up their minds, and sometimes the attending embarrassments are so great as to make it difficult to decide how to act. If the President will turn this little difficult matter over to me, I think I can settle it in a very few minutes, and my term of imprisonment would come to a sudden termination. But as he probably will do nothing of the kind, I must continue to exercise all the patience I can possibly muster, and hope that he ultimately may see his duty clear, to let an innocent man out of prison to go about his business. I am not without hope and am not yielding myself to unavailing grief and anxiety. I am trying to let, "Patience do her perfect work."

My spirit is cheered, during my imprisonment, by the reception of numerous sympathetic letters from kind friends in the East and the West, the North and the South, and various parts of the country. Many of these letters contain remittances of greater or less magnitude from such friends as realize that in all this business, and in keeping THE TRUTH SEEKER alive, numerous and heavy expenses have to be met. I feel very grateful to such friends and cheerfully acknowledge such receipts. I have not the full list with me, and can only give some of the names of the kind donors, which I will here introduce. If I get out of prison I will print the entire list. Here are some of the names:

Henry Severance, Dunkirk, N. Y.,	\$ 3.50
George Williams, Hudson, Mich.,	4 00
George Hendee, Royal Center, Ind.,	5.00
P. C. Heing, Pioneer, Pa.,	5.00

John Robinson, Scott Bar, Cal.,	5.00
E. G. Goldbaum, Memphis, Tenn.,	5.00
Louis Wolfram, Sherman, Tex.,	5.00
Wm. Tyler, N. Brunswick, Mo.,	5.00
Daniel E. Ryan, New York,	5.00
J. H. Johnson,           “	10.00
M. Reiman,               “	12.00
M. Van Duesen,         “	25.00

Several others have kindly remitted, whose names, as I said, I have not by me, and many have sent in orders for books and the names of many new subscribers. It all helps in the right direction and all is gratefully received. My wife has received the following letter:

SAYBROOK, O., July 13, 1879.

MRS D. M. BENNETT, *Dear Madam*: Please find inclosed ten dollars to help pay expenses and keep alive THE TRUTH SEEKER. I am in favor of free thought, free speech, and free mails, and will do all I can to help in this big fight for freedom.                   Respectfully,                   MARTHA TINKER.

The following generous letter is from the same grand man who has on several previous occasions opened his heart and his pocket book to those in need:

DAVISVILLE, CAL., July 8, 1879.

MR. D. M. BENNETT, *My Dear Friend*: Inclosed find P. O. orders for \$100.00 to help you pay the unjust fine imposed upon you. I do not like to swear, but I do when I think of the persecution you have suffered at the hands of the Christian frauds. Keep up good courage; you are bound to come out first best in the long run.

I wish I could be more liberal, but my raisin making has not been a success yet. [He is an extensive fruit grower.] Sympathizing with you in your persecution, I am,

Most respectfully yours,           G. G. BRIGGS.

I sincerely thank all these kind friends for their

generosity and am sorry that it requires so much money to meet all the expenses incumbent upon me. I value money chiefly for the good it enables me to perform and the necessities it helps me to meet.

Among the notices of the press in various parts of the country, I will give here a short one from *The True Blue* of Rochester, N. Y.:

D. M. Bennett of *THE TRUTH SEEKER* is still "behind the bars" at Ludlow Street Jail for committing no crime. The surest way to make friends for any cause and set people to thinking about things they would otherwise never hear of is to persecute its advocates. The government will soon find itself as bad off with Mr. Bennett in prison as was the man who drew an elephant at a raffle. Mr. Hayes should make haste to pardon Mr. Bennett from the prison into which he has been hurled by the minions of iniquitous power. . . . The good effects to *THE TRUTH SEEKER* resulting from the trial, conviction, and incarceration of Mr. Bennett are showing themselves by increased patronage. The result desired by the Comstock gang, namely, the killing of the paper, will prove a "boomerang."

#### MORE OF THE REIGN OF TERROR IN ENGLAND.

I will now return to the subject treated in my last letter, and give Parker's remarks after the trial of Thomas Muir, in the time of George III., which I gave.

Then came that series of trials for high treason which disgraced the British nation and glutted the sanguinary vengeance of the court. The government suborned spies to feign themselves "radicals," join the various reform societies, worm themselves into the confidence of patriotic and philanthropic or rash men, possess themselves of their secrets, catch at their words, and then repeat in court what they



were paid for fabricating in their secret haunts. A ridiculous fable was got up that there was a plot to assassinate the king! Many were arrested charged with treason—"constructive treason." On the evidence of spies of the government, hired informers—regular Comstocks—estimable men were seized and locked up in the most loathsome dungeons of the kingdom, and with intentional malignity confined among the vilest of notorious criminals. The judges wrested the law, constructing libels, seditious, misdemeanors, treasons—any crime which it served their purpose to forge—out of acts innocent or only rash or indiscreet. "Obscenity" or "constructive obscenity" had not been elevated into a crime at that time or the Comstocks and Colgates and Benedicts of those days might have done a lively business in arresting and imprisoning people under that charge. Juries were packed by bribed sheriffs, and purchased spies were brought in as evidence to swear away the liberty or the life of noble, honorable men. One of the government witnesses was subsequently convicted of ten perjuries. (Anthony can see that number and go twenty better.)

No man was safe who dared utter a serious word against George III. or Mr. Pitt.

Two cases will be cited as samples of many more:

#### CASE OF THOMAS HARDY.

In 1794, in a bill suspending the *habeas corpus*, Parliament declared that "a treacherous and detestable conspiracy had been formed for subverting the existing laws and constitution, and for introducing the system of anarchy and violence which had lately prevailed in France." Soon after the grand jury of Middlesex indicted twelve men for high

treason; they were members of some of the societies just mentioned. "The overt act charged against them was that they had engaged in a conspiracy to call a convention, the object of which was to bring about a revolution in the country," but it was not alleged that there was any plot against the king's life or any preparation for force. Thomas Hardy, a shoemaker, was first brought to trial. The trial began October 28, 1794. Sir John Scott, the attorney-general, in opening the prosecution, made a speech nine hours long (Fiero said he wanted but nine minutes), attempting to construct treason out of belonging to a society. All who belonged to it were to be considered as "compassing the death of our lord the king." Chief-Justice Eyre, in addressing the grand jury, referred to the act of Parliament as a proof of conspiracy. Mr. Erskine defended Hardy in a speech that "will live forever." Seldom had English liberty been in such peril; never did English lawyers more manfully defend it. The jury, a London jury, returned "Not guilty." The report of the trial occupies more than twelve hundred pages in "State Trials of England," vol. 24, and it shook the nation. The British juries for a long time had slept at their post, and allowed the enemy to enter the camp and murder its inmates. But the trial of Hardy woke up those heedless sentinels, and liberty was safe—that is, in England. The Comstock trials under Benedict may have a similar beneficial effect on the cause of liberty in America.

#### JOHN HORNE TOOKE'S SECOND TRIAL.

Still the infatuated government in England went on, not conscious of the spirit of Anglo Saxon liberty

it had at last roused from long, heavy, and death-like sleep, and eleven days after brought Mr. John Horne Tooke to trial. It will be remembered, he had been tried nearly twenty years before, on the first anniversary of the Declaration of American Independence, for publishing the notice of a meeting which raised £100 for the widows and orphan children of the colonists who fell at the Battle of Lexington, April 19, 1775, and for that offense was punished with fine and imprisonment. After the acquittal of Hardy the government brought Mr. Tooke to trial, relying on the same evidence—membership of a reform society—to convict him of “levying war,” and “compassing the death of our lord the king,” Mr. Erskine defended him. Said he: “I will assert the freedom of an Englishman; I will vindicate and glory in the principles which raised this country to her preëminence among the nations of the earth; and as she shone, the bright star of the morning, to shed the light of liberty upon nations which now enjoy it, so may she continue in her radiant sphere to revive the ancient privileges of the world which have been lost, and still to bring them forward to tongues and people who have never known them yet, in the mysterious progression of things” (25 St. Tr., 1).

Horne Tooke was acquitted; the government, routed and overwhelmed with disgrace, gave up the other prosecutions, and the treason trials ended. Even George III. had wit enough left to see the blunders which his ministers had committed, and stammered forth, “You have got us into the wrong box, my lord [Loughborough]; you have got us into the wrong box; constructive treason won’t do, my lord; constructive treason won’t do.” By and by the

obtuse and obstinate Benedict possibly may say to Comstock and Colgate, "My excellent and pious sirs, you have got us into the wrong box. Constructive obscenity won't do, my friends; constructive obscenity won't do."

Of these trials, Mr. Campbell, himself a judge, declares, "This [the conduct of the government] was more exceptionable in principle than anything done in the reign of Charles II.; for then the fabricators of the popish plot did not think of corroborating Oates and Bedloe by a public statute; and then, if the facts alleged had been true, they would have amounted to a plain case of actual treason; whereas, here, admitting the truth of all the facts alleged, there was no pretense for saying that any treason contemplated by the legislature had been committed. If this scheme had succeeded, not only would there have been a sacrifice of life contrary to law, but all political 'agitation' must have been extinguished in England, as there would have been a precedent for holding that the effort to carry a measure by influencing public opinion through the means openly resorted to in our days, is 'compassing the death of the sovereign.' The only chance of escaping such servitude would have been civil war. It is frightful to think of the perils to which the nation was exposed. . . . But Erskine and the crisis were framed for each other. . . . His contemporaries, who without him might have seen the extinction of freedom among us, saw it, by his peculiar genius, placed upon an imperishable basis" (5 Campbell, 367). It is to be hoped we have some Erskines in our own day, who value the vital principles of human liberty high enough to be willing to

undergo obloquy and opprobrium to raise their voices in its defense. If I am able to contribute, even in a small degree, in this glorious warfare, I will feel that I have not lived in vain.

#### SLAVERY IN THE UNITED STATES.

I will leave, for the present at least, trials in the English courts, and give an account of trials that have taken place in the courts of the United States, by which some idea can be had of the iniquities and wrongs to human liberty that have been enacted in times past, in the name of law and justice, in this boasted land of freedom.

Slavery is an ancient institution. It has existed in various forms on the earth for thousands of years. It began in the savage and barbarous conditions of man, and it is the savage and barbarous element in the human race that has perpetuated this great injustice. Most of the religions of the world have sanctioned this dire wrong, and to this rule Judaism and Christianity have been no exceptions. The prophets, teachers, and rulers of the former religion said very little against the institution, and were at all times fond of binding their chains upon whatsoever people they could gain ascendancy over. Abraham, Jacob, Moses, Joshua, David, Solomon, Isaiah, Jeremiah, Ezekiel, and Daniel said little or nothing against slavery, but inflicted it upon all whom they were able to bring under their power. None of the great lights in the early days of Christianity said aught against it. Jesus, Peter, Paul, Justin Martyr, Polycarp, Irenæus, Tertullian, Origen, Constantine, Eusebius, nor none of the apostles or early Fathers, nor the later Fathers, popes, Christian

conquerers, kings, and tyrants, said or did anything in favor of down-trodden slaves or the institution that oppressed them. On the other hand, the tenor of their teaching was to uphold slavery and to induce its victims to be content with its inflictions. Of such inculcations are precepts of this kind: "Servants obey your masters;" "Obey them that have rule over you;" "The powers that be are ordained of God," etc., etc. There has hardly been a Christian nation that has not practiced the great wrong of human slavery.

As bad as this system had been in Asia, Africa, and Europe, it was reserved for it to take its worst and most cruel form in America, where was boasted the most freedom and the greatest regard for human rights ever known in the world. And it never gave way, a serious blow was never struck against it, until it was done by the hands of those who acknowledged allegiance to no system of theology—in short, Infidels, unbelievers in the theory that slavery was an institution founded and cherished by a God of love for all his children. Prominent among them were William Lloyd Garrison, Stephen S. Foster, Theodore Parker, Henry C. Wright, Gerrit Smith, Parker Pillsbury, Wendell Phillips, and the final blow was given it by that staunch unbeliever, President Abraham Lincoln. Christianity and the church upheld it as long as it could, but, with the increasing sentiment in favor of equal freedom for all, it finally had to go to the wall.

The more orthodox the church, the more zealously it defended slavery, and the more heterodox the sect, the more it favored human freedom and the more persistently it has contended against the inhu-

man institution. The Friends, or Quakers, have been examples in point; they have from their infancy been the steadfast friends of liberty for all, and the most heterodox branch of them, the followers of Elias Hicks, have been the most faithful friends to the downtrodden, the most persistent haters of injustice and oppression.

At the close of the Revolutionary war there were opposing sentiments in the conscience of the new nation on the subject of African slavery; some were for it and some against it. An animated struggle arose upon the subject, and this continued with increasing earnestness nearly down to the time when it was utterly overthrown. Twice the spirit of freedom won important victories previous to the final one. In 1787 slavery was prohibited in the Northwest territory—what is now the states of Ohio, Indiana, Illinois, etc. In 1808 the African slave trade was abolished.

The victories of slavery were numerous; in 1787 it came into the Constitution; it was left in the individual states as a part of their "republican form of government;" slaves were counted fractional parts of men, without the personal rights of integral humanity, and the rendition of fugitive slaves was provided for. In 1792 out of old territory a new slave state was made, and Kentucky came into the Union. Tennessee followed in 1796, Mississippi in 1817, Alabama in 1819, thus throwing the pall of slavery over the soil which the Declaration of Independence had covered with ideal freedom.

In 1793 the Federal Government took slavery under its especial patronage and passed the first Fugitive Slave bill for the capture of such as should

escape from bondage from one state to another. In 1803 Louisiana was purchased and slavery left in that vast territory; thus the first expansion of our borders was an extension of bondage. Out of that territory three great states, Louisiana, Arkansas, and Missouri, were subsequently made. Florida was purchased as slave soil in 1820, and in 1845 admitted as a state with slavery fully recognized in her constitution. In 1845 Texas, which had previously been free Mexican territory, was annexed, and slavery extended over its wide domain. In 1848 slavery was nominally spread over California, Utah, and New Mexico. In 1850 the Fugitive Slave bill became a law. The North humbled itself before Southern masters and helped to make the law by which every person in the North, if necessary, should be compelled to pursue and hunt down fugitives from slavery and return them to bondage. The courts and marshals of the United States were suborned into the infamous business, and for several years did servile work in this inhuman traffic. The deepest stain that has been made upon the escutcheon of this fair land is the subserviency of its laws, its courts, and its judges to the behests and service of the slave power. Here were eight great victories of slavery over freedom.

It seemed doubtful which was master in the Federal councils; but in 1820, in a great battle—the Missouri compromise—slavery triumphed and for forty years was master. The slave power became predominant in American politics, business, literature, and religion.

The struggle for human freedom in this country was for a long time a most unpopular one. Every



orthodox church, nearly every orthodox periodical, and the great bulk of orthodox clergymen were opposed to the anti-slavery movement. Forcible and unlawful efforts were again and again used to suppress public discussion. To give some idea how far this was true, I will give you a few quotations from William Goodell's "Slavery and Anti-Slavery."

## ACTS OF PRO-SLAVERY MEN.

An attempt to hold an anti-slavery meeting in the city of New York on the 4th of July, 1834, was made the occasion of a frightful and protracted riot. The meeting was broken up, and for several successive days and evenings the city was in possession of the rioters, who assailed private dwellings, and threatened and attempted personal violence upon anti-slavery people. Similar scenes were enacted in Philadelphia a few weeks later. Extensive damages were done to private dwellings and public buildings of the unoffending colored people. During these riots, which continued for several days, many colored people were treated in a ruffianly manner, numbers were wounded, and some lost their lives.

2. At Worcester, Mass., August 10, 1835, while Rev. Orange Scott was lecturing on slavery, a son of an ex-governor of the state, assisted by an Irishman, tore up his notes and offered him personal violence.

3. On the same day, a mob at Canaan, N. H., demolished and dragged away an academy because colored youth were admitted to study there.

4. At Boston, Mass., October 21, 1835, a mob of five hundred "men of property and standing," as claimed by the city papers, mobbed the Boston

Female Anti-Slavery Society, dispersed them while the president was at prayer, and dragged William Lloyd Garrison, editor of the *Liberator*, through the streets with a rope around his body. He was roughly handled, threatened with tar and feathers, but finally conducted to the Mayor, who lodged him in jail till the next day to save him from further violence. After an examination, he was released from prison, but, at the earnest entreaties of the city authorities, left Boston for a time.

5. On the same day, at Utica, New York, a committee of twenty-five prominent citizens appointed a public meeting, and headed by a member of Congress, broke up a meeting convened to form a New York State Anti-Slavery Society, and threw down the press of a journal which had espoused the anti-slavery cause. By invitation of Gerrit Smith, who had identified himself with the movement, the members of the convention repaired to his residence in Peterboro, twenty-five miles away, where they finished the transaction of their business the next day, but not until a portion of them had been pelted with stones, mud, and missiles, at Vernon, on their way from Utica to Peterboro.

6. In December, 1836, an anti-slavery meeting at New Haven, Conn., was broken up by students of Yale College from the Southern states.

7. At Alton, Illinois, November 7, 1837, the press of the *Alton Observer* was destroyed by a mob, and the editor, Elijah P. Lovejoy, was shot dead, receiving four balls in his breast. The murderers were not brought to justice.

8. Pennsylvania Hall, in Philadelphia, was opened May 14, 1838, for the free discussion of all sub-

jects interesting to American citizens. On the 17th of the same month it was burned by a mob because Abolitionists had been allowed to hold meetings there.

9. At Cincinnati, September 5, 1841, a ferocious mob destroyed, for the third time, the printing-press of the *Philanthropist*, a paper devoted to anti-slavery. The first of these outrages was in 1836. James G. Binney, a repentant slaveholder from Kentucky, was then editor and proprietor of the paper.

10. At Philadelphia, August 1, 1842, occurred the worst of several mobs against the colored people of that city. A church and hall built by their earnings were burned down, their houses demolished, and their persons beaten and mangled in the most barbarous manner. The city authorities afforded no efficient protection till the mischief was done, in a riot of two days. The only provocation on the part of the colored people was a peaceable temperance celebration of the anniversary of British West India emancipation, and walking in public procession on that occasion.

11. Benjamin Lundy was repeatedly assaulted in the streets of Baltimore, and once brutally beaten by Austin Wollfolk, a slave trader, before any of the more modern anti-slavery societies were organized. Mr. Lundy was a feeble man, a quiet, unresisting Quaker, but the peculiar institution of Southern chivalry afforded him no protection on that account.

12. William Lloyd Garrison was imprisoned in Baltimore and an assault made upon his person.

13. Miss Prudence Crandall, a benevolent, inof-

fensive young lady, established and taught a school for colored pupils at Canterbury, Conn. Through leading members of the Colonization Society, an act of the state legislature against such schools was procured, and was enforced by imprisonment of Miss Crandall, in 1833. The school having been resumed was finally broken up by violence in September 1834.

14. Dr. Reuben Crandall, of Westchester, N. Y., a brother of Miss Prudence Crandall, having located himself in Washington City to teach botany, was arrested and thrown into prison, August 11, 1835, on a charge of circulating incendiary publications with intent to excite the slaves to insurrection. After lying in jail over eight months, till April 15, 1836, he was brought to trial before Judge Cranch. The evidence against him only proved that he had in his trunk some anti-slavery pamphlets and papers, and that the latter were used by him in wrapping up his botanical specimens, and that, by request he had lent a white person one of the pamphlets. The "incendiary matter" read in court from these papers were articles against slavery and in favor of the right of free colored people to reside in this country.

15. Amos Dresser, of Ohio, traveling in Tennessee to distribute Bibles, was flogged twenty lashes on his bare back in the public square at Nashville, July 25, 1835. His crime was being a member of an anti-slavery society, and having some anti-slavery publications in his trunk.

16. Capt. Jonathan Walker, a citizen of Massachusetts, for assisting the escape of a slave, was

branded with a hot iron on the hand with the letters S. S., and this by an officer of the United States.

SERIOUS RIOT IN NEW YORK IN 1863.

17. In this category may be included some of the events of the monstrous riot which took place in this city on July 13, 14, 15, 16, and 17, 1863. It was during the war of the Rebellion, and originated in opposition entertained by the Irish portion of the population to the draft for strengthening the Federal army. During the progress of the riot, the original motive seems to have been lost sight of, and great excesses were committed against private citizens and corporations but slightly connected with the origin of the riot. Among these may be named two or three attacks on Mayor Opdyke's residence, the destruction of the residence of Postmaster Abram Wakeman (my attorney) on Eighty-sixth street, two attacks on the *Tribune* building, and on armories, factories, and private stores. A persistent bitter feeling reigned throughout towards the colored population. The mob seemed to connect them with the cause of the war, and was filled with hatred towards them. If a colored person was seen upon the streets, he was pursued, beaten, and probably hung to a lamp post. Somewhere about twenty were treated in that way and killed; others were severely beaten; and had not the colored people been discreet enough to take refuge in armories, the arsenal, and other comparatively safe places, hundreds of them would have been killed. Many of their residences were demolished and burned.

A dastardly and inhuman act was the destruction of the Colored Orphan Asylum on Fifth avenue,

extending from Forty-third to Forty-fourth street—a building four stories high and containing over two hundred children, from the merest infants up to twelve years of age. It would seem that no class of men could wish to harm fatherless and motherless infants of that age. But around this building the mob gathered in large numbers, yelling like savages, uttering cries and oaths, filling with dismay and terror the hearts of the inmates. Superintendent Davis, unable to protect the entrances against the assaults of the mob, prudently gathered the terrified children in the yard at the rear end of the building just as the mob effected an entrance. Then the work of pillage commenced, and everything was carried off that could be, even to the dresses, toys, and trinkets of the little ones, while the heavy furniture was chopped and broken in pieces, when it was piled up in the rooms and set on fire. The firemen arrived and made manly efforts to extinguish the flames; but the mob beat them and overpowered them, and setting the building on fire in many places, burned it to the ground. The children were fortunately saved, and were ultimately conveyed for safety to Blackwell's Island, as well as large numbers of other colored people. The churches of the colored people were frequently attacked by the mob, and every venturesome colored man set upon and hung up by the neck. Three and four colored men were seen at a time suspended to lamp posts.

The contests between the mobs—for sometimes four or five different bodies would be operating in different parts of the city at the same time—on the one side, and the police and the military on the other, were bloody in the extreme. Fully twenty

different pitched battles took place. The mobs were fired into by the military many times, and it was this resolute course that finally suppressed the rioters. It was estimated that twelve hundred people were killed or died from the effects of injuries received during the riot, and that several millions of dollars' worth of property was destroyed and stolen. The German portion of the population did not join the rioters, who were nearly altogether of the Irish race. Those who wish to read the details of the bloody affair will find them in "The Great Riots of New York," by J. T. Headley.

#### PROSECUTIONS IN THE UNITED STATES COURTS.

These outrages mentioned, and many others, were chiefly the work of mobs, but I will now take from Parker's Defense cases of prosecutions in the United States courts, where the strong arm of the law in the highest courts of the land was used to oppress people for the expression of their honest opinions and for acts in themselves highly commendable. It is a saddening reflection that the United States courts have so often lent themselves, their power, and aid, to wrong individuals entitled to their protection rather than oppression.

1. On the 10th of March, 1851, Hannah Dellam was brought before Judge Kane of the United States Court in Philadelphia, charged with being a fugitive slave. She was advanced in pregnancy, hourly expecting to give birth to a child. If a convicted murderess is in that condition the law delays the execution of its ghastly sentence till the baby is born, whom the gallows orphans soon. The poor nigger's counsel begged for delay, that the child

might be born in Pennsylvania and so be free—a poor boon, but too great for a fugitive slave bill and pro-slavery judges of the United States courts to grant. The judge, who inherits the name of the first murderer, disgraced the name of Cain; he prolonged his court late into night, that he might send the child into slavery while still in the womb of its mother. Judge Kane held his “court” and gave his decision in the very building where the Declaration of Independence was signed and published to the world. The memorable bell which summoned his court had for a motto on its brazen lips, “Proclaim liberty throughout the land to *all* the inhabitants thereof.”

2. The same year Rachel Parker, a free colored girl, was seized in the house of Joseph C. Miller, of West Nottingham, Chester county, Pa., by Thomas McCreary, of Elktown, Md. Mr. Miller pursued the kidnapper and found the girl at Baltimore, and brought a charge of kidnapping against McCreary. But before the matter was decided Mr. Miller was decoyed away and murdered. The man-hunter was set free and the girl kept as a slave, but after long confinement in jail was at last pronounced *free*—not by the United States judge, but by a Baltimore jury. (20 Anti-Slavery Report, 21, 28, 34.)

3. In the same year occurred the Christiana tragedy. Here are the facts: In Virginia a general law conferred a reward of \$100 on any man who should bring back to Virginia a slave that had escaped into another state, and gave him also ten cents for each mile of travel in the chase after a slave. Accordingly, besides the officers of the Fugitive Slave bill and courts commissioned for that purpose, there was a



body of professional slave-hunters, who prowled about the borders of Pennsylvania to entrap their prey. In September, 1850, a colored man, known in the neighborhood around Christiana to be free, was seized and carried away by professional kidnapers and never afterwards seen by his family. In March, 1851, in the same neighborhood, under the roof of his employer, during the night, another colored man was tied, gagged, and carried away, marking the road along which he was dragged with his own blood. He was never afterwards heard of. These and many other acts of a similar kind had so alarmed the neighborhood that the very name of "kidnapper" was sufficient to create a panic.

On the 11th of September, Edward Gorsuch, of Maryland, his son, Dickinson Gorsuch, with a party of Friends, and a United States officer named Kline, who bore the warrant of United States Commissioner Ingraham, made their appearance in the neighborhood near Christiana, Lancaster county, Pennsylvania, in pursuit of a slave. They lay in wait for their prey near the house of William Parker, a colored man. When discovered and challenged, they approached the house, and Gorsuch demanded his slave. It was denied that he was there. High words ensued, and two shots were fired by the assailants at the house. The alarm was given by blowing a horn, and the neighborhood aroused. A party of colored men, from thirty to fifty strong, most of them armed in some way, were before long on the ground. Castner Hanway and Elijah Lewis, both white men and Friends, rode up before the engagement began, and endeavored to prevent bloodshed by persuading both parties to disperse peaceably.

Kline and the United States deputy-marshal ordered them to join the *posse*, which they of course refused to do, but urged upon him the necessity of withdrawing his men for their own safety. This the marshal finally did, so far as he personally was concerned, when satisfied that there was actual danger of a bloody resistance. Gorsuch, however, and his party persisted in their attempt, and he and two of his party fired on the colored men, who returned the fire with deadly effect. Gorsuch was killed on the spot, his son severely, though not mortally, wounded, and the rest of the party put to flight. The dead and wounded were cared for by the neighbors, mostly Friends and Abolitionists. The slave for the capture of whom the enterprise was undertaken made his escape to a land of safety.

United States Judge Grier denounced the act from the bench as one of treason. A party of marines were ordered to the ground to keep the peace after the battle had been fought and won. United States Marshal Roberts, Commissioner Ingraham, and United States District-Attorney Ashmead, with a strong body of police, accompanied them, and kept the seat of war under a kind of martial law for several days. The country was scoured, houses ransacked, and about thirty arrests made. Among those arrested were Castner Hanway and Elijah Lewis, whose only crime had been endeavoring to prevent the effusion of blood. The prisoners were taken to Philadelphia, examined before a United States commissioner, and committed on a charge of high treason. At the next term of the United States District Court, under a charge from Judge Kane, the grand jury found indictments against all

of them for this crime. (20 Anti-Slavery Report, 30, 31).

Mr. Hanway was brought to trial—for his life—charged with “treason.” It appears that this was his overt act. He was a Quaker, an anti-slavery Quaker, and a “non-resistant;” when he heard of the attack on the colored people, he rode on a sorrel horse to the spot, in his shirt-sleeves, with a broad felt hat on; he advised the colored men not to fire—“For God’s sake don’t fire;” but when Deputy-Marshal Kline ordered him to assist in kidnapping he refused, and would have nothing to do with it. Some of the colored men fired, with the result narrated. It appeared also that Mr. Hanway had said that the Fugitive Slave bill was unconstitutional and that he never would aid in kidnapping a man—words which were held to be very treasonable.

For this “offense” his case was presented to the grand jury of the United States Circuit Court on the 29th day of September, 1851. Judge Kane charged the jury, laying down the law of treason. Mr. Hanway was indicted for “wickedly devising and intending the peace and tranquillity of the . . . United States to disturb;” and for “wickedly and traitorously intending to levy war against the said United States;” and because he, “with force and arms, maliciously and traitorously did prepare and compose and . . . cause and procure to be prepared and composed, divers books, pamphlets, letters, declarations, resolutions, addresses, papers, and writings, and did . . . maliciously and traitorously publish and dispense . . . divers other books . . . containing . . . incitement, en-

couragement, and exhortations to move, induce, and persuade persons held to service to any of the United States, . . . who had escaped, . . . to resist, oppose, and prevent, by violence and intimidation, the execution of said laws" (that is, the law for kidnapping their own persons).

He was brought to trial at Philadelphia, November 24, 1851, before the Honorable United States Judges Kane and Grier, then and subsequently so eminent for their zeal in perverting law and doing judicial iniquity. It was perhaps their great glory that in the cause of slavery they struck at the very first principles of American democracy and set at naught the highest attributes of liberty and justice.

On behalf of the government there appeared six persons as prosecuting officers, among whom were the attorney-general of Maryland, the district-attorney of Pennsylvania, and United States Senator Cooper, of Pennsylvania. It was perhaps very proper that the United States government should thus outrage the common decencies of judicial processes.

This question among others was put to each juror: "Have you formed an opinion that the law of the United States, known as the Fugitive Slave law of 1850, is unconstitutional, so that you cannot for that reason convict a person indicted for a forcible resistance thereto, if the facts alleged in the indictment are proved and the court hold the statute to be constitutional?"

Thus all persons were excluded from the jury who believed that this wicked bill was a violation of the Constitution; and one most important means of the

prisoner's legitimate defense was purposely swept away by the court.

Mr. Ashmead, the government's attorney, said, when the Constitution was adopted, "Men had not then become wiser than the laws [the laws of England and the colonial laws which they were born under and broke away from]; nor had they learned to measure the plain and unambiguous letter of the Constitution by an artificial standard of their own creation [that is, the self-evident truth that all men have a natural and unalienable right to life, liberty, and the pursuit of happiness]; to obey or disregard it as it came up to or fell beneath it [as the law was just or unjust]." Notice this particular; it is equal to Benedict:

"You will receive the law from the court."  
"You are bound by the instructions which the court may give in respect to it." "It is in no sense true that you are judges of the law." "You must take the interpretation which the court puts upon it." "You have the right to apply the law to the facts, but you have no right to go further."

"The crime charged against this defendant is . . . that of levying war against the United States. The phrase, levying war, was long before the adoption of the Constitution; a phrase . . . embracing such a forcible resistance to the laws as that charged against this defendant [that is, speaking against the Fugitive Slave bill and refusing to kidnap a man is levying war against the United States]." It is treason "if the intention is by force to prevent the execution of any one . . . of the general laws of the United States, or to resist the exercise of any legitimate authority of the govern-

ment." "Levying war embraces . . . any combination forcibly to prevent or oppose the execution of a public statute, if accompanied or followed by an act of forcible opposition." "Of course," says Parker, "the court is to determine the meaning of *force*; and using the same latitude of construction as in interpreting *levying war*, it would mean, a *word*, a *look*, a *thought*, a *wish*, a *fancy* even."

Mr. Ludlow enforced the same opinions, relying in part on the old tyrannical decisions of the British courts in the ages of despotism and on the opinions of Judge Chase. Thus the rulings of this judge, who had shown himself an enemy to liberty, and who had been impeached before the United States Senate for his oppressive conduct, were taken as precedents and guides in this trial of the Quaker Hanway. Ludlow insisted that "in treason all the *particeps criminis* are principals. There are no accessaries to this crime. Every act which would render a man an *accessary* will . . . make him a *principal*." "If any man joins and acts with an assembly of people, his intent is always to be considered . . . the same as theirs; the law . . . judgeth of the intent by the fact." This was Judge Kelyng's law.

"It may be advanced that because Hanway was not armed he was not guilty. It is perfectly well settled that *arms are not necessary*. Military weapons are not necessary to a levying of war." "If a body of men be assembled for the purpose of effecting a treasonable object (opposing any kind of statute), all those who perform any part, however minute, or however remote from the scene of action, . . . are equally traitors."

Mr. Brown, state-attorney from Maryland, followed in a similar line of argument; also Senator Cooper spoke at length. Among much that he said was this: "Persons procuring, contriving, or consenting come within the words *aid and abet*. So if he encourages, assists, or consents to the act, it is enough; he becomes at once an aider and abettor, and obnoxious to all the pains and penalties denounced against it. If persons do assemble themselves and act with some force in opposition to some law . . . and hope thereby to get it repealed, this is levying war and high treason." According to that doctrine any person who by any means, in a pamphlet, a speech, or in private conversation, used any arguments in favor of the repeal of any statute *was guilty of treason*.

At the close of his labored argument, the senator read a lengthy extract from a sermon by the Rev. Dr. Wadsworth—which was a pro-slavery production—wishing to use the sanction of religion as well as the power of the law against one of his constituents. He closed his remarks with, "No, sir! no, sir! there is no gospel in all this treasonable fanaticism [the Quaker's anti-slavery convictions], for treason to my country is rebellion to my God."

Judge Grier made a serious charge to the jury and bore heavily on the accused Quaker. He struck out from the phonographer's report the most objectionable parts, but what remains is bad enough. Here is a sample or two: "The guilt of the foul murder [the shooting of the kidnapper] rests not alone on the deluded individuals who were its immediate perpetrators, but the blood taints with even deeper dye the skirts of those who promulgated doc-

trines subversive of all morality and all government." (That is to say the laws in favor of slavery.) "This murderous tragedy is but the necessary development of principles and the natural fruit from seed sown by others whom the arm of the law cannot reach." (For instance, the authors of the Declaration of Independence.)

"This law [the Fugitive Slave law] is constitutional. The question of its constitutionality is to be settled by the courts [pro-slavery courts] and not by the conventions either of laymen or ecclesiastics."

"We are as much bound to support this law as any other." "The jury should regard the construction of the Constitution as given them by the court as to what is the true meaning of the words *levying war*." "In treason all are principals, and a man can be guilty of aiding and abetting though not present."

"The government was perfectly justified in supposing that this transaction was but the first overt act of a treasonable conspiracy, extending over many of the Northern states, to resist by force of arms the execution of this article of the Constitution, and the laws framed in pursuance of it. In making these arrests, and having these investigations, the officers of the government have done no more than their strict duty."

But notwithstanding the great efforts made by the United States attorneys and judges, the jury returned a verdict of "not guilty," and the peaceful Quaker was again a free man.

4. On the 29th day of April, 1852, a man named William Smith was arrested by U. S. Commissioner McAllister of Columbia, Pennsylvania, on complaint



of one Ridgely of Baltimore. While in custody of the officers, Smith endeavored to escape, and Ridgely drew a pistol and shot him dead. The murderer escaped. No serious efforts were made by the authorities to bring that criminal to justice. "He has the same right to repossess his slave here as in his own state;" the same right to kill him if he attempts to escape. This was pro-slavery law.

5. In 1852 Daniel Kauffman allowed a party of fugitive slaves to pass the night in his barn, and gave them food in the morning. For this he was brought before the same Judge Grier's court and fined \$2,800—more than the man was worth—and friends were under the necessity of contributing to help him pay the fine. That United States court must have deemed it a greater crime to shelter and feed fugitives from slavery than to deposit one of Mr. Heywood's pamphlets in the mail.

6. In a case of attempted slave-catching at Wilkesbarre, Penn., United States Deputy-Marshal Wyncoop and his assistants behaved with such atrocious and abominable cruelty that the citizens felt that justice demanded punishment for the outrage. They were accordingly arrested on a warrant issued by a magistrate on the oath of one of the principal residents of the place. A writ of *habeas corpus* was forthwith sued out before Judge Grier, when District-Attorney Ashmead moved the discharge of the relators, which the judge readily granted, and thereupon delivered himself as follows: "If *habeas corpus* are to be taken out after that manner, I will have an indictment sent to the United States grand jury against the person who applies for the writ, or assists in getting it, the lawyer who

defends it, and the sheriff who serves the writ, to see whether the United States officers are to be arrested and harassed whenever they attempt to serve a process of the United States." It is singular that a government judge in a free nation should utter such sentiments.

7. Here is a solitary instance where a court (not United States) was not subservient to the power of slavery: About the middle of March, 1854, a man named Joshua Glover was seized near Racine, Wisconsin, as a fugitive slave. His arrest was attended with the usual circumstances of cruelty and cowardice. He was taken, chained and bleeding, to Milwaukee, and thrown into jail. The people of the city were indignant, and a public meeting was called at once. Stirring speeches were made and strong resolutions in favor of human freedom passed. A vigilance committee was appointed to see that Glover was not secretly spirited off. The people were unwilling to trust United States judges and commissioners under the operation of the above law, and they stepped forward to see that justice was done. One hundred men came from Racine, and a number from Milwaukee joined them. They proceeded to the jail, rescued the fugitive, and escorted him back in triumph to Racine. After the rescue, the United States marshal arrested several who assisted on a charge of resisting an officer in the discharge of his duty—among them Sherman M. Booth, the editor of the *Free Democrat*. When brought before a commissioner, in the custody of the marshal, a writ of *habeas corpus* was sued out in his behalf, and he was brought before Judge A. O. Smith, of the Supreme Court, who granted him a discharge on the grounds

of the unconstitutionality of the Fugitive Slave law. The marshal then had the proceedings removed by a writ of *certiorari* before a full bench of the Supreme Court, where the decision of Judge Smith was confirmed and Booth discharged from custody. Immediately afterwards, Judge Miller, of the United States District Court, issued another warrant for Booth for abetting the escape of a prisoner from the marshal. Another writ of *habeas corpus* was sued out, but was denied by the Supreme Court as not being within the range of the former decision.

In the mean time the United States judge and marshal were busy. Grand and petit juries were packed in the most unblushing manner. The whole weight of the government was thrown against the defendant. An indictment was found and a conviction secured. Booth was sentenced to imprisonment one month and a fine of \$1,000. Others were also indicted, and Mr. Rycraft was convicted and sentenced. The judge was severe in his rulings, and all motions in favor of the prisoners based upon irregularities, etc., were promptly overruled, as well as subsequent motions for arrest of judgment. The public excitement was great, and the liberty-loving people of the city and state protested against the tyranny of the United States court. A writ of *habeas corpus* was issued in behalf of the prisoners by the Supreme Court, sitting at Madison, the capital of the state, returnable before them. Accompanied by two thousand citizens, the prisoners, in charge of the high sheriff, had a hearing at once, and were discharged on the ground of the unconstitutionality of the law under which they had been convicted. The prisoners were taken home in triumph. Thus the state

court proved itself far more loyal to liberty and justice than the United States court. It is to be regretted that the United States courts are so often found on the side of tyranny and oppression.

Upon a petition, however, of the attorney-general of the United States to the chief-justice of the Supreme Court of the United States upon a copy of the proceedings, which was obtained from the Supreme Court of Wisconsin, a *writ of error* was allowed and issued to bring the judgment of the Supreme Court of Wisconsin before the Supreme Court of the United States to correct the error of judgment. The Supreme Court of Wisconsin directed its clerk to make no return to the writ of error and to enter no order upon the journal of record of the court concerning the same. Accordingly, the clerk refused to make a return to the mandate of the Supreme Court of the United States. Upon this bold and independent course on the part of the Supreme Court of Wisconsin, the Supreme Court of the United States, under a rule laid, ordered the certified copy of the record of the Supreme Court of Wisconsin, which the attorney-general had before procured, to be entered on the docket, to have the same effect and legal operation as if returned by the clerk with the writ of error. Thus the highest court in the land felt that it had shown its condemnation of what it considered contumacy on the part of an inferior court. The greater was on the side of oppression, the lesser on the side of liberty.

8. Here is more of the justice of United States courts. In October, 1852, several colored persons were about leaving Sandusky in a steamer for De-

troit when they were seized and taken before Mr. Follett, mayor of the city, and claimed as fugitive slaves. Mr. Rush R. Sloane was engaged to act as attorney for the colored people. He demanded of the mayor and the claimants by what authority the prisoners were detained. There was no reply. He then asked whether they were in the custody of a United States marshal or commissioner. Again no reply. He next called for any writs, papers, or evidences by which they were detained. Still no answer. He then said to his clients, "I see no authority to detain your colored friends;" and they were soon in the street. Then one of the claimants said to Mr. Sloane: "I own these slaves; they are my property, and I shall hold you individually liable for their escape." These were the first and only words he spoke to Mr. Sloane, and the only claim or authority presented.

In due time Mr. Sloane was arrested for resisting the execution of the Fugitive Slave bill, though he had only acted as counsel for the alleged slaves, and had offered no resistance to the law by deed, word, or sign. He was brought to trial before the United States court at Columbus. The jurors were questioned "whether they had any conscientious scruples against the Fugitive Slave law and would hesitate to convict under it." If they answered "Yes," they were rejected. Thus the jury was packed against the accused, and the trial went on. Thirteen unimpeached witnesses deposed to the facts above stated, while the claimant had no evidence save the city marshal of Sandusky and two slave-catchers, who swore that they had with them powers of attorney for the seizure of twenty-four slaves.

But, strange as it may seem, Mr. Sloane was found guilty, and was sentenced to pay a fine of \$3,000, and \$930 as costs of court, and this besides all the other expenses he had been put to, and all for simply telling his clients that he saw no authority to detain them, after three times demanding the authority and none had been shown. Judge Leavitt refused to sign a bill of exceptions enabling Sloane to bring the case before the United States Supreme Court. Such is the justice of the United States courts.

ATTEMPT TO KIDNAP ELLEN AND WILLIAM CRAFT  
IN BOSTON.

9. William and Ellen Craft were slaves in Georgia. Their master was called a pious and excellent Christian. Ellen had a little baby; it was sick and ready to die. Her owner one day had a large party, and her services were required to attend to the guests, regardless of the condition of her babe. The groanings and moanings of her little one reached her ears while she was waiting on the gay and happy guests; but soon the moanings ceased—her child was dead, and her heart was broken. William and Ellen resolved to flee to the North. They cherished the plan for years, and saved a little money. William was a carpenter, and hired his time of his master by paying him \$200 per year. Stealthily, piece by piece, he bought a suit of gentleman's clothes to suit Ellen. She disguised herself as a man, and William attended her as a servant. They reached the North in safety, and went to Boston, where they lived, happy and respected for several years.

The first blow of the Fugitive Slave bill fell upon them. In October, 1850, one Hughes, a jailer from Macon, Georgia, and public negro-whipper, attended by a Mr. Knight, visited Boston to take William and Ellen back to slavery. Writs for the arrest of the fugitives were procured from Judge Levi Woodbury of the United States Court. Ellen was taken care of by friends; William was tall and powerful, and was able to defend himself until they found safety in the possessions of the monarchy of England. Public sentiment forced the would-be kidnappers home. They failed to secure their prey.

10. February 15, 1851, a colored man named Shadrach was arrested in Boston under a warrant issued by the same United States Court. But Shadrach was rescued by a small number of colored people, and he safely escaped to Canada, at which the United States authorities were very angry.

11. On the night of April 3, 1851, Thomas Sims, a colored man, was arrested by two Boston policemen on a pretended charge of *theft*. He was claimed as a slave under the Fugitive Slave law. His trial in the United States Court lasted nine days. He was ably defended by Messrs. Sewall, Rantoul, and Loring. But Thomas Sims was declared "a chattel, personal to all intents, uses, and purposes whatsoever." After it became plain that he would be decreed a slave, the poor victim of Boston kidnappers asked one boon of his counsel: "I cannot go back to slavery," said he; "give me a knife, and when the commissioner declares me a slave, I will stab myself to the heart, and before his eyes. I will not be a slave." The knife was withheld. At the darkest hour of the night, United States Marshal

Tukey and Mayor Bigelow, with two or three hundred armed policemen, took the poor boy, as he yet was only a boy, from his cell, chained and weeping, on board a vessel, the *Acorn*, which bore him back to slavery. He was conveyed to the jail at Savannah, where he was whipped till human nature could bear no more.

#### CASE OF ANTHONY BURNS.

12. We come now to the case of Anthony Burns, in connection with which Theodore Parker was arrested and indicted by the United States Circuit Court in Boston, and which case has previously been alluded to. On Wednesday evening, May 26, 1854, Anthony Burns, a colored man, while walking in Court street, Boston, was taken into custody by officers Coolidge, Riley, and Loughton, under the orders of Watson Freeman, United States marshal, and by virtue of a warrant issued by United States Commissioner Edward G. Loring, authorizing the arrest of Burns as an alleged fugitive from the "service and labor" of Charles F. Suttle, a merchant of Alexandria, Va. The arrest was made very quietly, and he was escorted to an upper room in the Court House, where, under a strong guard of officers, he was kept for the night, and the news of his arrest was not given to the public till the following morning.

Burns was about thirty years of age, and had for some time been in the employ of Collin Pitts, clothier, 36 Brattle street. He was a shrewd, intelligent man, and his story of the manner in which he left his master in Alexandria was interesting. After acquitting his master of all suspicion of cruelty, he



stated that leaving him was the result of an accident ; that one day while tired he laid down on board a vessel to rest, and fell asleep, and during his slumbers the vessel sailed, and thus he was taken to the North.

At examination at 9 o'clock the next morning, Messrs. Thomas and Parker appeared as counsel for the claimant, and Messrs. Dana, Ellis, and Morris volunteered for the defendant. The official papers, including the customary power of attorney from the court at Alexandria, were read, as well as the complaint of the commissioners. A witness from Virginia was introduced, who identified Burns as the fugitive who had escaped from Suttle. At this juncture Mr. Dana made a motion that, as Burns had been taken by surprise and had not had time to make up his mind whether he wished to make a defense or not, the case be continued until such time as some course could be decided upon. Mr. Parker, on the side of the complainant, opposed this on the ground of the additional expense it would subject his client to. Mr. Dana rejoined that a man's liberty should not be overthrown on the consideration of convenience or a few dollars' expense. The commissioner continued the case till Saturday morning, and gave the usual order to the marshal to keep the prisoner in a place of safety.

The interest felt in the slave was very great. The leading anti-slavery people obtained the use of Faneuil Hall for Friday evening, and issued the following card, which appeared in all the papers and was placarded throughout the city :

“ A man kidnapped ! A public meeting will be held this (Friday) evening, May 26th, at 7 o'clock, to secure justice

for a man claimed as a slave by a Virginia kidnapper, and imprisoned in Boston Court House, in defiance of the laws of Massachusetts! Shall he be plunged in the hell of Virginia slavery by a Massachusetts judge of probate?"

In the evening an immense concourse of people filled the hall, and the meeting was called to order by Hon. Samuel E. Sewall. Judge George R. Russell, of Roxbury, was chosen as president, and some twelve prominent citizens as vice-presidents. The president opened with a stirring speech, followed by Dr. S. G. Howe, with a series of resolutions. Francis W. Bird counseled "fight."

John L. Swift said: "Burns is in the Court House. Is there a law to keep him there? The Fugitive Slave law received in the House on Tuesday night one hundred and thirteen stabs, and was killed. The compromises are no more. They are murdered by the Nebraska bill. Hereafter let not the word *compromise* desecrate the tongue of any true American. It has been said that Americans and sons of Americans are cowards. If we allow Marshal Freeman to carry away that man, the word coward should be stamped on our foreheads [cheers]. When we go from this Cradle of Liberty let us go to the tomb of liberty, the Court House. To-morrow Burns will have been incarcerated there three days; and I hope to-morrow to witness in his release the resurrection of liberty. This is a contest between slavery and liberty, and for one I am forever on the side of liberty."

Wendell Phillips spoke as follows: "I am glad to hear the applause to the statement that the city government is on our side. If the city police had been ordered on the Sims case as they are now,

not to lift a finger in behalf of the kidnappers under pain of instant dismissal, Thomas Sims would have been here in Boston to-day. To-morrow is to determine whether we are ready to do the duty we are left to do. There is now no law in Massachusetts, and when law ceases the people may act in their own sovereignty. I am against squatter sovereignty in Nebraska and against kidnapper sovereignty in Boston. See to it that to-morrow, in the streets of Boston, you ratify the verdict of Faneuil Hall, that Anthony Burns has no master but his God.

“The question is to be settled to-morrow whether we shall adhere to the case of Shadrach or the case of Sims. Will you adhere to the case of Sims, and see this man carried down State street between two hundred men? [No!] I have been talking seventeen years about slavery, and, it seems to me, I have talked to little purpose, for within three years two slaves can be carried away from Boston. Nebraska I can knock a man down, and this is spitting in his face after he is down. When I heard of this case and that Burns was locked up in the Court House, my heart sank within me.

“See to it, every one of you, as you love the honor of Boston, that you watch this case so closely that you can look into that man’s eyes. When he comes up for trial get a good sight of him, and don’t lose sight of him. There is nothing like the mute eloquence of a suffering man to urge to duty. Be there, and I will trust the result. If Boston streets are to be so often desecrated by the sight of returning fugitives, let us be there, that we may tell our children that we saw it done. There is now no use for Faneuil Hall. Faneuil Hall is the purlieu of

the Court House to-morrow morning, where the children of Adams and Hancock may prove that they are not bastards. Let us prove that we are worthy of liberty."

Theodore Parker next spoke as follows, as reported by a phonographer :

*Fellow Subjects of Virginia:* [Loud cries of "No, no," and "You must take that back "] *Fellow Citizens of Boston,* then. ["Yes, yes "] I come to condole with you at this second disgrace which is heaped upon the city made illustrious by some of those faces that were once so familiar to our eyes. [Alluding to the portraits which once hung conspicuously in Faneuil Hall, but which had been removed to obscure and out-of-the-way locations.] Fellow citizens, a deed which Virginia commands has been done in the city of John Hancock and the "brace of Adamses." It has been done by a Boston hand. It was a Boston man who issued the warrant ; it was a Boston marshal who put it in execution ; they are Boston men who are seeking to kidnap a citizen of Massachusetts and send him into slavery for ever and ever. It is our fault that it is so. Eight years ago a merchant of Boston "kidnapped a man on the high road between Faneuil Hall and old Quincy," at 12 o'clock—at the noon of day—and the next day, merchants of this city exhibited the half eagles they had received for their share of the spoils in enslaving a brother man. You called a meeting in this hall. It was as crowded as it is now. I stood side by side with my friend and former neighbor, your honorable and noble chairman to-night, while this man who had fought for liberty in Greece, and been imprisoned for that sacred cause in the dungeons of Poland [Dr. Samuel G. Howe] stood here and introduced to the audience that "old man eloquent," John Quincy Adams. [Loud cheers.]

It was the last time he stood in Faneuil Hall. He came to defend the unalienable rights of a friendless negro slave, kidnapped in Boston. There is even no place for John Quincy Adams to-night.

A Suffolk grand jury would find no indictment against

the Boston merchant for kidnapping that man. [Shame, shame.] If Boston had spoken then, we should not have been here to-night. We should have had no Fugitive Slave bill. When that bill passed we fired a hundred guns.

Don't you remember the Union meeting held in this very hall? A man stood on this platform—he is a judge of the Supreme Court now—and he said, “When a certain ‘reverend gentleman’ is indicted for perjury, I should like to ask him how he will answer the charge.” And when that ‘reverend gentleman’ rose and asked, “Do you want an answer to your question?” Faneuil Hall cried out, “No, no, throw him over.” Had Faneuil spoken then on the side of truth and freedom, we should not now be the subjects of Virginia.

Yes, we are the vassals of Virginia. She reaches her arm over the graves of our mothers, and kidnaps men in the city of the Puritans, over the graves of Samuel Adams and John Hancock. [Cries of shame.] “Shame,” so say I, but who is to blame? “There is no North,” said Mr. Webster. There is none. The South goes clear up to the Canada line. No, gentlemen, there is no Boston to day. There *was* a Boston once. Now there is a north suburb to the city of Alexandria—that is what Boston is. [Laughter.] And you and I, fellow-subjects of the state of Virginia, [Cries of “No, no; take that back again.”]—I will take it back when you show me the fact is not so. Men and brothers—brothers at any rate—I am not a young man; I have heard hurrahs and cheers for liberty many times; I have not seen a great many deeds done for liberty. I ask you, are we to have deeds as well as words? [“Yes, yes,” and loud cheers.]

Now, brethren—you are brothers at any rate, whether citizens of Massachusetts or subjects of Virginia—I am a minister—and, fellow-citizens of Boston, there are two great laws in this country; one of them is the *Law of Slavery*; that law is declared to be a “finality.” Now, the Constitution is not to secure liberty; it is to extend slavery into Nebraska. And when slavery is established there, in order to show what it is, there comes a sheriff from Alexandria to kidnap a man in the city of Boston, and he gets a judge of probate in the county of Suffolk to issue a writ, and

another Boston man to execute that writ. [Cries of "shame, shame."]

Slavery tramples on the Constitution; it treads down state rights. Where are the rights of Massachusetts? A Fugitive Slave bill commissioner has got them in his pocket. Where is the trial by jury? Watson Freeman has it under his marshal's staff. Where is the great writ of personal replevin which our fathers wrested several hundred years ago from the tyrants who once lorded it over Great Britain? Judge Sprague trod it under his feet. Where is the sacred right of *habeas corpus*? Deputy-marshal Riley can crush it in his hands, and Boston does not say anything against it. Where are the laws of Massachusetts forbidding state edifices to be used as prisons for the incarceration of fugitives? They, too, are trampled under foot. "Slavery is a finality."

These men come from Virginia to kidnap a man here. Once this was Boston; now it is a northern suburb of Alexandria. At first, when they carried a fugitive slave from Boston, they thought it was a difficult thing to do it. They had to get a mayor to help them; they had to put chains around the Court House; they had to call out the "Sim's Brigade;" it took nine days to do it. Now they feel so confident that we are subjects of Virginia that they do not even put chains round the Court House; the police have nothing to do with it. I was told to-day that one of the officers of the city said to twenty-eight policemen, "If any man in the employment of the city meddles in this business he will be discharged without a hearing." [Great applause.] Well, gentlemen, how do you think they received that declaration? They shouted, hurraed, and gave three cheers. . . .

I say there are two great laws in this country. One is the Slave law. That is the law of the President of the United States; it is the law of the commissioner; it is the law of every marshal, and of every meanest ruffian whom the marshal hires to execute his behests. There is another law, which my friend, Mr. Phillips, has described in language such as I cannot equal, and therefore I shall not try; I only state it in its plainest terms. It is the Law of the Peo-

ple when they are sure they are right and determined to go ahead. [Cheers and excitement.]

Now, gentlemen, there was a Boston once, and you and I had fathers—brave fathers—and mothers who stirred up those fathers to manly deeds. Well, gentlemen, once it came to pass that the British Parliament enacted a “law” —*they* called it law—issuing stamps here. What did your fathers do on that occasion? They said, in the language of Algernon Sidney, quoted in your resolutions, “That which is not just is not law, and that which is not law ought not to be obeyed.” [Cheers.] They did not obey the stamp act. They did not call it law, and the man that did call it law here eighty years ago would have had a very warm coat of tar and feathers on him. They called it an “act,” and they took the commissioner who was here to execute it—took him solemnly, manfully—they didn’t hurt a hair of his head; they were non-resistants of a very potent sort—and made him take a solemn oath that he would not issue a single stamp. He was brother-in-law of the governor of the state, the servant of a royal master, “exceedingly respectable,” of great wealth, and once very popular, but they took him and made him swear not to execute his commission, and he kept his oath, and the stamp act went to its own place, and you know what that was. This was an instance of the people going behind a wicked law to enact absolute justice into their statute and making common law. You know what they did with the tea.

Well, gentlemen, in the South there is a public opinion. It is a very wicked public opinion, which is stronger than law. When a colored seaman goes to Charleston from Boston he is clapped instantly into jail, and kept there until the vessel is ready to sail, and the Boston merchant or master must pay the bill, and the Boston black man must feel the smart. That is a wicked example set by the state of South Carolina. When Mr. Hoar, one of our most honored and respected fellow-citizens, was sent to Charleston to test the legality of this most iniquitous law, the citizens of Charleston ordered him off the premises, and he was glad to escape to save himself from further outrages. There was no violence, no gun fired. That was an instance of the

strength of public opinion—of a most unjust and iniquitous public opinion.

Well, gentlemen, I say there is one law—slave law ; it is everywhere. There is another law, which also is a finality ; and that law—it is in your hands and your arms, and you can put it in execution just when you see fit. I am a clergyman and a man of peace ; I love peace. But there is a means and there is an end. Liberty is the end, and sometimes peace is not the means to it. Now, I want to ask you what you are going to do ? [A voice, "Shoot ; shoot."] There are ways of managing this matter without shooting anybody. Be sure that those men who have kidnapped a man in Boston are cowards, every mother's son of them ; and if we stand up there and declare resolutely that this man shall not go out of the city of Boston, *without firing a gun* [cries of "That's it," and great applause], then he won't go back. Now I am going to propose that when you adjourn, it be to meet at Court House Square, to-morrow morning at nine o'clock. As many as are in favor of that motion will raise their hands. [A large number of hands were raised, but many voices cried out, "Let's go to-night," "Let's pay a visit to the slave catchers at the Revere House." "Put that question," etc.] Do you propose to go to the Revere House to-night ? then show your hands. [Some hands were held up.] It is not a vote. We shall meet at Court House Square at nine o'clock to-morrow morning.

Much excitement arose at this time.

At last Wendell Phillips again took the platform, and said : "Let us remember where we are, and what we are going to do. You have said to-night you will vindicate the fair fame of Boston. Let me tell you you won't do it groaning at the slave catchers at the Revere House, in the impossible feat of insulting a slave catcher. If there is a man here who has an arm and a heart ready to sacrifice anything for the freedom of an oppressed man, let him do it to-morrow. [Cries of 'to-night.'] If I thought it could be done to-night, I would go first. I don't



profess courage, but I do profess this : When there is a possibility of saving a slave from the hands of those so-called officers of the law, I am ready to trample any statute or any man under my feet to do it, and am ready to help any one hundred men to do it." He urged the audience to wait till daytime ; said he knew the vaults of the banks in State street sympathized with them. He urged them not to balk the effort to-morrow by foolish conduct to-night, giving the enemy the alarm. " You that are ready to do the real work be not carried away by indiscretion which may make shipwreck of our hopes. The zeal that will not keep till morning will never free a slave."

The majority of the audience seemed to be with Mr. Phillips, to wait till morning, when a man in the lower part of the hall cried out : " Mr. Chairman, I am just informed that a mob of negroes is in Court Square, attempting to rescue Burns ; I move we adjourn to Court Square." Whereupon the audience rapidly left the hall, and most of them went to Court Square.

A large mob soon gathered around the Court House ; one of the doors was forced open, but no entrance effected, as many persons were inside and armed. James Batchelder, a citizen of Charleston, was shot fatally in the abdomen by one of the crowd, by which side never was known. Many shots were fired from revolvers, and the windows of the Court House badly broken. The police and military soon arrived, and the rescue was not effected. On Saturday the case came up again before Commissioner Loring, when, at the urgent request of Messrs. Ellis and Dana, the case was again contin-

ued till Monday. In the mean time dispatches came from the government at Washington to the marshal enjoining him to have the Fugitive Slave law carried through as promptly as possible and executed to the letter, also authorizing him to call upon all the United States troops in the vicinity, for assistance, and if needed to send to New York for reinforcements. The marshal responded, "It shall be done."

The trial lasted three days. On the part of the defense several witnesses testified that Burns was in Boston about the first of March, whereas the witnesses for the claimant had sworn that it was the 20th, or later. The examination of witnesses occupied a good deal of time.

R. H. Dana's argument was an able and lengthy one. He pleaded eloquently for the liberty of the prisoner. He closed as follows: "If you [to the commissioner] commit a mistake in favor of the man, a pecuniary value, not great, is put at hazard. If against him, a freeman is made a slave forever. If you have, on the evidence or on the law, the doubt of a reasoning and reasonable mind, an intelligent misgiving, then, sir, I implore you, in view of the cruel character of this law, in view of the dreadful consequences of a mistake, send him not away, with that tormenting doubt on your mind. It may turn to a torturing certainty. The eyes of many millions are upon you, sir. You are to do an act which will hold its place in the history of America, in the history of the progress of the human race. May your judgment be for liberty and not for slavery; for happiness and not for wretchedness; for hope and not for despair; and may the bless-

ing of him that is ready to perish come upon you."

Mr. Seth J. Thomas rejoined for the claimant, not, however, at so much length or with so much ability. He closed thus: "The record is conclusive of two facts, that the person owed service and escaped. That record, with the testimony of Brent, and the admissions, prove the identity. I take leave of the case, confident in the proofs presented, confident in the majesty of the law, and confident that the determination here will be just."

The decision of Commissioner Loring was at considerable length and closed thus: "On the law and the facts of the case, I consider the claimant entitled to the certificate from me which he claims."

On the evening of June 2d, the slave, Anthony Burns, strongly guarded by United States troops, including the Fourth Regiment of artillery, and the United States marines from Forts Independence and Constitution, and over-twenty companies of state and city forces—infantry and artillery—was embarked on a steamer in the harbor, accompanied and guarded by the United States revenue cutter Morris. Deputy United States Marshal John H. Riley and four other officers were delegated to accompany Burns back to slavery. In an hour's time the steamer and its government convoy started for the South. This was all a mournful sight to the liberty-loving people of Boston, but they were powerless to prevent it. The government was on the side of slavery, and they were forced to submit.

13. Out of the incidents of the Burns case came the arrest of Theodore Parker, Wendell Phillips, T. W. Higginson, Mr. Stowell, John Morrison, Samuel

T. Proudman, and John C. Cluer. On the 7th of June, 1854, Judge Charles P. Curtis, of the United States Circuit Court, charged the grand jury, in which charge he virtually instructed them to find a bill against those who were prominent in the Faneuil Hall meeting on account of the arrest of Burns. He told them that "not only those who are present and actually obstruct, resist, and oppose, and all who are present leagued in the common design, and so situated as to be able in case of need to afford a resistance to those actually engaged; but all who, though absent, did procure, counsel, command, or abet others to commit the offense; and all who, by indirect means, by evincing an express liking, approbation, or assent to the design, were liable as principals. My instruction to you is, that language addressed to persons who immediately afterwards commit an offense, actually intended by the speaker to incite those addressed to commit it, and adapted thus to incite them, is such a counseling or advising to the crime as the law contemplates, and the person so inciting others is liable to be indicted as a principal, and it is of no importance that his advice or directions were departed from in respect to the time, or place, or precise mode or means of committing it." The jury were in session a few weeks; pains were taken to induce them to find bills against the Faneuil Hall speakers, but they refused to do so and were discharged.

But on the 22d of September, *venires* were issued by order of the court for a new grand jury. A strong feeling had been expressed by attachés of the court that Parker and others should be indicted; and on the 16th of October the new grand jury were

impaneled and an indictment was found against the parties named. The indictment against Mr. Parker contained five counts, charging him with force and arms, knowingly and wilfully obstructing, resisting, and opposing United States Marshal Watson Freeman in serving, and attempting to serve and execute, a warrant against Anthony Burns.

Mr. Parker was arraigned on November 29th, and was required to give bail in the sum of \$1,500 to appear at the March term, in 1855. The trial was subsequently put over till April 3d. These arrests were unpopular with a large portion of the people of Boston and vicinity. The court evidently concluded it had a pretty large elephant on its hands, and when the time came for the trial to take place, it very willingly directed the District-Attorney, B. F. Hallett, to enter a *nolle prosequi* in all the cases on the ground of defective indictments, and all were discharged. The whole business was a discreditable fizzle on the part of the United States Circuit Court.

In the interim, Mr. Parker prepared an able and elaborate defense—220 pages, octavo—which he presumed he would not be permitted to read in court; but he subsequently had it printed. I have taken the liberty of drawing freely from it. His defense closes in this eloquent manner :

“One raw morning in spring—it will be eighty years on the 19th of this month—Hancock and Adams, the Moses and Aaron of the Great Deliverance, were both at Lexington; they had also ‘obstructed an officer’ with brave words. British soldiers, a thousand strong, came to seize them and carry them over the sea for trial, and so nip the bud of freedom auspiciously opening in that early spring.

The town militia came together before daylight 'for training.' A great tall man, with a large head and a high, wide brow, their captain—one who 'had seen service'—marshaled them into line, numbering but seventy, and had 'every man load his piece with powder and ball.' 'I will order the first man shot that runs away,' said he, when some faltered. 'Don't fire unless fired upon; but if they want to have war, let it begin here.' Gentlemen, you know what followed; those farmers and merchants 'fired the shot heard round the world.' A little monument covers the bones of such as before had pledged their fortune and their sacred honor to the freedom of America, and that day gave it also their lives. I was born in that little town, and bred up amid the memories of that day. When a boy, my mother lifted me up one Sunday in her religious, patriotic arms, and held me while I read the first monumental line I ever saw: 'SACRED TO LIBERTY AND THE RIGHTS OF MANKIND.' Since then I have studied the memorable marbles of Greece and Rome in many an ancient town; nay, on Egyptian obelisks what was written before the Eternal roused up Moses to lead Israel out of Egypt; but no chiseled stone has ever stirred me to such emotions as those rustic names of men who fell 'IN THE SACRED CAUSE OF GOD AND THEIR COUNTRY.' Gentlemen, the spirit of liberty, the love of justice, was early fanned into a flame in my boyish heart. That monument covers the bones of my own kinsfolk. It was their blood which reddened the long, green grass at Lexington. It is my own name which stands chiseled on that stone. The tall captain who marshaled his fellow-farmers and mechanics into stern array, and spoke such

brave and dangerous words as opened the way of American independence—the last to leave the field—was my father's father. I learned to read out of his Bible, and with a musket he that day captured from the foe, I learned also another religious lesson—that 'REBELLION TO TYRANTS IS OBEDIENCE TO GOD.'

"I keep them both, 'Sacred to Liberty and the Rights of Mankind,' to use them both 'In the Sacred Cause of God and my Country.'

"Gentlemen of the jury, and you, my fellow-countrymen of the North, I leave the matter with you. Say 'Guilty.' You cannot do it. 'Not guilty,' I know you will, for you remember there is another court, not of Fugitive Slave bill law, where we shall all be tried by the justice of the infinite God. Hearken to the last verdict: '*Insomuch as ye have done it unto one the least of these, my brethren, ye have done it unto me.*'"

#### THE DRED SCOTT CASE.

14. Among the last great efforts in the Supreme Court of the land to uphold the system of slavery in the United States, I will briefly notice the Dred Scott trial:

Dred Scott was an obscure colored man, born and bred a slave in the state of Missouri, but his master, John F. A. Sanford, had voluntarily taken him into the free territory which afterwards became the state of Minnesota, where they remained some two years. On this ground, by virtue of the Missouri prohibition, in the act of 1820, the Missouri compromise, believing himself entitled to freedom, Dred Scott brought suit against Sanford in the state

courts of Missouri. A decision adverse to Dred Scott was rendered in 1852. In November, 1853, it was taken to the Federal Court in St. Louis, where the decision was also against the claims of the colored man. Thence it was carried to the Supreme Court of the United States, where it remained unnoticed until about the time James Buchanan was inaugurated President, March 4th, 1857, soon after which time Chief-Justice Roger A. Taney rendered an opinion on the case that shocked and disgusted every person in the country not wedded to the institution of slavery. It was the most extreme pro-slavery ground that had been taken by the government courts. Perhaps the most obnoxious portion of the lengthy opinion of the chief-justice was the following: "They [colored people] had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations, and so far inferior that they had no rights which the white man was bound to respect." Because Dred Scott was of African descent, and because his forefathers had come from that portion of the globe, he could not be recognized as a man; he had no right to bring suit in the courts of this country, his wrongs should not be redressed, and he was denied the rights of an ordinary human being. That decision virtually thrust down to the level of beasts, so far as the courts of the country were concerned, four millions of the colored population of the country. The opinion was deemed by many, extra-judicial, extra-cruel, and extra unjust.

This unrighteous opinion was concurred in by Justices Nelson, Catron, Grier, Wayne, Daniel, and



Campbell, and was dissented from by Justices McLean and Curtis. It was designed for a bold political move to fix forever the status of the black man, but this opinion was the law of the land for but a brief period of time. In four years more the slave power attempted to destroy the government, and in the abutment of the sword which followed, they lost, and slavery went to the wall, after which the legal rights of the African race were restored to them. This opinion of the Supreme Court was reversed, as it was in the case of the Alien and Sedition laws, and as it is to be hoped the partial and imperfect opinion by the same court, but at a later day, on the legality and constitutionality of the Comstock postal law will yet be reversed.

The Supreme Court of the United States has been the grand, heavy conservative element of this land. It has been regarded as the great bulwark of constitutional justice, but it certainly has not always shown itself to be on the side of popular liberty. It has been the first to strike for precedent, custom, corporations, and monopolies, rather than for universal liberty and justice. It has been on the side of the rich and powerful more than on the side of the weak and oppressed. It has been a slow follower rather than a leader in the great principles of equal justice for all, and it too often has been a burden on the necks of the people, a load too heavy for them to carry. May it in the future more than in the past be a blessing and a help to the people of this country, rather than a burden, an encumbrance.

One thing must ever stand to the dishonor of the United States courts. They have far too often been on the side of injustice and oppression; too often

on the side of the strong against the weak; too often on the side of tyranny, and opposed to the cause of liberty. It is to be hoped it may not always be so. May the highest courts of our land cease to oppress the weak and defenseless, but rather hold them up and guarantee them liberty and justice, when these courts will not be manipulated by any sect, any ring, or any influence not in harmony with the highest principles of human freedom.

#### MALICE AND MISREPRESENTATION.

My attention has just been called to an inimical and malicious attack on myself in the *Christian Union* of the 16th inst., written by Rev. Dr. Leonard Wolsey Bacon, of Norwich, Conn. This letter is already too long for me to give the article or to make reply to it, but I probably may make some allusion to it in my next letter. Prominent among the grounds of complaint, especially on the part of the editor of the paper named, is that I have been allowed to remain in this jail instead of being hurried up to the penitentiary where Judge Benedict said I must go. The *Union* seems not to like the "lampoons," as it styles my letters "From Behind the Bars." It perhaps cannot be thought strange if these "lampoons" are a little distasteful to the hypocrites and persecutors; but it is to be hoped that their holy religion will enable them to bear with grace and patience what they cannot help.

My being allowed to remain here by the authorities at Washington, where I can write for my paper, where I can look somewhat after my business, which needs my constant attention, and where I cannot be compelled to do hard labor and be treated like a

murderer and robber, seems to make my Christian enemies extremely unhappy. The terrible storms that have devastated parts of the country, the serious shipwrecks that have recently occurred, the threatened scourge of the yellow fever again this year, they say but little about ; but the fact that the editor of THE TRUTH SEEKER is allowed to remain a few weeks in Ludlow Street Jail makes them exceedingly wretched. Let them not, however, yield themselves to unavailing grief. They may have their desires and prayers answered after a while. But should the President conclude that it is not necessary that I should pass ten or twelve months as a felon in the penitentiary, I hope it will not make them so unhappy that they cannot enjoy, in prospect, at least, the burning of unbelievers like myself in the everlasting fires of unquenchable sulphur. The belief in that state of things is a consolation they can always fall back upon when other comforts fail and other joys cease to enliven their hearts.

Dear readers, I think I will trouble you with a few more lines next week. Till then good-bye.

D. M. B.

## LETTER VIII.

CELL 36, LUDLOW ST. JAIL, July 26, 1879.

DEAR READERS OF THE TRUTH SEEKER : I think this is the last time I shall address you from this prison. When you hear from me again, I will, in all probability, be in the Penitentiary at Albany, where my Christian enemies are so clamorous that I should be sent. The President has decided that he will not interfere with the action of Judge Benedict's court in my case, and that means no liberation, no release, no pardon.

The petitions with now nearly two hundred thousand names of as good people as this country affords, asking the President to do but a simple act of justice—by far the largest petition ever sent to any president upon any subject—the thousands of private letters from earnest friends; the President's own convictions that I have really committed no offense; that the pamphlet I mailed is not obscene in the meaning of the statute; that I was arraigned and convicted as a matter of spite and revenge; that the law under which I was arraigned and convicted is wrong and ought to be repealed; that I did not have a fair and equitable trial; that the rulings and decisions of the judges were mercilessly severe and unjust; that the whole thing was prompted against me by the spirit of sectarian intolerance because of my unpopular but

honest theological views—all this is to be set aside ; the President, in whom the pardoning power was wisely invested for just such cases as this, because the rich and popular churches have raised their merciless hands against me ; because they demand of him in the most persistent and peremptory manner that the full sentence of the court be inflicted upon me ; that I be sent to the Albany Penitentiary—said to be the most severe in the country—to be set at hard labor with convicted felons, decides to not raise his hand to stay the cruel oppression that is crushing me to the earth. He has heard the thousands of lovers of mercy and justice that have appealed to him in my behalf, but he refuses to do the worthy deed they ask him to perform ; he has also listened to the representatives of the opulent and powerful churches ; he has realized their influence, and has yielded to their request.

It was hoped by thousands of earnest men and women that when he had surveyed the whole field and looked dispassionately on both sides of the matter he would decide on the side of mercy and justice ; but they hoped in vain. He has decided upon the opposite course. He well knows the power of the church, and he has determined in this matter not to go contrary to its wishes.

Comstock is an untiring villain. He has aroused and interested the clergy of the city and country against me. By the means at his command, through the Young Men's Christian Association and otherwise, he has been able to stir up the professors of colleges—always composed of clergymen—to use their names and influence against me. He has induced them to protest and remonstrate against a

pardon in my behalf. He has procured great numbers of Christian women to write to the President and to the President's wife, insisting that I am a very vile and dangerous man ; that I am corrupting the minds of the young people of the land, imploring him in the name of morality and virtue not to extend a pardon to me. Delegations of Christians from this city and elsewhere have visited Washington expressly to influence and urge the President against me. Even the bigoted and pious soap-boiler, the President of the Comstock Suppression Society, the man who sells vaseline and recommends that it be blended with a few grains of salicylic acid to prevent conception—Samuel Colgate himself—has been to Washington and taken influential friends with him, and they have importuned the President against me. Every artifice has been used, every means employed to prevent any mercy in my behalf.

Yes, the church is too strong for us. The lying, perjured, sneaking, dirty, contemptible Comstock, by means of the pious clerical aid he is able to marshal to his assistance, has been too powerful. We are forced to yield the contest. The church rules this country. We might as well understand this first as last. It had better be known by all the land that Infidels have no rights that Christians are bound to respect. When this government was founded our fathers intended it to be free and equal for every system of religious belief. Every one was left free to enjoy his own convictions and to worship God according to the dictates of his conscience. There was no state religion. The unbeliever in supernaturalism and impossibilities was regarded

with as much favor as those of great faith and great profession. But all that has changed. Christians, by their numbers have gradually been able to secure nearly all the offices, including judgeships, and Christianity has virtually become the state religion, and it is now easy to oppress those who have the independence and honesty to deny its truth.

It is not necessary to multiply words here. We have seen what we have seen. The events of the time are being imprinted upon the pages of history. Those who come after us will read these pages, and will regard the action of the court which gave me only a *sham* trial, which sentenced me to ignominy without reason or justice, the President—whom I myself helped to elect, and who refused to lift a finger to stay the torrent of oppression that is overpowering me—all this will be read in future years and will be regarded much as we now regard the conduct of Judge Jefferies, his infamous compeers, and the tyrant Charles II. two centuries ago.

I give it as my opinion and now place it upon record that the government, its courts, the President, and, most of all, the Christian church, are doing themselves no honor, are not adding to their fame or glory, and will not be commended by coming generations for their conduct in my cruel oppression. Much could be said in connection with the subject but I will refrain for the present, while I remain firm in the conviction that posterity at least will do me justice.

#### THE VENOM AND MALICE OF ENEMIES.

I will now give a few specimens of what my pious, godly foes are saying of me in the public

press. The first is from the Rev. Leonard Wolsey Bacon, pastor of the First Congregational church of Norwich, Conn., which appeared in the *Christian Union* (Henry Ward Beecher and Lyman Abbott editors) on the 16th—the same I referred to in my last. Leonard Wolsey Bacon is a proud and hopeful son of Prof. Leonard Bacon, of Yale College, and is thought to be a more respectable man than the sons of clergymen proverbially make. He has the charge of the most aristocratic church in Norwich, and by dispensing the doctrines of John Calvin, in a slightly modified form, he is thought by those who make up his comfortable salary to be saving many lost souls, which but for his timely and fortunate services God would unquestionably damn forever. He is represented as a consequential, overbearing sort of man, who carries himself with the conscious dignity of one to whom is delegated the charge and guidance of a fractional portion of this revolving ball, with the ignorant and hell-bound men and women who inhabit it. Without his superior wisdom and advice he imagines God would hardly be able to run this part of this little world. He evidently feels his “keeping,” and regards himself as one of the limited number of men who have a through-ticket to heaven, and have authority to speak for the all-powerful king of that country. He is vain and imperious in his manner, and dotes not a little upon the crushing power of his sarcasm and tongue-lashing. He is fond of indulging in these, being so well satisfied with the manner in which he acquits himself. He has been known, however, to practice in this pastime a little too freely, and has provoked the censure of many honest people, if not



as learned and accomplished as himself, at least as upright and deserving. In a word, he is a proud aristocratic Christian, a regular disciple and follower of Calvin—of just the material of which bigots are made, who delight in sending to hell all who cannot accept their dicta as to what are God's will and purposes and what he requires of human beings. But here is the reverend gentleman's article. That no injustice may be done him, I give it in full.

#### A CONSPIRACY AGAINST SOCIETY.

I was started yesterday morning, in taking up the *Norwich Bulletin*, to read that a "petition to the President for the pardon of D. M. Bennett, convicted of circulating obscene books through the mails, has been circulated and extensively signed in this city." It seemed to me that no time was to be lost, and I hastened to write a card for the paper, saying that, "desirous to prevent such a defeat of justice, to protect the good name of this town, compromised by this announcement, and to defend the purity of families and schools, which can only be secured by the punishment of the crime in question, the undersigned give notice that a counter-petition is placed for signatures at Mr. Burnham's bookstore." This was signed by a dozen of leading citizens, and published. The heading of the petition being written, the first man to drop in and sign it was the chief-justice of Connecticut; the second was the late President of the United States Senate. Next Sunday notice of the petition will be given in the churches. If the President chooses to hear what is said from our little town on one side of this question, he will now have an opportunity to hear from the other side.

This story has a moral—in fact, it has a whole chapter of morals, if there were time to state them. I will briefly mention a few of them.

1. The petition for the pardon of this *scoundrel* has been pushed about, *privately*, with great activity for some weeks,

without its becoming publicly known that such a paper was in existence. But for the good service done by the local journal in mentioning it as an item of news, the document would probably have gone to the President (so far as would have appeared) as the utterance of the citizens of Norwich, *nem. con.* The adverse interest—the interest of decency and morality and law—would have had no knowledge of the matter, and consequently no power to express itself. In all probability that which was so nearly effected here will be fully effected in other places. Let the President, when he takes into consideration the petitions for Bennett's pardon, measure and *weigh* the one from Norwich against the counter-petition which prays that punishment may be executed; and then let him inquire concerning petitions that may reach him from other places whether the adverse interest has had the opportunity of being represented there. This business of tampering with the course of justice by private petitions—for that matter, by any petitions—is a mischievous abuse. Another example has come to my knowledge this very day. A notorious abortionist had been arrested and bound over for trial, and then released on the forfeiture of a trifling bond, in consequence of a petition in his favor signed by two score of leading citizens. Another citizen, who had heard of this affair only by an item in a newspaper from a distant town, was remonstrating with the prosecuting officer, who replied, in my hearing: "I wish to heaven I had seen you before. *I did not know there was a man of influence in Norwich who did not sympathize with that petition.*"

2. I cannot find that there is any local or personal interest which has originated this effort in this place. It seems to have originated in general considerations—in sympathy with this criminal, Bennett—in the abstract love of free-filth. I infer, then, that it is a general movement. If those who are interested in protecting their own and other families against floods of filth will institute inquiry, I suspect that they will find in most towns, as here, that such a paper is pushed about privately, perseveringly, as if by a paid agent. If there is a Spiritualist, Free Religion, or Freeloze club in the town, or a quack doctor having a wide practice of dubious character, this will indicate the direction in which to

begin your inquiries. There is a sort of nervous communication among the ganglia of vicious Infidelity scattered through the country that constitutes them one system—a church of Antichrist or synagogue of Satan. Once, already, this unlovely fellowship has triumphed in a like case, in securing the pardon of the notorious Heywood. It may triumph again if it is able to maintain the secrecy of its operations—but not otherwise. *One* resolute citizen in every town can bring it to the surface of the ground and defeat it.

3 A friend who was solicited to sign this document tells me that it is an imposing paper, bearing some three hundred signatures. Whose are they, and how were they got? I have not seen the names, but it is safe to say that the open sympathizers with the crime and the criminal are few. I happen to know of several names of decent people on the list, and should not be surprised to know that it was largely made up of such. The average American citizen acts like a fool in this matter of giving his name to a paper. As a rule, he will sign anything he is asked to that does not bind him to pay money. And the exceptional men that decline to sign can often be prevailed on if only the bearer of the petition is a sufficiently persistent bore—as he is said to have been in this case. If it was understood that this petition, with the names attached, was going to be hung up for exhibition at the post-office, I have no doubt that many of the signers would be excessively annoyed.

4. It is not enough to refuse your name to a mischievous petition. Nobody sees the names that are not signed. If it was a petition, now, to have your streets paved or lighted, it would be required of you to give not only the names of the signers but the names of proprietors who refused to sign. But when it is only an affair of letting loose a “cancer-planter” to renew his infernal occupation no such formality is required. By persistent drumming, an agent succeeds in getting, privately, a list, large or small, of autographs, and the document goes up to the Governor or President as the act of “the citizens;” and when enough of these papers have been swept diligently together from all corners, it is a “great popular demonstration.” Your

only resource, and your bounden duty, is not only to refuse to sign a bad petition but immediately to start a counter-petition. You have at once an enormous advantage over the enemy. You can act openly—publicly. You can display your petition at the places of concourse, with its names attached. You can advertise it by newspapers, and posters, and pulpits. The enemy cannot act effectively except in secret. The very chance that his list of names might be exposed to common view would awaken an eager zeal among the signers to scratch them off.

5. Consider the immense presumption against *every* petition for the pardon of a criminal—how infinitesimal the chance that the unanimous act of twelve impartial men, after hearing both sides of the case, was wrong compared with the chance that you are wrong after hearing only one side! Consider how rarely, if there has been a wrong, the petition for pardon is the proper remedy. In this case the criminal claims to have been unfairly tried, and shows his list of exceptions to the charge and rulings of the court. Am I, or are you, the party for him to come to for redress? For all his grievances there is an open and proper remedy, and that is *not* to send his agents whimpering about among people who know nothing of the case, asking to have him pardoned for a crime which he denies having committed. The fact that he takes this course is the confession of a bad case, and yet not such a confession as entitles him to any mercy from the American people or the President.

*Norwich, Conn.*

So much for this disseminator of Calvinism. It makes him absolutely unhappy to think of the possibility of the President performing an act both of mercy and justice, permitting a grievously injured man to leave his prison cell. The Christian epithets, "scoundrel," "cancer planter," etc., which he applies to me, come as glibly from his tongue and pen as "imposter" and "blasphemer" rolled from the tongue of his great model, Calvin, towards the learned and amiable physician, Michael Servetus,

whom he caused to be burnt at a slow oak fire in Geneva, nearly three hundred and fifty years ago, because some of his views did not correspond with those of that imperious and cruel persecutor.

The Rev. Mr. Bacon's dishonesty may be seen by his three times trying to convey the idea that the petition in Norwich for my release was carried around "*privately.*" There was no privacy exercised at all. It was presented to hundreds of individuals openly and with as much publicity as was necessary. It was not needful to announce the matter by the ringing of bells, the firing of cannon, or the lungs of a town crier. It was a matter that required some explanation, and the most proper way was to call at stores and dwellings and present the petition to those met with. The very fact that over three hundred names were procured in a town of the size of Norwich completely precludes the idea of *secrecy.*

The following is the card or remonstrance, which the Rev. Bacon alludes to, and which appeared several times in the local papers, and which was exposed at the post-office and elsewhere :

**T**O THE GOOD CITIZENS OF NORWICH : It is announced that a petition to the President of the United States, asking for the pardon of a man convicted in due course of law of the abominable crime of sending obscene matter through the mails, has been circulated and extensively signed in this city. Desirous to prevent such a defeat of justice, to protect the good name of this town, compromised by this announcement, and to defend the purity of families and schools, which can only be secured by the punishment of the crime in question, the undersigned give

notice that a counter-petition is placed for signature at Mr. Burnham's bookstore, next the Post-Office.

REV. L. W. BACON,  
 REV. W. S. PALMER,  
 REV. L. T. CHAMBERLAIN,  
 REV. L. P. BLACKFORD,  
 REV. J. H. JAMES,  
 N. L. BISHOP,  
 E. N. GIBBS,  
 E. LEARNED.  
 N. D. SEVIN.  
 GARDNER GREENE, JR.  
 HENRY BILL,

It is said that one hundred and twenty-five names of the pious class were procured to this paper.

The following are the editorial remarks of the *Christian Union* relative to Mr. Bacon's article which also appeared in the same issue :

Mr.—we beg his pardon—Dr. Bacon's article in another column is timely and important. Christian pastors, teachers, and parents will do well to ascertain whether this "still hunt" is going on in their neighborhood. Mr. Bennett, whose appeal has been heard, and whose condemnation has been ratified by the Superior Court, and who was sentenced a month ago to the penitentiary, is so sure of the expected pardon that, in accordance with the inscrutable but not uncommon methods of New York justice, he has succeeded in thus far evading the execution of the sentence, and remains in Ludlow Street Jail, from which he continues to send out his weekly lampoons to his own sheet. We have very good reason for knowing that the attempt which Dr. Bacon has so effectually exposed in Norwich is being secretly conducted in almost every state in the Union; we trust the exposure comes in time to defeat it. And we warn all citizens against being cajoled into signing a petition for the pardon of one whose conduct has been passed upon by a jury and three judges, not one of whom found any palliating circumstances in his shameful crime.

It is not generally known whether this brief article was written by Henry Ward Beecher, Lyman Abbott, or some editorial assistant of smaller caliber; but whoever the writer is he is evidently far more troubled about other people's immoralities than his own; but that is common to the trade. He also invests in the same pious falsehood about the *secrecy* pursued in obtaining signatures to the petition. It would take a good many thousand of such editors to make a truth of the false aspersion. He evidently does not like the "lampoons" I write weekly for THE TRUTH SEEKER. Perhaps he has good reason for not liking them, but it is to be hoped he may live to be annoyed with them years to come.

The following are the remarks of the editor of *Cooley's Weekly* after inserting Bacon's card:

The above card, which has twice before appeared in *Cooley's Weekly*, should reflect the sentiment of every decent man and woman in the community. The writer who hastened to a guilty publisher's defense last week did not think it necessary to "discuss the merits of the book in question." Imprisoned for sending an obscene publication through the mails—a very infamous crime—the "merits" or quality of the thing sent ought to be something to the point! We confess to having read the work through, as a matter of duty, and we pronounce it the most infamous piece of writing that ever fell into our hands.

This editor wrote to please the Christian portion of his readers and probably to make some amends in their eyes for a full and fair article on the opposite side from the pen of Byron Boardman, which he had published in a previous issue. More as to the character of the pamphlet further on.

The following choice morsel is from the extra

pious *Witness*, of July 22d, published and edited by a British subject, who made money enough to start it by agreeing to pay one hundred cents on the dollar, but finally paying but sixteen. That's the kind of morality to make an Eden of this wicked world—perhaps:

#### THE PARDON BUSINESS

A protest against the pardon of D. M. Bennett, convicted of sending improper matter through the mails, has been prepared by the New England Society for the Suppression of Vice. More than five hundred prominent educators, clergymen, physicians, and business men of Boston and other New England cities have signed it. Among the signatures are those of Governor Talbot, E. S. Tobey, Bishop Paddock, the Presidents of Boston University, the University of Vermont, Colby (Me.) University, Amherst College, and Smith College; B. G. Northrop, Secretary of the Connecticut Board of Education, and the Rev. James Freeman Clarke

The President will begin to realize now what a very serious mistake he made in pardoning Heywood, the Boston seller of the same book. The pardon clerk was doubtless the medium for securing that pardon, but the Constitution does not put the pardoning power into any other hands than those of the President or Governor, as the case may be, and on him alone the responsibility of an unworthy pardon rests. This kind of pardon was President Grant's weak point, but there was some excuse for him which is not to be found in the case of President Hayes, whose faculties are, we believe, always clear.

Comstock's earmarks are visible in this *morceau* as, indeed, they have been in all the *Witness* articles upon the same subject. It is a very presumable case that the distinguished clergymen named should be the very ones to sign a protest against my being set at liberty. Nearly all the clergymen of the country, so far as heard from, are in arms



against me. They are my deadliest enemies. The great regret is that intelligent, respectable men should be led around by the nose by such a contemptible specimen of humanity as Comstock and his Boston Auxiliary Suppression Society.

But for venom, intolerance, and genuine Calvinistic bigotry and meanness, the N. Y. *Observer* can always be depended upon. If John Calvin still exists and maintains the same disposition he did when he burned Servetus and beheaded Gruet, and can keep watch over the *Observer*, he must be more than pleased with the spirit which controls and animates that pious sheet. Here is what it said on the 17th:

A CONVICT'S APPEAL TO THE PRESIDENT OF THE UNITED STATES.—THE PARDONING POWER INVOKED TO BREAK DOWN A WHOLESOME LAW.

One hundred thousand persons, we are assured, have signed petitions to President Hayes, asking him to pardon a convict now in jail in this city. If the President yields to the demand, the friends of public and private virtue, of law and justice, may hang their heads in grief and shame, blushing for their country, their President, and the degeneracy of the times.

It has been already stated in this paper that a man by the name of D. M. Bennett was convicted several weeks ago in this city of violating the laws of the United States which forbid the sending of indecent books by mail. The man was sentenced to thirteen months' imprisonment in the Albany Penitentiary. Being a convict under the United States laws, he was sentenced to Albany, and not to Sing Sing. Weeks have elapsed since his conviction, and by those arts so well known to rich convicts, but unintelligible to the people, the man still resides in comfort at the celebrated boarding-house in Ludlow street, which serves as a safe retreat for many ill-to-do well-to-do gentlemen. During his unlawful but very agreeable residence in this city hotel, he and his friends are moving, not heaven, but earth and hell, to pro-

cure his pardon at the hands of the President. The issue is thus distinctly made between the laws on the one hand and the President on the other. We shall watch the case carefully, and report the result of the contest. In the meantime, while the case is in the hands of the President, and by him referred to the Attorney-General, we will submit a few points which to us seem decisive as to the course the government is bound to pursue in this matter.

The law under which this man has been convicted was reviewed by the United States Supreme Court and pronounced constitutional, just, and wholesome. The opinion was published in full and sustained by an intelligent public sentiment.

The publications sent by this convict in violation of that law have been before the Supreme Court for this circuit, and by three judges, the whole court, unanimously, clearly, and without a shadow of doubt, were held to be such publications as the law was framed to restrain.

Therefore, the conviction and the sentence being what the law demands, to interfere with the course of the law under such circumstances would be a blow at the very heart of public justice. But this is only the basis of the argument.

This man has from the time of the law's enactment denounced it in public letters and papers. He has been conspicuous in public meetings in seeking to break it down, and he is one of that school and party who, at a recent meeting in Boston, adopted a resolution declaring that

“Legislatures, Congresses, or courts attempting to regulate or supervise morals, are meddling with what is none of their business.”

All law, criminal law, is made to restrain wrong; to make men do right or suffer just penalty. Theft, murder, and forgery are bad morals, and the law meddles with them, and with a vengeance. But the modern school of reform, of which this convict is the chief apostle, subverts all law, and leaves society at the mercy of its enemies.

This man has publicly defied the law, and challenged its interference with the business in which he is engaged. He published his determination after others had been convicted under the same law, and he invited prosecution. Juries and

judges in the interior counties of the state of New York, in this city, and in the state of Massachusetts, have had before them the identical subject and publications, and have rendered the same judgment under which this man is now convicted. There is therefore no possible ground for doubt, first, that he has been justly sentenced under a sound and wholesome law; and secondly, that of all men ever yet convicted under it, this man Bennett most deserves the penalty of this righteous law.

The friends of public virtue and of good morals have been active in the last few years to arrest the flood of vice that, like a deluge, pours over the land. In the cause of temperance, seeking only the enforcement of the laws, they have met with discouraging opposition from those who are set for their execution. In this crusade against the vilest traffic that human monsters ever pursued, the upholders of law are compelled, with shame and grief, to see the worst criminals sheltered by public authorities, and even the interposition of the Chief Magistrate of the United States successfully invoked to deliver a convict from the hands of justice and law, and to send him forth with the sacred seal of the government on his guilty head. The pardon of Heywood was granted perhaps under a misapprehension of the facts, but he has publicly said, "The government found out I was right, and it was wrong." "Let them dare imprison Bennett, and see which is the strongest."

Thus the issue is made between these enemies of society and the President of the United States. So far as law, justice, public morals, and the good of the people are concerned, there is but one side to the question. This Bennett is the representative of a set of men who circulate, for money, publications designed to corrupt the young. Every daily newspaper shows in its reports of social vice the effect of the traffic. As intemperance illustrates the use of whisky, so licentiousness proves the effect of the publications which these bad men spread.

In making this issue it is proper to say that *all the facts are before the President*. They are authenticated beyond a peradventure by the most abundant testimony. He cannot act under a misapprehension. Millions of people, mothers and

fathers, and others, are this moment looking for his decision. The question is national, not local or sectional. If the President decides against all the juries and judges, including the Supreme Court itself, and sets this convict at liberty, with a pardon in his hand and an official certificate that his infamous work is legal and commendable, for a pardon will be claimed as all this, then, the upholders of good morals may despair of their cause, for righteousness no longer exal eth this nation, and sin will be its lasting reproach.

But we hope better things. We trust in God that he will incline the heart and mind of the President to the right; and that a man who is himself a father of virtuous children will be a father of his people, and stand between them and these miserable miscreants, who are as unfit to live as they are to die.

Now I call that a pretty fair dose of venom and misrepresentation for one issue of a Jesus sheet. I wonder if this latter individual would go on at such a rate, were he editing a leading Christian paper, about a poor fellow who was taking a bit of the same experience he is said to have once gone through at the hands of his merciless judges and persecutors? I don't believe he would; nor do I believe he would be guilty of one-tenth part of the detestable meanness which those are guilty of who prate so loudly in his name. If there ever was such a personage, and the account that is given of him is only partly true, he was an amiable, kind-hearted man, who did not wish to inflict pain or unhappiness upon any one. If he now possesses the power which his preachers say he does; if he has the destiny of all men in his hands; if he retains the same spirit of goodness and justice which he was credited with some eighteen hundred years ago; if he still maintains the same detestation of self-righteousness,

hypocrisy, and oppression that is ascribed to him, and if he is going to give unto every one according to his deserts, I am afraid Anthony Comstock and his false-hearted and merciless pious editors and clergymen will fare badly. If Jesus does the "square thing," and if that fiery, sulphurous lake is still burning, if they don't get something more than a strong smell I shall always think he ought to resign in favor of somebody who can dispense justice more according to deserts. If it is true that we retain existence and consciousness after we leave this troublesome world, it is highly probable that those vile hypocrites and persecutors who delight to make people wretched for Christ's sake will find themselves the most disappointed set ever heard of in any world. If they are to have the power to annoy, afflict, and make wretched there which they exercise here it would be far more desirable to take the endless sleep of forgetfulness and thus be beyond the reach of such vile tormentors who to appear virtuous and holy would gladly crush everybody who dissents from their dictation. Yes, hell, even, with decent companions would be better than heaven with such fellows.

The following is clipped from the *Boston Congregationalist*, and breathes the same spirit as its brothers:

All good people will rejoice heartily at Bennett's sentence. The criminal of course considers himself an abused victim of oppression. But, as the *New York Tribune* fitly says, "he belongs to a class of fanatics who call themselves scientists, and whose religion is generally made up of one part nonsense and two parts nastiness. These people ride a dangerous hobby, and have only themselves to blame if now and then they gallop through the doors of the peni-

testiary." An effort will be made to secure a pardon from President Hayes, and a modification of the law. We hope it will be defeated utterly.

It will be noticed that this pious paper quotes with approval the false statement that I, "belong to a class of fanatics whose religion is made up of one part nonsense and two parts nastiness." This is infamously false. But even if it were true have not a class the right to appropriate a portion of "nastiness" if they wish to? Has no nastiness been known among Christian?

The *Observer* article abounds with misrepresentation, a sample of which is the statement that I defied the law, and that I am "a representative of a set of men who circulate publications designed to corrupt the young." Both statements are as false as lies can be. I have never defied the law. I have simply insisted that the pamphlet I sold did not come under the meaning of the law, and of the same opinion is the Attorney-General, the President himself, Judge Gray, in the Department of Justice, numerous lawyers in this city and all over the country, Elizur Wright, James Parton, Parker Pillsbury, Horace Seaver, William Denton, and at least one hundred thousand intelligent, virtuous men and women. I simply defied *Comstockism*, not *law*. I am the representative of no set of men who sell vile publications to corrupt the young. It is the vilest slander that could be uttered. I have never sold anything of the kind, and never represented those who do. Of the same character is much else scattered through the entire article; but it is too puerile and contemptible to particularize. Perhaps taking this stale hypocrite's mind into consideration, and the

evil characteristics which this system of religion engenders, little else could be expected of him.

The same character of misrepresentation and defamation as that evinced in the religious press teems also from the orthodox pulpit. This is the case in this city, where, if the clergy do not call me by name in all cases, they allude to me as "the vile criminal," "the infamous scoundrel," "the corrupter of the minds of the young," "the wicked blasphemer," "the leper," "the cancer planter," etc., etc. This has also been the case in many other cities and towns. It seems to be a sort of relief or gratification on the part of those heavenly-minded slanderers to say all manner of evil against me for Christ's sake. If it is productive of pleasure to them, I will not complain of their vituperation, for, really, I consider it an honor to be abused by such a set of blatant hypocrites. It is mainly to be regretted that the system of religion they proclaim and wish to force upon the whole world engenders such detestable traits and practices.

The dishonesty of the *Observer* man may be appreciated by his representation of the "comforts" of this prison. "Comforts," indeed! Is it a comfort to be locked up nearly half of the time in a small, comfortless cell, with dry bread and tea or coffee for breakfast and supper, with a kind of stew for dinner, handed in in a tin basin without a knife or fork, or, if something a grade or two better than this is furnished, to pay fifteen dollars per week for it? If this canting Calvinist calls that "comfort," I only wish he could be here for about five years and get his fill. He may take my "very agreeable residence" here at any moment. I will not be in

his way. True, it is not so bad here as in the Albany Penitentiary, or being hung up in the Inquisition by the thumbs, nor so bad as having the joints torn apart on the rack, but it is hard to see much "comfort" in either.

But for concentrated, undiluted meanness I give the following by a man of the same kind from *The Religio-Philosophical Journal*, which makes some pretense to Liberalism. It differs from the foregoing extracts in one particular—all the religious editors quoted are strangers to me. Probably not one of them ever saw me, and perhaps they really believe that I am a vile, immoral man, but the *Religio* man who so complacently places himself by the side of the self-righteous Christian bigots, has known me for years and has pretended to be a friend. How much his friendship was worth, and how genuine it was, others can judge for themselves:

When Bennett appeals to us as a representative Materialist, publisher of a Materialistic paper, and bookseller, to join him in his wrangle for the right to send through the United States mails an immoral, soul-debasing pamphlet, we must decline. And in declining we cannot believe it our duty to remain silent and allow erroneous impressions to go out to the public at large that Liberalism and Libertinism are synonymous; that Freeloze and Freethought go hand in hand, and that Spiritualists will aid and abet attempts to send immoral books through the mails. Mr. Bennett demands liberation from prison on his own terms. He defiantly asserts that he will rot in jail before he will compromise. Every person who signs the form of petition drawn up by Mr. Bennett, and scattered broadcast over the country for signatures, virtually says that he approves of using the United States mails as a channel through which to disseminate the vilest doctrines of impurity and sexual license. We are willing to sign a petition for the liberation



of Mr. Bennett, provided such petition shall waive the merits of the case and appeal for executive pardon simply on the ground of mercy to an old man.

This man mistakes; I ask him to join me in nothing, and if he declined to sign a petition in my favor I am truly glad of it. I would wish no such persons to interest themselves in my favor. But the honesty of his claims to extra virtue can be estimated by the falsehoods he tells. He thus proves he is not a whit behind his Christian associates. I have not "wrangled for the right" to send "an immoral and soul-debasing pamphlet." I simply insist that Heywood's pamphlet is not "immoral" nor "soul-debasing," unless thousands of other books which pass freely everywhere are so also. A thousand dollars will be paid Mr. Bundy for one soul he can produce that has been debased by it. He probably knows as much about "soul" as he does about truth, honor, and real Liberalism.

I do not demand liberation on my own terms, nor have I *demanded* it on any terms; I have simply presented the facts and asked for justice. I have *not* said "defiantly" or otherwise that I would rot in jail before I would compromise. It is *false* that signing the form of petition sent out commits the signers to the free dissemination of the vilest doctrines of sexual license. It simply, in brief and direct language, asks for a pardon on the ground that my conviction and sentence was a grievous wrong in the form of law and an outrage against the freedom of the press and the constitutional right and privilege of every citizen. It makes not the least allusion to "vile doctrines," or "license." In my opinion the writer of the pamphlet in question is

quite as moral, quite as pure, quite as honest, and quite as correct in his sexual relations, and has been through life, as either Anthony Comstock or John C. Bundy, and I believe he has a greater regard for truth. Probably, however, Comstock is to be congratulated on the aid and sympathy he is receiving from his ally in Chicago.

For myself I am quite content that the *Religio* man should be against me and that he should exult in my imprisonment. I do not begrudge him all the honor and respect he will gain by his course. I neither crave his friendship nor his sympathy. So long as I have the approval and sympathy of such people as Elizur Wright, O. B. Frothingham, A. J. Davis, James Parton, Elder Evans, A. E. Giles, William Denton, Luther Colby, Horace Seaver, J. P. Mendum, W. S. Barlow, J. M. Peebles, A. B. Spinney, H. L. Green, G. A. Lomas, C. Fannie Allyn, Amelia H. Colby, and great numbers of other Liberalists and Spiritualists, I shall try and be content that Col. Bundy gives his aid and sympathy to my persecutor Comstock, as my term of imprisonment slowly and drearily drags itself along. I hope this self-righteous stickler for "respectability" will feel that the cause of virtue and morality which in his view has been so seriously wronged by me is being vindicated and appeased.

It is cheering to know that all Spiritualists are not like him. There are thousands of them who feel that the rights of citizens, the guarantees of the Constitution—the blessings of free thought, free speech, a free press, and free mails; the right for each individual to his own convictions and the freedom to express them—are superior to a canting,

hypocritical profession of extra virtue and purity after the pattern of Christian bigots. If all Spiritualists were like this self-righteous editor, if I thought that was the result of angel teaching, the injunctions of those dear ones who have passed over the river, I certainly would wish no share in that abhorrent character. I would rather sleep in quiet forever than exist with hypocrites and intolerant bigots who cannot accord to others the same right to think and speak on all subjects which they claim for themselves.

No, I wish not the sympathy of that class. In times of war, affliction, or personal peril, a pretended friend—a half friend—is more to be dreaded than an open enemy. But little respect can be felt for that class of pretended Liberals who would sacrifice the highest principles of Liberalism to gain a reputation for great virtue, extra respectability and probity and correctness, and to be thought as squeamish and timid as Christian hypocrites. It is a bad exchange to give a generous Liberalism for false respectability—principle for appearances. There is no bigotry more to be detested than that of pretended Liberals.

I have given in full what these enemies have to say of me, thus showing how much more fairness I possess than they do, for they would not publish a line that I have to say in my own defense or otherwise. They will berate me and apply all the vile epithets which they have at their command, but would refuse to give me the slightest justice or fair dealing. My life and conduct would doubtless compare favorably with any of those godly traducers, could all that they have been guilty of, and all I

have done, be laid open to the public gaze. I certainly would not shrink from such a comparison.

All my pious defamers and would-be torturers seem to have the same complaint. They are nearly heartbroken because I am not at hard labor in the penitentiary. They are very wretched over it. Even as John Calvin was not willing that a brisk, lively fire should be made around his victim, Servetus, that his agony might soon be over, but insisted upon the slow, smouldering, green-wood fire, which was hours in ending his excruciating agony, so my relentless enemies want to see me taken from this prison and incarcerated in one far more severe and cruel. Let them now be joyful and glad for their desires will be answered.

But so it has been for at least a thousand years. For a long time if any heretic dared to avow opinions different from what the church directed should be accepted, or if a dissenting word was lisped, or if only a suspicion, rested upon poor unfortunate men and women, the emissaries of the church have dragged them from their homes at all hours of the day and night, thrust them into loathsome dungeons, bound them to the rack, and by slow torture forced them to confess to crimes they never committed, have sundered their joints, broken their bones, torn out their tongues by the roots, cut off their noses and ears, burned out their eyes with hot irons, poured melted pitch into the ears, stuck burning slivers into the flesh, sent thousands of innocent people to the scaffold, and hundreds of thousands to the stake; and all this worse than demoniacal cruelty by the same kind of pious pretenders and tormentors as those who are h. wling that my pun-

ishment may be increased, and who would gladly see me subjected to the worst cruelties here indicated had not the progress of intelligence, science, and liberal sentiments forced these characteristic features of the Christian religion and of "law and order" out of use. The worst they can do now is to arrest unbelievers on false charges, secure convictions in bigoted, unjust courts, and then send their victims to prison. They do the worst they can, without a qualm of conscience or a twinge of compunction. Many of them regret that the good old systems of torture have passed away; many have sighed for a few more fires to burn a few more Servetuses. Many have said with regard to myself that I "ought to be hung" or "burnt at the stake," and that they could witness the punishment with holy satisfaction. This is no exaggeration. These remarks have been made, and those same men whose articles I have quoted would gladly witness my execution. The same spirit which is so persistently clamoring that I be deprived of liberty would also be glad to have me deprived of life.

The Christian church has been a persecuting church ever since it became powerful enough to seize, torture, crush, and slay. Truthfully and eloquently does Ingersoll say:

"Every nerve in the human body capable of pain has been sought out and touched by the church. Toleration has increased only when and where the power of the church has diminished. From Augustine until now the spirit of the Christian has remained the same. There has been the same intolerance, the same undying hatred of all who think for themselves, the same determination to crush out of

the human brain all knowledge inconsistent with the ignorant creed.

“Men and women have been burned for thinking there was but one God; that there was none; that the Holy Ghost is younger than God; that God was somewhat older than his son; for insisting that good works will save a man without faith; that faith will not do without good works; for declaring that a sweet babe will not be burned eternally because its parents failed to have its head wet by a priest; for speaking of God as though he had a nose; for denying that Christ was his own father; for contending that three persons rightly added together make more than one; for believing in purgatory; for denying the reality of hell; for pretending that priests can forgive sins; for preaching that God is an essence; for denying that witches rode through the air on sticks; for doubting the total depravity of the human heart; for laughing at *irresistable grace, predestination, and particular redemption*; for denying that good bread could be made of the body of a dead man; for pretending that the pope was not managing this world for God, and in place of God; for disputing the efficacy of vicarious atonement; for thinking that the Virgin Mary was born like other people; for thinking that a man's rib was hardly sufficient to make a good sized woman; for denying that God used his finger for a pen; for asserting that prayers are not answered; that diseases are not sent to punish unbelief; for denying the authority of the Bible; for having a Bible in their possession; for attending mass; for refusing to attend mass; for wearing a surplice; for carrying a cross, and for refusing; for being a Cath-

olic, and for being a Protestant ; for being an Episcopalian, a Presbyterian, a Baptist, and for being a Quaker. In short, every virtue has been a crime and every crime a virtue. The church has burned honesty and rewarded hypocrisy, and all this she did because it was commanded by a book—a book that men had been taught implicitly to believe before they knew one word that was in it. They had been taught that to doubt the truth of this book—to examine it even—was a crime of such enormity that it could not be forgiven, either in this world or in the next.

“Protestants and Catholics vied with each other in the work of enslaving the human mind. For ages they were rivals in the infamous effort to rid the earth of honest people. They infested every country, every city, every town, hamlet, and family. They appealed to the worst passions of the human heart. They sowed the seeds of discord and hatred in every land. Brother denounced brother ; wives informed against their husbands ; mothers accused their children ; dungeons were crowded with the innocent ; the flesh of the good and the true rotted in the clasp of chains ; the flames devoured the heroic, and, in the name of the most merciful God, his children were exterminated with famine, sword, and fire. Over the wild waves of battle rose and fell the banner of Jesus Christ. For sixteen hundred years the robes of the church were red with innocent blood. The ingenuity of Christians was exhausted in devising punishment severe enough to be inflicted upon other Christians who honestly and sincerely differed with them upon any point whatever.

“In those days the cross and rack were inseparable companions. Across the open Bible lay the sword and fagot. Not content with burning such heretics as were alive, they even tried the dead, in order that the church might rob their wives and children. The property of all heretics was confiscated, and on this account they charged the dead with being heretical—indicted, as it were, their dust, to the end that the church might clutch the bread of orphans. Learned divines discussed the propriety of tearing out the tongues of heretics before they were burned, that the heretics should not be able, by uttering blasphemies, to shock the Christians who were burning them. With a mixture of ferocity and Christianity, the priests insisted that heretics ought to be burned at a slow fire, giving as a reason that more time was given them for repentance.

“No wonder that Jesus Christ said, ‘I come not to bring peace but a sword.’ Every priest regarded himself as the agent of God. He answered all questions by authority, and to treat him with disrespect was an insult offered to God. No one was asked to think, but all were commanded to obey.

“The sword of the church was unsheathed, and the world was at the mercy of ignorant and infuriated priests, whose eyes feasted upon the agonies they inflicted. Acting, as they believed, or pretended to believe, under the command of God, stimulated by the hope of infinite reward in another world, hating heretics with every drop of their bestial blood, savage beyond description, merciless beyond conception, these infamous priests, in a kind of frenzied joy, leaped upon the helpless victims of their rage. They crushed their bones in iron boots,



tore their quivering flesh with iron hooks and pincers, cut off their lips and eyelids, pulled out their nails, and into the bleeding quick thrust needles, tore out their tongues, extinguished their eyes, stretched them upon racks, flayed them alive, crucified them with head downward, exposed them to wild beasts, burned them at the stake, mocked their cries and groans, ravished their wives, robbed their children, and then prayed God to finish the holy work in hell.

“In the name of God every possible crime has been committed—every conceivable outrage has been perpetrated. Brave men, tender and loving women, beautiful girls, and prattling babes, have been exterminated in the name of Jesus Christ. For more than fifty generations the church has carried the black flag. Her vengeance has been measured only by her power. During all these years of infamy no heretic has been forgiven. With the heart of a fiend she has hated ; with the clutch of avarice she has grasped ; with the jaws of a dragon she has devoured ; pitiless as famine ; merciless as fire ; with the conscience of a serpent. Such is the history of the church of God.”

Since, in consequence of the progress of education and civilization—in spite of the persecutions which the church has inflicted on those who had the temerity to dissent from its injunctions—the custom of imprisoning and taking life for matters of belief or disbelief is obsolete, at least in this country—as the law no longer recognizes blasphemy or heresy as crimes—those hypocrites and bigots have cunningly devised the crime of obscenity and caused it to be entered upon the statute

books of the country, by which they are able to imprison, annoy, and disgrace independent thinkers and radicals. This has been found of late to be nearly as effective in punishing unbelievers and dissenters as the charges of blasphemy and heresy were two or three hundred years ago. It has been so thoroughly reduced to a system that the higher courts of the country, in the interest of the church, are lending themselves to the prosecution and conviction of cases of this kind, thus loading themselves and the government with shame, and doing no permanent good to the cause of the church itself.

These Christian persecutors show a special fondness for using against me all the vile epithets that the English vocabulary will furnish them. "Miscreant," "scoundrel," "villain," "blasphemer," "corrupter of the young," "debaser of society," "destroyer of morality," "enemy of everything high and holy," "representative of obscenity," etc., etc., are among the most common employed. One not knowing better would readily suppose from the amount of abuse that has been showered upon me that I am one of the greatest criminals that ever lived, and that there are but few villainies in the long category of crimes that I have not been guilty of. But what is it that I have done that is so heinous? What outrages upon humanity have I perpetrated? In what instances have I wronged my fellow-beings? My enemies do not charge me with murder. It would be untrue if they did. I never took the life of any human being. They do not charge me with robbery. It would be false if they made such a charge. I have robbed no person of money, property, or reputation. They do not accuse me of arson.

It would be untrue if they did. I never burned a house. They do not accuse me of being a thief. It would be false if they did. I have never stolen from any one. They do not charge me with being a defaulter or embezzler. It would be most unjust if they did, for I have never been guilty of anything of the kind. They do not accuse me of being an adulterer. It would be false if they did. I have been faithful to my wife for a third of a century. They do not say I am a seducer. It would be a lie if they did. I never seduced a girl or a woman in my life; I never wronged a woman in my life. I have not been parent of an offspring save with my own wife. They do not say I am a liar. It would be most untrue if they did. Few persons have a higher regard for truth than myself, and few, I think, have been more careful to speak it. I utterly despise a liar. They do not say I am a swindler, or that I have aimed to wrong a man out of a dollar I owed him. It would be false if they did. I have through life made an effort to pay my just debts, and to wrong no one out of what I was indebted to him. If I have been sometimes unable to pay as promptly as I wished, I have paid as soon as I could. No man can say I ever purposely wronged him out of a dollar. They do not accuse me of being malicious, unneighborly, unsocial, or unaccommodating. It would be untrue if they did. I have been amicable with those among whom I have lived. I have been esteemed a good citizen, a good neighbor, and one who would confer a favor upon another when in my power to do so. They do not charge me with dishonesty, trickery, duplicity, or fraud. It would be a baseless slander if they did so. I have striven to

deal honestly, to shun trickery, to indulge not in duplicity, and to be fair, square, and upright in all my dealings, and in all intercourse with my fellow-men. They do not say I have directly or indirectly deprived my fellow-beings of happiness, property, or reputation. If they did it would be untrue. I have rather tried in keeping with my humble means to add to the happiness of those around me, and to injure them not in reputation or effects.

What is it, then, that I have done that all those church bigots should vilify me so persistently and should clamor so incessantly that the severity of my imprisonment be increased? What is the crime that I have been guilty of that I should be separated from my fellow-men and for more than a year be immured in a felon's cell? Why, I am charged with depositing in the mail a copy of Mr. Heywood's pamphlet, "Cupid's Yokes." They say it is *obscene*, and of so vile a character that though for sixty years I have lived a good life, borne a good character, and performed good deeds, for this act I must pass thirteen months in prison with thieves, pickpockets, and robbers, and that I must be held up to the scorn and hatred of the world!

Is this charge true or untrue? Am I a base criminal, or am I not? I say it is untrue, and that I am not a criminal. This is the great question at issue—I am a criminal or I am not; "Cupid's Yokes" is obscene or it is not. Which is it? If the question could be settled by those who have read it, the verdict would undoubtedly be, "It is not obscene." I verily believe that nine out of ten who have read the pamphlet, whether they agree with the author's views or not, whether they think the pamphlet is in

all respects in good taste or not, do not think it obscene, or that it was written with any desire or intention to inflame the passions. Those who cry out most loudly against the book are those who never read it but take Mr. Comstock's assertion for truth that it is obscene, and most of them are intolerant Christians who oppose it because it was written by a Radical and because it affords an excellent pretext for oppressing an Infidel.

The most of those who denounce it so loudly have never seen it. Many of those who are so horrified that such a book has been circulated are so ignorant of its character as to announce me as the author and publisher, when I am neither. I am simply a bookseller, and bought this and sold it to those who wanted it precisely the same as other publications, without approving it or disapproving it. The most that can be said as to the character of the pamphlet is that public opinion is divided upon it; there are a few designing bigots of the Comstock and Colgate type who are pleased to pronounce it obscene; but the best authors, the ablest writers, the most cultured literary men and book men in this country, pronounce it not obscene. Tens of thousands of intelligent men and women in all parts of the country confirm this verdict. It is very hard that a man should be deprived of his liberty, torn from his family and business and deprived of his dearest rights for a pamphlet which so small a portion of the public pronounce improper or obscene.

The little work, as its title-page announces, is "An Essay on the Moral and Physiological Phases of Love and Marriage." It is written soberly and decently, and is probably couched in as proper lan-

guage as any work upon kindred subjects. Of course as it treats upon the relations of the sexes, it necessarily has to refer to branches of the subject which some prudish, mock-modest, over-sensitive, and extra-squeamish people might think too direct, too plain, and a trifle indelicate. But it relates to subjects of the most vital importance to every man and woman, and upon which every person ought to have explicit and correct information.

The marriage relation has passed through several evolutions. In the days of savagism wives were secured by conquest—seized as lawful prey and borne away in triumph. In the barbaric state they were sold as merchandise and were purchased as cattle and other goods. In ancient times, even among the most religious nations, polygamy was most common. In most countries wives were treated as slaves and were held as greatly inferior to their masters and husbands. This is still the case in Oriental nations. Since the era of Christianity marriage has been pronounced a divine institution, a sacrament of heaven, and priests in most cases the only ones authorized to solemnize it. Admitting that this form of marriage is superior to the preceding system, it is still a question whether ultimate perfection has been arrived at, and whether the sexual act, which is pronounced pure and holy when performed by a pair united by a priest, is vile and unclean when performed by those over whom no priestly ceremony was pronounced. Do the mutterings of a priest really make any difference in the acts the couple may perform? Are the natural love and attraction between the sexes changed by what a priest may say or do for a fee? These are questions

proper to be canvassed and understood, and there can be no criminality in doing this in a proper manner.

Notwithstanding all that may be said in favor of the current marriage system, it is unfortunately true that there is a great amount of unhappiness existing in connection with it. There are thousands of unions formed which it would be far better if never entered into; and though, perhaps, wives in Christian countries have more rights and liberties than they have enjoyed under other systems, it is a sad and lamentable truth that the most cruel form of slavery exists under it. By millions of husbands, wives are regarded as their personal property and under obligations to yield to their passions whenever they will it so. The amount of cruel tyranny and legalized prostitution that has grown out of the Christian form of marriage is appalling to contemplate. The thousands of enslaved wives who lead the most wretched lives in consequence of the lusts and brutality of their husbands cannot be computed. But under the Christian system there is no redress, no hope. It is a decree of heaven; "God has joined them together," and there is no remedy but intolerable submission. How many who have entered the marriage relation found they made a sad mistake, that physically, temperamentally, morally, and socially they were unadapted to each other, whereby the union becomes the most irksome imaginable? But under our present system there is no remedy. It is immoral to separate. "Grin and bear it" is the only thing to do.

These things are true, sadly true, and there is no use in denying it or skulking it. The wise and the

proper way is to look the matter squarely in the face and see if sensible remedies can be suggested. Let those who have what they consider a better way be allowed to make their suggestions. No permanent harm can arise from doing this. The sexes ought to live happily and lovingly together, and until this is the case all should be heard who think they have a word to speak. The finality in social life has not yet been reached, and until it is attained suggestions are in order. Mr. Heywood is an earnest man, and a very radical man. He thought he had valuable suggestions to make. He deemed his plan better than the current system of sexual bondage. Let him be heard, or by all means let all hear him who wish to. If his suggestions are found to be unwise, untenable, mischievous, or impracticable, they need not be accepted. There is nothing compulsory in the matter. Even if he is in great error, no alarm is necessary. Error can never be very dangerous when truth is left free to combat it. The alarm which the bigots have raised is wholly uncalled for. Nobody has been injured by Mr. Heywood's views, and there is not the slightest danger of it. The cry that has been raised about their corrupting the young and rising generation is the sheerest hypocrisy and falsehood. "Cupid's Yokes" was not written for the young. It is not addressed to their comprehension. It is a dry, tedious essay; not one young person in ten thousand would read it, any way, and if they did, it would not do them the slightest injury. The howlings of the canting hypocrites is the most utter nonsense in the world, and wholly uncalled for, and so posterity will decide.



An old friend of mine, Joseph Kinsey, a most respectable and honorable business man of Cincinnati, a trustee and Sunday-school teacher in an orthodox church, and as pure and high-minded a man as I have had the good fortune to know, called upon me the other day in my prison cell. In course of conversation he said this: "Why, Bennett, if it is right and just that you should be here in prison, I ought to be here too, for I have committed precisely the same offense you are charged with. When I was in Boston, last season, I bought half a dozen copies of 'Cupid's Yokes' and mailed a part of them to friends of mine in different places. I have read the work carefully, and I find nothing in it indecent or obscene, but, on the other hand, many valuable truths and many suggestions which men and women ought to be familiar with. I find that these are calculated to correct and mitigate the sexual slavery legalized by our present system under which the women of the land are oppressed. Among the evils which exist to-day, legalized prostitution and female slavery are glaring ones. I pronounce 'Cupid's Yokes' a good work, and other friends of mine who have read it are of the same opinion." This gentleman has an excellent wife, and they live a happy life together, and there is not the slightest danger that "Cupid's Yokes" will change it; and so in thousands and thousands of cases. The evil and the danger which my Christian enemies so lament are simply creations and exaggerations. They have no existence in fact.

But is the work *obscene*? We decide almost everything in this world on the basis of relativity. We decide the character and status of what we

meet by comparison with what else we know and understand. Conditions are settled by comparison with other conditions. So the character of "Cupid's Yokes" may be determined by comparison with other publications. But this is precisely what Judge Benedict would not allow on my trial, neither would he allow the opinion of competent judges and experts to be heard. This was a gross injustice. It is the only just way to arrive at its character.

There is no question but what Mr. Heywood treated his subject in language equally as acceptable as other writers on the same subjects, whether in works of physiology or sociology. As a work of a salacious or erotic character, it bears no comparison with numerous standard and classic works, which are in every public and private library, and sold by every respectable bookseller in the country. The ancient and modern English poets are of this character. There is hardly one that does not contain passages and allusions far more objectionable than are to be found in "Cupid's Yokes." On one page of Boccaccio's "Decameron" is to be found more that is of a salacious, amorous, and erotic character than all contained in "Cupid's Yokes." Still thousands of the finest literary people in the world have admired the "Decameron," and it is in thousands of libraries. The works of Rabelais are infinitely more objectionable in point of plainness or coarseness than Heywood's pamphlet; still Rabelais holds a high position in the literary world. A library is not considered complete without his works; every book-dealer sells them, and nobody says a word against it. Comstock, it is true, has made a few

feeble attempts to taboo them, but the church has never condemned them.

Montaigne's Essays are three volumes of very fine literary merit, highly esteemed by scholars and people of the highest intelligence. The work has been republished in this country by an orthodox house in Boston, and nobody has ever condemned it; but it contains a thousand times as much that is objectionable in language and direct allusion of an amorous character as is to be found in "Cupid's Yokes." The same is true of the writings of Chaucer, Shakspeare, Smollet, Swift, Sterne, Fielding, Rousseau, Byron, Burns, Goethe, and numerous other writers. There is not one of these authors that does not contain far more that is broad, or plain, or amorous, or indecent, if you please, than is to be found in "Cupid's Yokes;" and still these writers are read, loved, and admired by every person of taste and intelligence. Nobody has been indicted or imprisoned for selling them, though in the aggregate they contain ten thousand times as much that might be complained of as does "Cupid's Yokes." If the works by these authors are not obscene, then "Cupid's Yokes" is not obscene. It is fair to presume it is the radicalness of this little pamphlet, its unorthodoxy, that is more objectionable than any language it contains. But a man should not be imprisoned for radicalism; it is not a crime.

But these authors named were many of them men of the world; brilliant writers, perhaps, but men with faults. The most of them were Christians, perhaps, but they were not particularly heavenly-minded. They were not supposed to have written

directly by dictation from God himself. They were but natural men similar to Mr. Heywood.

Perhaps the fairer way to do will be to compare "Cupid's Yokes" with a "good book"—the only really *good book* which my persecutors and enemies all agree is faultless, a perfect book; a book of heavenly origin, written by God himself, or, at the very least, by his immediate dictation; a book which the priesthood enjoin upon us to possess, to cherish, to read, to treasure up, to love and obey. Let us compare "Cupid's Yokes" with this only *good book*, from a great and distinguished author; let us see if the little book with a common man for author falls immensely behind in decency of language, choiceness of sentiment, purity of imagery, freedom from allusions to sexual matters and organs—the great book with God for its author. If the little book compares favorably with the big book, I shall ever insist that it is very unjust to send me to prison for selling the little book when hundreds of thousands have sold the big book, and are selling it now, a copy of which can be found in every home, however humble, in the land, and in many half a dozen copies or more, and which it is so continually urged upon us to press to our hearts. Yes, if the little book shows up to be no worse than the big book, I contend that Comstock and Colgate should not have arrested me, Judges Benedict and Blatchford should not have condemned me, and President Hayes should immediately let me out of prison, and tell me I have only done what I had a perfect right to do.

Now I want to be perfectly fair in this business. I don't wish to take the slightest advantage of the big book or its author, nor do I wish to give the little

book or its author the smallest advantage. I propose to compare one with the other right here, and to do so just as fairly as possible. I will give the *bad* passages or extracts from "Cupid's Yokes," the very ones which my prosecutors objected to, marked out, and upon which I was convicted. In fact, these were the only parts of the pamphlet which Benedict would allow to be read to the jury. These are, therefore, the only parts I can probably present for comparison. I will quote one extract at a time, and I cannot of course quote the whole of the Bible in this letter, as it is too long, and it is unnecessary; but I will give ten or twelve passages from the Bible for each one from "Cupid's Yokes." This surely will be fair, and as the court picked out what it considered the worst parts of "Cupid's Yokes," I certainly will be justified in making my own selections from the good book, since it is all divine, all pure, all holy. This all hands, even Messrs. Comstock, Colgate, Benedict, Beecher, Abbott, Prime, Dougall, Bacon, Cook, Bundy, *et al.*, must admit to be a fair deal. Here, then, we have the comparison. The first extract from "Cupid's Yokes" is from the first page, and is as follows:

#### "CUPID'S YOKES" AND THE BIBLE CONTRASTED.

Since "falling in love" is not always ascension, growth (as it should be) but often degradation; as persons who meet in convulsive embraces may separate in deadly feuds—sexual love here carrying invigorating peace, there desolating havoc, into domestic life—intelligent students of sociology will not think the marriage institution a finality, but, rather, a device to be amended, or abolished, as enlightened moral sense may require.

This is a perfectly true statement, and there is

nothing obscene about it. The language is as well selected as could be used. There is nothing said here that need shock the most fastidious. Now we will have the proposed number of passages from the good book :

26 But his wife looked back from behind him, and she became a pillar of salt.

30 And Lot went up out of Zoar, and dwelt in the mountain, and his two daughters with him ; for he feared to dwell in Zoar : and he dwelt in a cave, he and his two daughters

31 And the first-born said unto the younger, Our father *is* old, and *there is* not a man in the earth to come in unto us after the manner of all the earth :

32 Come, let us make our father drink wine, and we will lie with him, that we may preserve the seed of our father.

33 And they made their father drink wine that night : and the first-born went in, and lay with her father ; and he perceived not when she lay down, nor when she arose.

34 And it came to pass on the morrow, that the first-born said unto the younger, Behold, I lay yesternight with my father : let us make him drink wine this night also ; and go thou in, *and* lie with him, that we may preserve seed of-our father.

35 And they made their father drink wine that night also : and the younger arose, and lay with him ; and he perceived not when she lay down nor when she arose.

36 Thus were both the daughters of Lot with child by their father.

37 And the first-born bare a son, and called his name Moab : the same *is* the father of the Moabites unto this day.

38 And the younger, she also bare a son, and called his name Ben-ammi : the same *is* the father of the children of Ammon unto this day. (Genesis, xix.)

There, what can be said against that ? Who can say it is not pure, elevating, moral, and the very

quintessence of decency? Can anybody say that such beautiful language is calculated to corrupt the young?

Now for extract No. 2 from the *bad* little book, page 5 :

The popular idea of sexual purity (freedom from fornication or adultery, abstinence from sexual intercourse before marriage, and fidelity to its exclusive vows afterwards), rests on intrusive laws, made and sustained by men, either ignorant of what is essentially virtuous, or whose better judgment bows to custom that stifles the cries of affection and ignores the reeking licentiousness of marriage beds. Is coition pure only when sanctioned by priest or magistrate? Are scandal-begetting clergymen and bribe-taking statesmen the sources of virtue?

This is another true statement. Its language is proper and contains not a semblance of obscenity. But again from the great *good* book :

1 And when Rachel saw that she bare Jacob no children, Rachel envied her sister; and said unto Jacob, Give me children, or else I die.

2 And Jacob's anger was kindled against Rachel; and he said, Am I in God's stead, who hath withdrawn from thee the fruit of the womb?

3 And she said, Behold my maid Bilhah, go in unto her; and she shall bear upon my knees, that I may also have children by her.

4 And she gave him Bilhah her handmaid to wife: and Jacob went in unto her.

5 And Bilhah conceived, and bare Jacob a son.

7 And Bilhah, Rachel's maid, conceived again, and bare Jacob a second son.

15 And she said unto her, Is it a small matter that thou hast taken my husband? and wouldst thou take away my son's mandrakes also? And Rachel said, Therefore he shall lie with thee to-night for thy son's mandrakes.

16 And Jacob came out of the field in the evening, and

Leah went out to meet him, and said, Thou must come in unto me ; for surely I have hired thee with my son's mandrakes. And he lay with her that night.

19 And Leah conceived again, and bare Jacob the sixth son.

22 And God remembered Rachel, and God hearkened to her, and opened her womb.

23 And she conceived, and bare a son ; and said, God hath taken away my reproach.

24 And she called his name Joseph ; and said, The Lord shall add to me another son. (Genesis, xxx.)

Will Comstock & Co. say that is not nice reading for young people ?

Now for extract No. 3 from the little book, page 7 :

Woman, who, being up first in the morning hours of history, played a winning hand in this marriage game, is again coming to the front ; and, in the parliament of reason, where the thought, impulse, attraction, and conscience of both sexes have free play, better methods of sexual intercourse and reproduction will be matured than exclusive male wisdom has yet invented.

There is nothing very horrifying about that, and it is not calculated to inflame a person's passion beyond control. Sixty days in prison on bread and water with \$100 fine would seem to be penalty enough for that extract. But here is another installment from the great book :

1 And Dinah, the daughter of Leah, which she bare unto Jacob, went out to see the daughters of the land.

2 And when Shechem the son of Hamor the Hivite, prince of the country, saw her, he took her, and lay with her, and defiled her.

3 And his soul clave unto Dinah the daughter of Jacob, and he loved the damsel, and spake kindly unto the damsel. (Gen., xxxiv )



1 And it came to pass at that time, that Judah went down from his brethren, and turned in to a certain Adullamite, whose name *was* Hirah.

2. And Judah saw there a daughter of a certain Canaanite, whose name *was* Shuah ; and he took her, and went in unto her.

3 And she conceived, and bare a son ; and he called his name Er.

4 And she conceived again, and bare a son ; and she called his name Onan.

5 And she yet again conceived and bare a son ; and called his name Shelah : and he was at Chezib, when she bare him.

6 And Judah took a wife for Er his first-born, whose name *was* Tamar.

7 And Er, Judah's first-born, was wicked in the sight of the Lord ; and the Lord slew him.

8 And Judah said unto Onan, Go in unto thy brother's wife, and marry her, and raise up seed to thy brother.

9 And Onan knew that the seed should not be his : and it came to pass, when he went in unto his brother's wife, that he spilled it on the ground, lest that he should give seed to his brother.

10 And the thing which he did displeased the Lord : wherefore he slew him also.

14 And she [Tamar] put her widow's garments off from her, and covered her with a veil, and wrapped herself, and sat in an open place, which is by the way of Timnath : for she saw that Shelah was grown, and she was not given unto him to wife.

15 When Judah saw her, he thought her to be a harlot ; because she had covered her face.

16 And he turned unto her by the way, and said, Go to, I pray thee, let me come in unto thee ; (for he knew not that she was his daughter-in-law :) and she said, What wilt thou give me, that thou mayest come in unto me ?

18 And he said, What pledge shall I give thee ? and she said, Thy signet, and thy bracelets, and thy staff that is in thy hand : and he gave it her, and came in unto her, and she conceived by him.

27 And it came to pass in the time of her travail, that behold, twins were in her womb.

28 And it came to pass when she travailed, that the one put out his hand; and the midwife took and bound upon his hand a scarlet thread, saying, This came out first.

29 And it came to pass as he drew back his hand, that behold, his brother came out: and she said, How hast thou broken forth? this breach be upon thee: therefore his name was called Pharez.

30 And afterward came out his brother that had the scarlet thread upon his hand; and his name was called Zarah. (Gen., xxxviii.)

How is this for Sunday-school scholars? Comment is unnecessary. But here is the next quotation from the bad little book:

Who supposes that, if allowed to freely consult their natural wits and good sense, they would tie themselves up in the social snarl of matrimony? Yet they are now compelled to choose between suicidal evils of abstinence and the legalized prostitution of marriage. Some, by clandestine intimacies, live below marriage; others, by personal defiance, and at the expense of social ostracism, attempt to live above it.

Is this bad? It may be particularly exciting to such minds as those of Comstock, Cook, Bacon & Co. If so, let us have the antidote from the great book.

16 And if any man's seed of copulation go out from him, then he shall wash all his flesh in water, and be unclean until the even.

17 And every garment, and every skin whereon is the seed of copulation, shall be washed with water, and be unclean until the even.

18 The woman also with whom man shall lie *with seed of copulation*, they *shall* both bathe *themselves* in water, and be unclean until the even.

24 And if any man lie with her at all, and her flowers be

upon him, he shall be unclean seven days : and all the bed whereon he lieth shall be unclean.

32 This is the law of him that hath an issue, and *of him* whose seed goeth from him, and is defiled therewith ;

33 And of her that is sick of her flowers, and of him that hath an issue, of the man, and of the woman, and of him that lieth with her which is unclean. (Lev., xv.)

7 The nakedness of thy father, or the nakedness of thy mother, shalt thou not uncover : she *is* thy mother, thou shalt not uncover her nakedness.

8 The nakedness of thy father's wife shalt thou not uncover : it is thy father's nakedness.

9 The nakedness of thy sister, the daughter of thy father, or daughter of thy mother, *whether she be* born at home, or born abroad, *even* their nakedness thou shalt not uncover.

22 Thou shalt not lie with mankind as with womankind : it *is* abomination.

23 Neither shalt thou lie with any beast to defile thyself therewith : neither shall any woman stand before a beast to lie down thereto : it is confusion.

28 That the land spew not you out also, when ye defile it, as it spewed out the nations that *were* before you. (Lev., xviii.)

18 And if a man shall lie with a woman having her sickness, and shall uncover her nakedness ; he hath discovered her fountain, and she hath uncovered the fountain of her blood : and both of them shall be cut off from among their people. (Lev., xx.)

20 Or crookbacked, or a dwarf, or that hath a blemish in his eye, or be scurvy, or scabbed, or hath his stones broken. (Lev. xxi)

Of course these extracts need no praise ; the only trouble is there is so much equally fine that has to be omitted. But now for passage five from the bad little book :

It is said of Valeria Messalina, wife of Claudius Cæsar, that " her husband's chief officers became her adulterers, and were allied with her in all her abominations. She cast

an eye of lust on the principal men in Rome, and whom she could not seduce to gratify her propensities she would contrive to destroy. She was so excessive in her sensuality that she often required the services of the strongest and most vigorous men to satisfy her lusts."—*History and Philosophy of Marriage*, pp. 107-108.

This is a historical extract from a standard work: It is a little bit hard on Mrs. Cæsar, and such a woman is to be pitied, but it is certainly not obscene. But if any very prudish persons should deem it so, we here have the antidote:

12 Speak unto the children of Israel, and say unto them, If any man's wife go aside, and commit a trespass against him,

13 And a man lie with her carnally, and it be hid from the eyes of her husband, and be kept close, and she be defiled, and there be no witness against her, neither she be taken with the manner;

14 And the spirit of jealousy come upon him, and he be jealous of his wife, and she be defiled; or if the spirit of jealousy come upon him, and he be jealous of his wife, and she be not defiled:

15 Then shall the man bring his wife unto the priest, and he shall bring her offering for her, the tenth part of an ephah of barley-meal; he shall pour no oil upon it, nor put frankincense thereon; for it is an offering of jealousy, an offering of memorial bringing iniquity to remembrance.

19 And the priest shall charge her by an oath, and say unto the woman, If no man have lain with thee, and if thou hast not gone aside to uncleanness with another instead of thy husband, be thou free from this bitter water that causeth the curse:

20 But if thou hast gone aside to another instead of thy husband, and if thou be defiled, and some man have lain with thee besides thy husband:

21 Then the priest shall charge the woman with an oath of cursing, and the priest shall say unto the woman, The Lord make thee a curse and an oath among thy people,

when the Lord doth make thy thigh to rot, and thy belly to swell;

22 And the water that causeth the curse shall go into thy bowels, to make thy belly to swell, and thy thigh to rot. And the woman shall say, Amen, amen. (Num., v.)

17 Now therefore kill every male among the little ones, and kill every woman that hath known man by lying with him.

18 But all the women-children, that have not known a man by lying with him, keep alive for yourselves. (Num., xxi.)

Having thus been purified from the effects of the bad little book, we can now take the sixth dose.

While his [Mr. Beecher's] natural right to commit adultery is unquestionable, his right to lie about it is not so clear.

There is nothing very shocking about that—not one-tenth part as bad as all the daily papers of this city for six months together said about Beecher. But let us turn again, to something from the holy book.

13 If any man take a wife, and go in unto her, and hate her,

14 And give occasions of speech against her, and bring up an evil name upon her, and say, I took this woman, and when I came to her, I found her not a maid:

15 Then shall the father of the damsel, and her mother, take and bring forth the tokens of the damsel's virginity unto the elders of the city in the gate:

16 And the damsel's father shall say unto the elders, I gave my daughter un'o this man to wife; and he hateth her,

17 And lo, he hath given occasions of speech against her, saying, I found not thy daughter a maid; and yet these are the tokens of my daughter's virginity. And they shall spread the cloth before the elders of the city. (Deut. xxii.)

1 He that is wounded in the stones, or hath his privy member cut off, shall not enter into the congregation of the Lord.

13 And thou shalt have a paddle upon thy weapon: and it shall be, when thou wilt ease thyself abroad, thou shalt

dig therewith, and shalt turn back and cover that which cometh from thee. (Deut., xxiii.)

2 And his concubine played the whore against him, and went away from him unto her father's house to Bethlehem-Judah, and was there four whole months.

23 And the man, the master of the house, went out unto them, and said unto them, Nay, my brethren, nay, I pray you, do not so wickedly ; seeing that this man is come into mine house, do not this folly.

24 Behold, here is my daughter, a maiden, and his concubine ; them I will bring out now, and humble ye them, and do with them what seemeth good unto you : but unto this man do not so vile a thing. (Judges, xix.)

The superior chasteness and purity of these passages over "Cupid's Yokes" can doubtless be perceived by Comstock, Bacon, Dougall & Co. Here is another condemned passage from the little book :

It is admitted that, if the previous partners in her bed are divorced by death or other cause, a woman may truly love and wisely marry the second or fifth man ; but the purity of her love for the fifth man is not determined by the previous four being dead or divorced ; were they all living and her personal friends, she can love the last man as truly as she loved the first.

It takes a person of very close discrimination and of a very pious turn of mind to see a great amount of obscenity in this selection, especially enough to send a man to prison for. But let us turn again to Holy Writ :

11 And Naomi said, Turn again, my daughters : why will ye go with me ? are there yet any more sons in my womb, that they may be your husbands ? (Ruth, i.)

7 And when Boaz had eaten and drunk, and his heart was merry, he went to lie down at the end of the heap of corn : and she came softly, and uncovered his feet, and laid her down.

9 And he said, Who art thou? And she answered, I am Ruth, thine handmaid: spread therefore thine skirt over thine handmaid; for thou art a near kinsman.

16 And when she came to her mother-in-law, she said, Who art thou, my daughter? and she told her all that the man had done to her. (Ruth, iii.)

18 So Boaz took Ruth, and she was his wife: and when he went in unto her, the Lord gave her conception and she bare a son. (Ruth, iv.)

5 But unto Hannah he gave a worthy portion; for he loved Hannah: but the Lord had shut up her womb.

19 And Elikanah knew Hannah his wife; and the Lord remembered her. (1 Sam., i.)

22 Now Eli was very old, and heard all that his sons did unto all Israel; and how they lay with the women that assembled at the door of the tabernacle of the congregation. (1 Sam., ii.)

22 (So and more also do God unto the enemies of David, if I leave of all that pertain to him by the morning light any that pisseth against the wall). (1 Sam., xxv.)

The beauties of these quotations are not altogether hidden. The next condemned quotation from Mr. Heywood's pamphlet is from the Rev. J. H. Noyes, of Oneida, N. Y., regarded as a very able man, a philosopher, and a thinker:

The new commandment is that we love each other fervently, not in pairs, but *en masse*; as religious excitements act on amativeness, this is an indication of the natural tendency of religion to love. The union of hearts expresses and ultimate itself in union of bodies. Love is attraction; seeking unity, it is desire; in unity happiness. In unobstructed love, or the free play of the affinities, sexual union is its natural expression. Experience teaches that sexual love is not restricted to pairs; second marriages annul the one-love theory and are often the happiest. Love is not burnt out in one honeymoon, or satisfied by one lover; the secret history of the human heart proves that it is capable of loving any number of times and persons, and

that the more it loves the more it can love. This is the law of nature, thrust out of sight and condemned by common consent, yet secretly known to all. Variety is as beautiful and useful in love as in eating and drinking. The one-love theory, based on jealousy, comes not from loving hearts, but from the greedy claimant. The law of marriage "worketh wrath;" provokes jealousy; unites unmatched natures and sunders matched ones; and, making no provision for sexual appetite, causes disease, masturbation, prostitution, and general licentiousness. Unless the sexes come together *naturally*, desire damned up breaks out irregularly and destructively. The irregularities and excesses of amativeness are explosions incident to unnatural separations of male and female elements, as in the explosion of electric forces. Mingling of the sexes favors purity: isolation, as in colleges, seminaries, monasteries, etc., breeds salacity and obscenity. A system of complex marriage, supplying want, both as to time and variety, will open the prison doors both to the victims of marriage and celibacy; to those in married life who are starved, and to those who are oppressed by lust; to those who are tied to uncongenial natures, and to those who are separated from their natural mates; and to those in the unmarried state who are withered by neglect, diseased by unnatural abstinence, or plunged into prostitution and self-pollution by desires which have no natural channel.

It must, indeed, require a perverted mind, or one badly diseased, to find obscenity in the above. It simply treats of realities that exist in the human family, not too sacred nor too delicate to be understood, and is expressed in proper and well-chosen language. But, for a change, we will again turn to the unfailing source of purity and propriety:

2 And it came to pass in an evening tide, that David arose from off his bed, and walked upon the roof of the king's house: and from the roof he saw a woman washing herself; and the woman was very beautiful to look upon.

3 And David sent and inquired after the woman. And



one said, Is not this Bathsheba, the daughter of Eliam, the wife of Uriah the Hittite?

4 And David sent messengers and took her; and she came in unto him, and he lay with her; for she was purified from her uncleanness: and she returned unto her house.

5 And the woman conceived, and sent and told David, and said, I am with child. (2 Sam., xi.)

22 So they spread Absalom a tent upon the top of the house; and Absalom went in unto his father's concubines in the sight of all Israel. (2 Sam., xvi.)

1 Now king David was old and stricken in years; and they covered him with clothes, but he gat no heat.

2 Wherefore his servants said unto him, Let there be sought for my lord the king a young virgin: and let her stand before the king, and let her cherish him, and let her lie in thy bosom, that my lord the king may get heat.

3 So they sought for a fair damsel throughout all the coasts of Israel, and found Abishag, a Shunammite, and brought her to the king.

5 And the damsel was very fair, and cherished the king, and ministered to him: but the king knew her not. (1 Kings, i.)

21 Behold, I will bring evil upon thee, and will take away thy posterity, and will cut off from Ahab him that pisseth against the wall. (1 Kings, xxi.)

David was such a good man, so thoroughly "after God's own heart," it is always pleasant to read of his holy deeds. The ninth condemned passage on which I was convicted is a quotation from Henry James, a somewhat distinguished writer :

-Adultery is an offense committed against a vicious social order among men, an imperfect social state, and is engendered by it exclusively ; so that, when society comes or is acknowledged as the normal state of man, adultery will disappear as the fog of a marsh disappears before the morning sun. . . . Our existing conjugality, accordingly, is not marriage except in name, because it disallows an inward, free, or spontaneous tenure, and admits only a legally en-

forced or outward one. It is simply a legalized concubinage of the sexes.

The obscenity of this quotation is not perceptible to the ordinary capacity, but it is almost astonishing how much a bigot can find in it when the offending one is an Infidel. But here is an amorous narrative that the Rev. Leonard W. Bacon and thousands of his brother clergymen can duly appreciate:

1 And it came to pass after this, that Absalom the son of David had a fair sister whose name was Tamar; and Amnon the son of David loved her.

2 And Amnon was so vexed that he fell sick for his sister Tamar; for she was a virgin; and Amnon thought it hard for him to do any thing to her.

3 But Amnon had a friend, whose name was Jonadab, the son of Shimeah, David's brother: and Jonadab was a very subtle man.

4 And he said unto him, Why art thou, being the king's son, lean from day to day? wilt thou not tell me? And Amnon said unto him, I love Tamar, my brother Absalom's sister.

5 And Jonadab said unto him, Lay thee down on thy bed, and make thyself sick: and when thy father cometh to see thee, say unto him, I pray thee, let my sister Tamar come, and give me meat, and dress the meat in my sight, that I may see it, and eat it at her hand.

6 So Amnon lay down, and made himself sick: and when the king was come to see him, Amnon said unto the king, I pray thee, let Tamar my sister come, and make me a couple of cakes in my sight that I may eat at her hand.

7 Then David sent home to Tamar, saying, Go now to thy brother Amnon's house, and dress him meat.

8 So Tamar went to her brother Amnon's house; and he was laid down. And she took flour and kneaded it, and made cakes in his sight, and did bake the cakes.

11 And when she had brought them unto him to eat, he took hold of her, and said unto her, Come lie with me, my sister.

12 And she answered him, Nay, my brother, do not force me; for no such thing ought to be done in Israel: do not thou this folly.

13 And I, whither shall I cause my shame to go? and as for thee, thou shalt be as one of the fools in Israel: Now therefore, I pray thee, speak unto the king; for he will not withhold me from thee.

14 Howbeit he would not hearken unto her voice; but, being stronger than she, forced her and lay with her. (2 Sam., xiii.)

Pious people may regard this a very interesting and instructive story for young people, while others might entertain doubts of its influences; but I will leave the reader to arrive at his own conclusions.

The next vile passage from Mr. Heywood's pernicious pamphlet is from that highly esteemed work, "Plutarch's Lives."

Lycurgus laughed at those who revenge with wars and bloodshed the communication of a married woman's favors; and allowed that if a man in years should have a young wife, he might introduce to her some handsome and honest young man, whom he most approved of, and when she had a child of this generous race, bring it up as his own. On the other hand, he allowed that if a man of character should entertain a passion for a married woman on account of her modesty and the beauty of her children, he might treat with her husband for admission to her company, that so planting in a beauty-bearing soil, he might produce excellent children, the congenial offspring of excellent parents. (Plutarch's Lives, p. 36.)

Among the old writers, there are few or none that stand in higher estimation than Plutarch. His biographies have been read with great pleasure and profit by hundreds of thousands of scholars and readers. He was never considered an obscene writer until Mr. Heywood quoted him in his little

work. Now, since Comstock and Benedict say so, it is extremely criminal to quote him, and if an Infidel presumes to do so, he must go to prison for it. But let us turn again for relief to the Bible :

27 But Rab-shakah said unto them, Hath my master sent me to thy master and to thee to speak these words? Hath he not sent me to the men which sit on the wall, that they may eat their own dung and drink their own piss with you? (2 Kings, xviii; Isaiah, xxxvi.)

17 He moveth his tail like a cedar; the sinews of his stones are wrapped together. (Job, xl.)

13 Therefore your daughters shall commit whoredom, and your spouses shall commit adultery.

14 I will not punish your daughters when they commit whoredom, nor your spouses when they commit adultery: for themselves are separated with whores, and they sacrifice with harlots:

15 Though thou, Israel, play the harlot, yet let not Judah offend. (Hosea, iv.)

11 Wherefore my bowels shall sound like a harp for Moab. (Isaiah, xvi.)

1 Woe to them that devise iniquity, and work evil upon their beds! When the morning is light, they practice it, because it is in the power of their hand. (Micah, ii.)

3 There is no soundness in my flesh because of thine anger; neither is there any rest in my bones because of my sin.

5 My wounds stink, and are corrupt because of my foolishness.

7 For my loins are filled with a loathsome disease: and there is no soundness in my flesh.

8 I am feeble and sore broken: I have roared by reason of the disquietness of my heart.

11 My lovers and my friends stand aloof from my sore; and my kinsmen stand afar off (Psalm xxxviii.)

It is not strange, perhaps, that a man like David, who had intercourse with so many different women, should contract the venereal disease, but he need not

have told the world of it in such plain, offensive language. But here is another installment of "Cupid's Yokes," a quotation from a most valuable work, by a medical man :

Sydenham says "Hysterical affections constitute one-half of woman's chronic diseases." . . . Hysteria is comparatively unknown in India, where it is a matter of religious feeling to procure a husband for a girl as soon as menstruation begins; but in this country (England), whose customs enforce celibacy, no other disease is so widespread. A happy sexual intimacy is the best remedy for hysteria. (Elements of Social Science, pp. 176-183.)

It requires a Comstock, a Benedict, or a Fiero to find obscenity in this quotation. It states an important truth, and in well selected language; but still Infidels are sent to prison for repeating it. But let us turn again to the divine word :

19 Let her be as the loving hind and pleasant roe; let her breasts satisfy thee at all times; and be thou ravished always with her love.

20 And why wilt thou, my son, be ravished with a strange woman, and embrace the bosom of a stranger? (Prov., v.)

17 I have perfumed my bed with myrrh, aloes, and cinnamon.

18 Come, let us take our fill of love until the morning; let us solace ourselves with loves.

19 For the good man is not at home, he is gone. (Prov., vii.)

17 Stolen waters are sweet, and bread eaten in secret is pleasant. (Prov, ix.)

13 A bundle of myrrh is my well-beloved unto me; he shall lie all night betwixt my breasts.

14 My beloved is unto me as a cluster of camphire in the vineyards of En-Gedi.

15 Behold, thou art fair, my love; behold, thou art fair; thou hast doves' eyes.

16 Behold, thou art fair, my beloved, yea, pleasant; also our bed is green. (Song of Solomon, i.)

6 His left hand is under my head, and his right hand doth embrace me. (Song of Solomon, ii.)

1 By night on my bed I sought him whom my soul loveth: I sought him, but I found him not.

4 It was but a little that I passed from them, but I found him whom my soul loveth: I held him, and would not let him go until I had brought him into my mother's house, and into the chamber of her that conceived me. (Song of Solomon, iii.)

Persons who are not, perhaps, the right kind of judges, may possibly think this a trifle amatory, but it is recommended by Christian clergymen as just the thing for Sunday-school boys and girls. But now for another condemned quotation from the little pamphlet, or rather a continuation of the last one, from the same source. Watch for the vileness:

Thrown upon himself by the asceticism of our morality, the young man falls into solitary indulgence. Haunted by amatory ideas, and tormented by the excitement of the sexual organs, the spirited youth wars manfully for the citadel of his chastity. Night brings no consolation after the gloomy day, for he lives in constant dread of nocturnal discharges of semen, which weaken him so much that in the morning he feels as if bowed down by a weight to his couch. He consults physicians; but, overawed by the general erroneous moral views on these subjects, they shrink from their duty to assert the sacredness of the bodily laws in opposition to preconceptions.

Can anybody but Comstock, Benedict, Bacon, and a few more of that pure ilk see obscenity here? It is a truthful statement of a melancholy condition of things, which the writer of the little work was most anxious to remove. I do not understand how any person of intelligence can see anything to condemn

in the quotation, either in motive or language. It is clear on the face of it that it was not written to arouse any improper impulses, or inflame any passion. But next we will have a little more from the perfect book :

4 Thy neck is like the tower of David builded for an armory, whereon there hang a thousand bucklers, all shields of mighty men.

5 Thy two breasts are like two young roes that are twins, which feed among the lilies.

6 Until the day break, and the shadows flee away, I will get me to the mountains of myrrh, and to the hill of frankincense.

7 Thou art all fair, my love ; there is no spot in thee.

9 Thou hast ravished my heart, my sister, my spouse ; thou hast ravished my heart with one of thine eyes, with one chain of thy neck.

10 How fair is thy love, my sister, my spouse ! how much better is thy love than wine ! and the smell of thine ointments than all spices !

11 Thy lips, O my spouse, drop as the honeycomb : honey and milk are under thy tongue ; and the smell of thy garments is like the smell of Lebanon. (Song of Solomon, iv.,

4 My beloved put in his hand by the hole of the door, and my bowels were moved for him.

5 Turn away thine eyes from me, for they have overcome me : thy hair is as a flock of goats that appear from Gilead.

8 I charge you, O daughters of Jerusalem, if ye find my beloved, that ye tell him that I am sick of love. (Song of Solomon, v.)

1 How beautiful are thy feet with shoes, O prince's daughter ! the joints of thy thighs are like jewels, the work of the hands of a cunning workman.

2 Thy navel is like a round goblet, which wanteth not liquor : thy belly is like a heap of wheat set about with lilies.

3 Thy two breasts are like two young roes that are twins. (Song of Solomon, vii.)

My pious persecutors and maligners will of course insist that this is vastly purer and more elevating than the foregoing condemned passages from "Cúpid's Yokes." Here is still another of those "soul-debasing" passages:

Rousseau was an instructive instance of a most noble mind struggling under the inevitable ruin of a secret bodily disease. . . . Pascal also is thought to have had the disease, and probably Sir Isaac Newton, who is said to have lived a life of strict sexual abstinence, which produced before death a total atrophy of the testicles, showing the natural sin which he had committed.

Now, reader, do you find that perfectly horrible? Does it arouse your baser passions to an alarming degree? Do you think any "soul" can read it without being tetotally "debased?" It might be a mournful satisfaction to know how many have been "debased" by that passage. To prevent any dire effect such baseness may have upon our minds, let us turn at once for an antidote to the source of all purity:

6 How fair and how pleasant art thou, O love, for delights! (Song of Solomon, vii.)

8 We have a little sister, and she hath no breasts: what shall we do for our sister in the day she shall be spoken for? (Song of Solomon, viii.)

3 And I went unto the prophetess: and she conceived, and bare a son. Then said the Lord to me, Call his name Maher-shalal-hash-baz. (Isaiah, viii.)

18 We have been with child, we have been in pain, we have as it were brought forth wind; we have not wrought any deliverance in the earth. (Isaiah, xxvi.)

8 Thy nakedness shall be uncovered, yea, thy shame shall be seen. (Isaiah, xlvii.)

12 And thou shalt eat it as barley cakes, and thou shalt bake it with dung that cometh out of man, in their sight.



15 Then he said unto me, Lo, I have given thee cow's dung for man's dung, and thou shalt prepare thy bread therewith. (Ezekiel, iv.)

6 Neither hath defiled his neighbor's wife, neither hath come near to a mens'ruous woman. (Ezekiel, xviii.)

5 For their mother hath played the harlot : she that conceived them hath done shamefully : for she said, I will go after my lovers, that give me my bread and my water, my wool and my flax, mine oil and my drink. (Hosea, ii.)

3 Behold, I will corrupt your seed, and spread dung upon your faces, even the dung of your solemn feasts ; and one shall take you away with it. (Mal., ii.)

It is not my place to insist upon the high chasteness and elegance of this language, but my purpose is to place the passages upon which I am imprisoned in comparison with the "best book in the world," that the magnitude of my crime may be appreciated. One more short-passage from "Cupid's Yokes," being a continued quotation:

\* \* \* It is a disgrace to medicine and mankind that so important a class of diseases have become the trade of unscientific men.

A person surely should not endure more than one year's imprisonment for sending that through the mail. It cannot be that more than a million or two of souls have been debased by it. But let us have something that is good:

2 Son of man, there were two women, the daughters of one mother;

3 And they committed whoredoms in Egypt ; they committed whoredoms in their youth : there were their breasts pressed, and there they bruised the teats of their virginity.

4 And the names of them were Aholah the elder, and Aholibah her sister ; and they were mine, and they bare sons and daughters. Thus were their names ; Samaria is Aholah, and Jerusalem Aholibah.

5 And Aholah played the harlot when she was mine; and she doted on her lovers, on the Assyrians her neighbors.

6 Which were clothed with blue, captains and rulers, all of them desirable young men.

7 Thus she committed her whoredoms with them, with all them that were the chosen men of Assyria, and with all on whom she doted; with all their idols she defiled herself.

8 Neither left she her whoredoms brought from Egypt: for in her youth they lay with her, and they bruised the breasts of her virginity, and poured their whoredom upon her.

9 Wherefore I have delivered her into the hand of her lovers, into the hand of the Assyrians, upon whom she doted.

10 These discovered her nakedness; they took her sons and daughters, and slew her with the sword: and she became famous among women: for they had executed judgment upon her.

This is a good lesson for a Bible class. Some may object to the nature of the language employed, but such should remember the source whence it emanates. Let us now present the last condemned passage from Mr. Heywood's pamphlet:

But many women, not in immediate need of money, engage in "the social evil;" for, allied with this financial fraud is the great social fraud, marriage, by which the sexes are put in unnatural antagonism, and forbidden natural intercourse; social pleasure, being an object of common desire, becomes a marketable commodity, sold by her who receives a buyer for the night, and by her who, marrying for a home, becomes a "prostitute" for life.

Really, to look at this calmly, there is nothing obscene about it. Almost every person could read it seven times over without becoming seriously inflamed or excited. I will now give the closing selections from the "precious volume:"

11 And when her sister Aholibah saw this, she was more corrupt in her inordinate love than she, and in her whoredoms more than her sister in her whoredoms.

12 She doted upon the Assyrians her neighbors, captains and rulers clothed most gorgeously, horsemen riding upon horses, all of them desirable young men.

13 Then I saw that she was defiled, that they took both one way ;

14 And that she increased her whoredoms : for when she saw men portrayed upon the wall, the images of the Chaldeans portrayed with vermillion,

15 Girded with girdles upon their loins, exceeding in dyed attire upon their heads, all of them princes to look to, after the manner of the Babylonians of Chaldea, the land of their nativity :

16 And as soon as she saw them with her eyes, she doted upon them, and sent messengers unto them into Chaldea.

17 And the Babylonians came to her in the bed of love, and they defiled her with their whoredom, and she was polluted with them, and her mind was alienated from them.

18 So she discovered her whoredoms, and discovered her nakedness ; then my mind was alienated from her as my mind was alienated from her sister.

19 Yet she multiplied her whoredoms, in calling to remembrance the days of her youth, wherein she had played the harlot in the land of Egypt.

20 For she doted upon their paramours, whose flesh [male organ] is as the flesh of asses, and whose issue is like the issue of horses.

43 Then said I unto her that was old in adulteries, Will they now commit whoredoms with her, and she with them?

44 Yet they went in unto her, as they go in unto a woman that playeth the harlot : so went they in unto Aholah, and unto Aholibah, the lewd women. (Ezekiel, xxiii.)

However pure and refined this language may be considered to be, there are few men or women, including clergymen, who would wish to read it aloud before a mixed company of ladies and gentlemen. I

quote from neither the Bible nor "Cupid's Yokes" because I have any fondness for them. My object is to place before my readers the passages and parts of "Cupid's Yokes" upon which the court pronounced me guilty—the only passages, in fact, almost, which the judge would allow to be read to the jury—that they may see what my prosecutors consider the worst parts of "Cupid's Yokes," and compare the same with more extensive quotations from that volume, which, by the constant assertions of the clergy, and almost by common consent, is the most precious of all books. Many more of a similar character could be taken from the same source, but probably these are sufficient.

I ask every reader to carefully read over the extracts I have given from "Cupid's Yokes," and see if they can find an indecent word, an obscene expression, or an impure sentiment; see if they can find anything that has the appearance of being written with a bad motive, or with the intention of arousing impure desires or inflaming the baser passions. Is there a clause among all the extracts that is plainer, broader, or coarser than is found in large numbers of medical works, semi-medical and physiological books, and works on sociology, marriage, and the sexual relations? It cannot be found. In all sincerity and earnestness, I ask if there is anything in all those quotations of such a character as ought to send a person to prison in this nineteenth century or at any other time? Is there anything there soul-debasing, corrupting, or degrading? anything that is not true, and which every man and woman ought not to understand?

## THE MISERABLE PRETEXT.

On the other hand, are not the quotations from the Bible far more coarse, libidinous, and indecent? Does it look reasonable that the righteous class, or self-righteous class, as the case may be, who insist that the Bible be placed in every person's hands, whether old or young—and which is to be found in almost every house in the land, in every hotel, in every prison, in every hospital, in railroad cars, and in steamboats—ought to be the ones to demand that a man should be torn from his family, friends, and business, confined in prison at hard labor, and be advertised over the country as a dealer in obscene publications? No, indeed; it is one of the most infamous outrages upon justice and individual rights committed in modern times. Highway robbery of a few thousand dollars by a band of banditti is honorable compared to it.

It is the sheerest and most boldfaced hypocrisy for persons who pretend to be so filled with admiration for the Bible to be so shocked and overpowered by "Cupid's Yokes." It is a gross falsehood, which, to the extent it has been carried, is far more criminal, aggressive on the rights of others, and therefore more wrong, than all the obscene publications that have been published.

But should any one, from partiality or otherwise, insist that these Bible extracts are as pure, or nearly as pure, as those from "Cupid's Yokes," it must be remembered that the Bible, it is claimed, was penned by the divine hand, or, at all events, by its aid. Mr Heywood wrote his little work by his own powers only, save the quotations from other authors. It must be agreed on all hands that as God wrote his

book first, and set the example, and alludes very freely and very broadly to sexual relations and connections, Mr. Heywood is justified in writing about them also. What is good enough for God ought to answer for Mr. Heywood. It certainly is very hard to send Mr. Heywood and myself to prison for the very thing that God set us the copy for. If my Christian enemies were not so impelled by bigotry, so blinded by hate, and so filled with the spirit of cruel persecution, they could certainly see it.

But aside from the question of the divinity of the Bible, these facts remain: The Bible is everywhere. People of all ages and classes are commanded to read it. Everybody has it. Every bookdealer sells it. It is got up in all conceivable styles of elegance and commonplace. It is sold all the way from twenty-five cents per copy to one hundred dollars, and it contains a thousand times more plainness, coarseness, and indecency than "Cupid's Yokes;" but still those dealers are commended, while I am sent to prison. Was ever anything more inconsistent—anything more false and hypocritical—than the pretense that I am punished for obscenity? If it really was obscenity my foes were after, they could find far more of it in any bookstore or library in the country. Had I time and space, I could quote from the authors named broad, indecent, salacious, erotic, or amorous matter, more than a thousand times worse than "Cupid's Yokes." Some time I may undertake this task if Comstock, Colgate & Co. are still on the hunt for obscenity. But that is not what they want; they want to crush Freethought publications. They have both publicly and privately

declared it shall be done, and they wish to make their words true. Obscenity is only the pretext.

It matters not, so far as obscenity is concerned, whether Mr. Heywood's doctrines are true or not, whether they are accepted by many or few ; under the Constitution of our country he has a full and perfect right to his convictions upon any subject, marriage included, and to adduce arguments for or against any subject under heaven, so it is done in proper language. And this, I insist, he has done in his little treatise on love and marriage.

It is a question that very naturally arises, how twelve sensible men, in the city of New York, could ever find a man guilty of obscenity, and send him to prison, on such a pamphlet. It is, indeed, a singular thing, and is a marked instance of extreme loyalty to the charge and instructions of the judge. The instructions were of such a character that if applied to works in general would convict ten thousand books in English literature. The jury were told if they found any passages whose *tendency* might be to excite a person susceptible to such influences, into whose hands *they might fall*, that they must find me guilty. A part of the jury afterwards said that but for the judge's charge their verdict would have been *not guilty*. But they evidently were a weak-minded set of men, who had little independence of their own, and were easily swayed about by the judge and one or two influential men on the jury with strong religious prejudices. An Infidel like myself stands but little chance for escape when judge and jury are diametrically opposed to him in religious opinions and prejudices. Servetus stood just about the same chance when tried before the Council of Geneva,

with Calvin for prosecutor, witness, and judge, as I stood before the United States Circuit Court, with Benedict as prosecutor, instructor, and judge, with his pet Comstock as informer. He is worthy of the cruel and remorseless Calvin, whom he believes in, and I see no reason why their names should not descend to posterity in ignominy together. Benedict would have made a good Calvin, and could have burnt Servetus in regular Christian style, and Calvin would have made a good Benedict, and would have presided at my trial with just about the same justice, fairness, and mercy as did Benedict. Calvin would have been nearly as great on *obscenity* cases as Benedict has been. A pious pair, indeed!

I pronounce it an infamous assault upon the guarantees of the Constitution, and a vile suppression of freemen's rights and the principles of American liberty, to imprison men for anything of the kind, and more wrong still because it is all done under the damnable pretext of *obscenity* and in the name of religion and morality. Yet the emissaries of the church have done this, aided by the courts, officers, and powers of the United States government. The Constitution explicitly says, "Congress shall make no law respecting an establishment of religion or forbidding a free exercise thereof." Still all this iniquity has been perpetrated under a so-called statute enacted by Congress.

#### DEGENERATION OF A ONCE NOBLE PARTY.

Insidiously and stealthily this evil has been brought about. A few years ago it could not have been accomplished. Step by step the church party has been gaining power, and step by step has relig-



ious tyranny crushed out the liberties of the people—particularly unbelievers. And as I have lain here locked in my cell the conviction has forced itself upon my mind that all these years I have myself been unconsciously helping to forge the chains which now bind me. For twenty-five years I have worked with the Republican party. I voted for Fremont when he was a candidate of the party and have voted for every candidate of this party down to the present incumbent of the Presidential chair; and what have I gained by it? Deep injustice, persecution, imprisonment, and disgrace.

The Republican party once represented liberty, mental and physical, for every man, even the down-trodden slave; now it represents priestly tyranny, sectarian bigotry, corruption, and the suppression of individual rights! How is this? Let me tell you. It was a Republican spy, sneak, and scoundrel who went from this city to Washington, backed by the Young Men's Christian Association, and by intrigue, hypocrisy, cant, and gross falsehood got the law passed by Congress under which I am now imprisoned. A Republican and Christian Senator introduced the bill into Congress and championed it through. A majority of Republican votes passed it amid drunkenness and disorder. A Republican President signed it and made it a law. The same Republican, Christian sneak has under it arrested hundreds of persons—mostly innocent. Republican marshals have dragged persons off to prison under it. Republican district-attorneys have prosecuted under it, and on the most contemptible pretexts. Republican judges have ruled under it with despotic and infamous tyranny, not excelled since the days

of Jefferies. And now, after all these Republican officials have passed upon my case, with as black and vile injustice as has ever been known in the world, I am pronounced a felon for simply exercising the right of an American citizen; and by these Republican officials a brand of infamy has been attempted to be placed upon my brow and I am incarcerated in a Republican bastille. A Republican President, though made fully conscious of the great injustice that has been done me; of the unconstitutionality of the law, of the revenge and spite that prompted my arrest and conviction; the total unfairness of the mock trial that was accorded me; the contemptible, flimsy pretext upon which I was convicted; the bigotry, severity, and injustice of the Christian judges who denied me a second trial or a chance for appeal to the Supreme Court; the two hundred thousand petitioners who righteously ask for my liberation from the cruel hands of my persecutors; yes, though he knows all this, and in spite of it all and the urgent appeals that have been made by earnest friends in person and by thousands of letters—the like of all which was never known before in the world—asking the Republican President to perform a simple act of justice and thwart the designs of religious hyenas howling over me, and robbing me of what is dearer to me than life, is cold, obdurate, and unyielding. He will not lift a finger to restore me to liberty. The church power clamors for my suppression, and he yields to their demands. Their cruel behests must be obeyed. To my wrongs his heart is as hard as iron, as impenetrable as steel, as merciless as stone. To all these appeals he appears to say, "No!

go to the penitentiary; the church demands it, my wife wishes it, and their will shall be obeyed."

A splendid opportunity was offered this man to perform a noble deed, to do a righteous act, but he had not the disposition or the moral courage to do what he knew was right. He has made a serious mistake; he has let the opportunity pass in which he might do a just and humane deed. He has taken his course, and I will abide by it and not again ask him for either mercy or justice.

Yes, when the Republican party meant liberty and represented the grand principles of freedom, I was an active Republican; but now, when it means tyranny, oppression, monopoly, and a coalition with theological bigotry and cruelty, it is time for me to make a change of base in politics. Seventy-five per cent of the black-coated, canting clergy of the country are Republicans; a majority of the pious, hypocritical Christian embezzlers and swindlers are Republicans; the party that tried to violate the original provisions of the Constitution, and put the Jewish God in that sacred instrument, thus joining church and state, and putting a dangerous theocracy in power, were Republicans; the senators who voted for the measure were nearly all Republicans, while those who voted against it were not Republicans. Thus it is very clear that that party is now the pious man's party, the hypocrite's party, the persecutor's party.

I feel that I am a victim of the church party, aided and backed by the Republican party. I have grounds to detest, denounce, and renounce both these parties, or *one* party, as they to a great extent are. I have no special advice to give others upon

this question, but ask them to give their attention to it and look at it. Liberals cannot afford to uphold a party that is doing all it can to oppress them; it cannot afford to sustain a party that is trying to crush the guarantees of the Constitution and the rights of the citizen; but they can afford to sustain that party which most clearly and honestly defends free speech, a free press, and free mails. They will do well to know what candidates they vote for, and to know, beyond a doubt, whether candidates for Congress especially will pledge themselves to stand by the Constitution, maintain equal liberty for all, the freedom of speech, of the press, and mails; who will agree to do what they can to repeal unconstitutional laws, especially the Comstock postal law.

Since I have been writing this letter the United States marshal has summoned me to the office of the prison and informed me that he has received imperative orders from headquarters at Washington to convey me without delay to the Albany Penitentiary (said to be the severest prison in the country). On Monday morning, July 28th, at 7 o'clock I am to be taken from this prison and incarcerated in one more severe. So, before this letter is put in type, and long before the paper in which it appears shall reach my readers, my beard—which a razor has not touched for twenty-five years—will be removed, my hair will be cropped, the felon's garb will be placed upon me, and I shall be subjected to the severe discipline and hard labor of the prison; and all because the clergy and the church all over the country vociferously and incessantly demand it.

Comstock has got the ministers and professors at work in all directions against me. He has induced

them—very little persuasion was necessary—to join in the howl against me. He has visited many places and aroused people against me. As far away as Iowa has he visited the pious and vilified my name. At Clear Lake in that state he attended a picnic, made a pious address to the Sunday-school children, telling them of the excellence of morality and Jesus' blood—a pretty hypocrite indeed to teach morality—and then called upon all present to join him in a petition to Mrs. Hayes, asking her to do all in her power to influence her husband against pardoning Bennett. The paper was largely signed and duly forwarded, and it had its effect. He has done the same in other places.

MAY THEY NOW FEEL HAPPY !

It is to be hoped since Comstock and his Christian aiders and abettors have carried their point and secured implicit submission to their behests that their souls will rest easier, that they will be happy, and that they will feel the blessings and benedictions from the meek and lowly Jesus—who is said to have enjoined upon his followers, "Do unto others as you would have others do unto you"—gently distilling upon their holy heads. It is also to be hoped they will be satisfied with the net results of this outrage upon me. In a few years from now, however, when they take an inventory of what will be remaining on hand, and see what has been lost by this crusade, they will decide that the net profits are not enough to enable them to declare a large dividend.

But Comstock is surely happy. He made a trip out to Cincinnati in the spring, soon after my con-

viction; he went there to organize an Auxiliary Suppression Society. A number of clergymen and pious laymen had been called together to meet him for the purpose. They met in one of the parlors of the Burnet House. He addressed the assembled saints and told them the same old lies, of the great deeds he had performed, the tons of obscene books and pictures he had seized, and the great good he had accomplished. Holding up a telegraph dispatch before them, with a spirit of joyful exultation, he said: "This is the happiest day of my life. I have received a dispatch from home giving me intelligence that that vile man, that dealer in obscene literature, Bennett, has been convicted. It is the accomplishment of a great struggle. He is one of the worst men in the country. Now the President must not pardon this bad man out as he did Heywood. Heywood would not have been let out had the representation not been made that he was sick and likely to die." "Oh," said he, with a sardonic sneer, such as a fiend might be supposed to wear, "it would have been a sad loss to the country if we had lost an old Freeloader!"

I cannot feel proud that the Government of my country has so lowered itself and disgraced itself as to lend its aid, its courts, its President, and its power to carry out the wishes of Anthony Comstock, unquestionably one of the vilest, most unprincipled, and basest villains that ever walked the earth. The three names I shall especially execrate and detest to my dying day are Anthony Comstock, Samuel Colgate, and Charles L. Benedict.

One thing to be regretted by Liberals is that it takes at least ten of them to equal in influence one

Christian. Ten Christians asking the President for injustice seem to be regarded with more favor than one hundred unbelievers asking for justice.

The bigot Colgate has done all he could. He has taken a number of TRUTH SEEKERS to the President and showed that dignitary how extremely vile they are, and how much the editor ought to be punished. The religious press all over the country has raised a holy howl against me. The clergy have joined in the chorus, abusing me to their congregations and on all convenient occasions. It has not been enough for these fiends that they have deprived me of my liberty, torn me from my business, nearly broken the heart of my lonely, patient, debilitated wife; they could not be content with that, and let me remain here where my wife and friends could call upon me, where I could give some direction to my business, but their merciless souls have suffered unspeakable anguish because I have been allowed to remain in this prison a few weeks. They have importuned, urged, and commanded that I be hurried to the penitentiary, where I will be separated from everybody I know, and can neither write for my paper, to my friends, or hold any intercourse with the outside world. They have absolutely nearly gone mad because I have been allowed to remain here at all. They wish my punishment to be as severe as possible; and could they have my heart's blood, their joy would know no bounds.

#### A SOURCE OF REGRET.

One feature connected with my case that has produced not a little regret, and almost shame, is the attitude of the daily press of this city. Here one of

the fraternity has been stricken down and loaded with ignominy simply for advocating free speech and a free press, and the New York dailies have said hardly a word about it since my sentence. It is either cowardice or extreme indifference. A vital principle of liberty and the rights of the citizen—free speech and a free press—is involved, in which they ought to be directly interested, but they say not a word; they open not their mouths; they are as silent as clams. They neither say a word themselves about the case nor will they suffer another to allude to it in their columns. They are all moral cowards. They are anxious to secure Christian money, or they cringe before Christian power. They are completely subsidized and mum. Had they spoken out in a manly, independent way, and rebuked the iniquitous law, the base rulings of the court, the oppression that has been exhibited towards free thought and free speech, the spirit of bigotry and persecution that has been evinced, this vile game could have been checked long ago. The New York press has the power to do all this had they only the manliness and moral courage to exercise it. But money and popularity are the gods they worship. These secured, so long as their castle is not attacked, their ox not gored, they care not for the rights and liberties of others, and are content to float along with the current and sing the siren song of security and contentment. How are the mighty fallen!

#### THE PARTING.

Dear friends, I am saying a good deal, perhaps too much, but the time is very short in which I can talk to you or write to you. I have, perhaps, imposed



myself upon you too far lately, but now I shall give you a good long rest. At the penitentiary they will not allow me to write for my paper, nor even letters to my friends. I can only write one sheet of paper per month. That one will be addressed to the readers of *THE TRUTH SEEKER*. Besides, I hope to be able to communicate verbally occasionally with my wife and my representative, Eugene Macdonald, who will, I hope, be permitted to see me occasionally. They will let you hear from me as much as is allowable.

My friends, in my cheerless prison I shall think of you a great deal. There will hardly be an hour that you will not be in my mind. You are endeared to me by the ties of brotherhood, friendship, and love. I have been talking to you weekly for a long time. You seem almost like a part of myself. My soul is wrapped up in you and your welfare. I have endeavored to tell you the truth, or what I thought to be the truth. If I have erred I did not intend it so, and ask your charity and forbearance.

I know you will not forget me. This assurance will cheer and sustain me during the dreary months before me. I am pretty well advanced in life, and it is feared by some that the ordeal I am to be subjected to will be too hard for me. There are some who fear I will break down under it, but I do not think I shall. I will not slacken my integrity. I will not weaken in my courage. I will not falter; I will not fail. I will still feel confidence in the ultimate triumph of liberty, justice, and truth.

You can write me when you please, though I cannot write you. Address me at the Albany Penitentiary. Letters will be delivered to me once a week

after having been opened and read. Everything for the paper or on business send to D. M. Bennett, TRUTH SEEKER office, as heretofore.

And right here let me ask you to remember THE TRUTH SEEKER and cherish it with friendly and material aid. Send in funds enough to meet the current expenses. Obtain as many new subscribers as possible. Extend its circulation all you reasonably can. Buy all the books and pamphlets you can afford to. The running expenses of the establishment are about \$300 per week, and if \$150 or \$200 only are received the result will be disaster and failure. But I don't look for this. You have sustained the paper so far, and I know you will continue to sustain it.

My devoted, retiring little wife will do all she can in my absence. The injustice that has been done me has nearly broken her heart. The punishment has fallen more severely on her than on myself, and so it will be when I am far away. We both think it is better to suffer wrong than to do wrong. She and I have lived by ourselves. We have no children and no other members of our family. She misses me sadly, and mourns over my wrongs. Her health is not good, but she means to bear up bravely. I have been her support, her sunlight, and her all. I trustingly commend her to your kind consideration.

It is saddening to part with the excellent and faithful corps of assistants and compositors employed on THE TRUTH SEEKER. Few papers have had a more faithful, intelligent, and honorable staff of assistants. We have toiled together for years in perfect harmony and cordiality. They entertain a

high regard for me, and I assuredly do for them. They are resolved to keep THE TRUTH SEEKER up to its best, and I have all confidence in them. Such able writers as Messrs. Elizur Wright, James Parton, T. C. Leland, A. L. Rawson, T. B. Wakeman, S. P. Putnam, and others, will more than supply my place in writing for its columns. In the next year the circulation of the paper ought to double, and I believe it will. It certainly will if you all so decide, and each reader constitutes himself a committee of one to see that it is accomplished.

Now I must take my leave of you. The time has nearly come for the officer to call for me. In the next few following papers will appear short installments of "From Behind the Bars," of matter already prepared, consisting of brief accounts of Christian persecutions for opinion's sake in the past thousand years. The same, perhaps, will appropriately supplement what has already been written. In parting, let me express this hope, that you may have as much health and happiness as usually falls to the lot of man; that you may progress in the cause of Liberalism, that you may be faithful to the great principles of justice, truth, and liberty, and that in due time we may have the pleasure of meeting again and jogging along in the pathway of life together.

Good-bye,

D. M. BENNETT.

## LETTER IX.

DEAR READERS OF THE TRUTH SEEKER: In the previous letters I have written you since my imprisonment I have briefly cited quite a number of civil and political trials which have taken place within the last three centuries or thereabouts, chiefly in England, with some in our own country; but I thought it would be proper to also give you sketches of religious trials and persecutions that have taken place in various countries of Christendom, and been perpetuated by the system of religion which has been in power for the last fifteen hundred years—the same ecclesiastical tyranny which has recently brought me to trial on the most frivolous pretext, and sent me to prison when I had committed no crime, no deed but what any man, woman, or child in the the country might perform without the slightest impropriety, simply to wreak vengeance upon me because I have had the temerity to deny the divine origin, the truth, and the benignity of the Christian religion.

Of course I can give you here sketches of but a small part of the murders, massacres, assassinations, burnings, beheadings, hangings, persecutions, trials, tortures on racks, wheels, pullies, and all the heavy and persuasive Christian apparatus employed by Christian priests and Christian rulers in the bloody

centuries that have passed under the benign reign of "the meek and lowly one." We are often assured that the Christian religion has been the most mild and merciful system of faith that the world has ever known; that it has been the greatest beneficence and mercy ever vouchsafed to poor unfortunate man, so it seems but proper that we should duly inform ourselves of the true character of this heavenly system that we may be able to determine as to the extent of the happiness it has conferred upon the human family.

Just where to begin with this bloody record is, perhaps, a puzzling question, but it seems proper to commence when the Christian church became a political power and was able to show what the nature and character of its domination were. The era of this political power began with Constantine the Great. He was the first Christian emperor, and the first who gave the world a good taste of what the system is capable of doing for mankind. I shall necessarily have to hurry over rapidly with the sketches I give, and leave out many details, otherwise my letters will be too prolix and tedious. We will only take a birds-eye view of those sanguinary events, and I will state them with brevity.

#### CONSTANTINE.

Constantine embraced Christianity early in the fourth century because his crimes were too bloody and revolting to be absolved and forgiven by the priests of the pagan religion in which he was born and reared. His priests would not offer forgiveness while the Christians would, and as the sect called Christians had by that time become numerous in

Rome, he fancied he saw the means of extending his power and finding forgiveness for his crimes at the same time. I will not give an account of his wars and conquests to extend his dominion or of his founding the city of Constantinople and establishing his Eastern empire. He believed in shedding blood, and there is no question but that by his authority and ambition much was spilt. I will only name the personal crimes with which history charges him. His Christianity is undoubted.

He murdered his father-in-law, and cut the throat of his twelve year old nephew ; he beheaded his eldest son, Crispus, and suffocated in a bath of boiling oil his wife Fausta. It was said of him by a Gallic author, that "he loved to make a clean house." After putting to death seven members of his family he summoned together, in 325, the famous Council of Nice to determine the will of God and settle the question whether Jesus was God or simply creature, as well as the canon of Scripture. The Council at first consisted of over two thousand bishops and priests. Their violence and exasperation was so great and their quarrels so intense that Constantine sent some seventeen hundred and thirty back home again, when he was better able to manipulate the three hundred and eighteen that remained to help them decide whether God the Father and God the Son were precisely the same, and which gospels he or they had absolutely written, and then the difficult and intricate question was settled by vote, as supervisors, constables, and coroners are elected. But let us leave them in their prolonged quarrels and contentions and engage ourselves with something more pleasant.

## ST. CYRIL AND HYPATIA.

This Christian archbishop, St. Cyril, flourished at Alexandria nearly a century later, or early in the fifth century. He distinguished himself by great cruelty towards forty thousand Jews who resided in his dominion, driving them by force into the desert, after searching their synagogues and pillaging their dwellings. But one of the most damning acts that took place under his authority was the base and cruel murder of Hypatia, the gifted daughter of Theon, who was not a Christian. She attended the great school at Alexandria and was a very proficient student in many branches of study. She was honored for her virtue, grace, and talents, and her learned and aristocratic audiences rivaled even those of Cyril. By the superstitious Christians she was considered a pagan sorceress. A feeling of opposition and hatred grew up against her, until at last it could be no longer borne that the lovely and fascinating "enchantress" should divide the attention of the learned and wealthy of the metropolis with the archbishop himself.

One day, in the year 414, Hypatia went forth to the Academy. She was met by a mob of Cyril's, consisting of merciless monks. They dragged her from her chariot and stripped her naked in the public streets. They dragged her into a Christian church, where she was killed with a club by Peter the Reader. It is recorded that these lecherous monks outraged the naked corpse, and then dismembered it, scraped the flesh from the bones with oyster shells, and cast the remnants into the fire. Thus perished in her fair youth perhaps the most lovely and educated woman that ever fell a victim to Chris-

tian cruelty and persecution. Her crime was having taught Homer and Plato, and having expounded the philosophy of Aristotle and Apollonius, and not recognizing the divinity and rule of Jesus.

#### GREGORY THE GREAT.

Passing unnoticed the cruel reigns of many emperors, bishops, and popes, let us halt at the great Gregory and note some of the wrongs committed by him. He ascended the pontifical throne in 590. He it was who raised to power the detestable wretch, Phocas, who, after his elevation, proceeded to the private dwelling of the dethroned emperor and murdered before his eyes his five sons. To him Gregory said: "Let the heavens rejoice and the earth be glad; and for your illustrious deed let the people of every realm be filled with gladness." His letters to Queen Brunehaut, of France, are of the same nature. He praises her for her crimes, affirming that France was the happiest of nations in possessing a queen whose great piety had actuated the crimes of infanticide and poisoning, and added a horrible cruelty to the most debasing superstition.

During Gregory's reign he destroyed the relics of Roman magnificence, set fire to the Palatine library, burned in the public square the works of Tacitus and Livy, destroyed the works of the most famous Latin poets, showed the greatest hostility to science, excommunicated an archbishop of Vienna because he allowed grammar to be taught in his diocese, and in every way possible to a man of the most unscrupulous genius warred upon liberty, science, and thought. Nevertheless, he was a good Christian, and he is finding imitators in the clergy of the nineteenth century.



## CHARLEMAGNE

Was one of the most noted supporters of Christianity. A good Christian himself, he read the Bible literally, never finding in its holy-pages, nor "between the lines," any excuse for mercy to heretics. He always insisted upon the rite of baptism as a sign of submission. "Be baptized or be damned!" exclaims the gospel; "Be baptized or be beheaded!" thundered Charlemagne.

He had four crimes to which was attached the death penalty: refusing baptism; false pretense of baptism; relapse from Christianity; eating meat in Lent. These were classed with murder and human sacrifice. In the year of his Lord, 782, he beheaded 4,500 persons who refused to receive the rite of baptism. His private life was stained with the greatest immoralities and most infamous crimes. After divorcing his first wife, he took nine others, besides which he kept many concubines. He also sought marriage with Irene, the empress, who piously put out the eyes of her own son. He was a religious man; a great ruler; a great robber; a wholesale murderer. He was great in his Christianity, and great in his inhumanity. He gave to the church its power over the governments of earth, and established an ecclesiastical supremacy which in the nineteenth century was not so weak but that it could imprison honest men for their Infidelity.

## POPE JOHN III.

Was another pious man who would have made a good agent for the Y. M. C. A. and their sub-society. At the commencement of his reign as God's agent he was driven from the holy city by its enraged in-

habitants because of his conduct. In retaliation, he employed a horde of bandits to assassinate Rofredus, whom the Romans had made their leader. Then he captured the Prefect and cut off his nose and lips and hung him by his hair to an equestrian statue, after which he tied him on an ass and whipped him through the streets, and then cast him into a dungeon. He also picked out a dozen of the leading citizens and publicly hung them.

#### BENEDICT IX.

Seems to have been a prototype for Anthony Comstock in his licentiousness and beastliness. During his reign it seemed as if all morality and civilization had flown from the world, and cruelty and licentiousness taken its place. The life of Benedict IX. can only be paralleled by those of the most debauched of the Roman emperors—Heliogabalus, Commodus, or Caligula. Plunging recklessly into excess, he became a monster of crime, even before he reached the verge of manhood. Decency forbids the details of his numerous exploits. He was a murderer, killing several with his own hands. He finally sold his throne—as Comstock would sell his office for sufficient money—and finished up his career in a whirlpool of passion.

#### GREGORY VII.

Under the man whose name heads this sketch the popish church of the 11th century arrived at its climax. He was the famous Hildebrand—now revered by Catholics as St. Gregory VII. He was the Cæsar of the church. It is not known whether he was the son of his father or his uncle. His mother carried on an incestuous union with her

brother, an abbot of a monastery on Mt. Aventine, and many authors contend that Hildebrand was the result of the disgusting union. At an early age he was said to be a wonderful preacher, and Pope Leo IX. invited him to Italy. At the time of his advent into the land of superstition, the monastery of St. Paul was in a deplorable state. The church was used as a stable and the convent was full of courtesans. Hildebrand took charge of this church. At first he affected—like Comstock, and with Comstock's hypocrisy—to be very moral ; but, after being surprised in criminal intercourse with a beautiful serving girl, he threw off his mask of morality and openly kept women about him.

He became noted as a pope-maker, placing upon the pontifical throne eight different ones. When a pope thwarted his policy he poisoned him and appointed another who was more pliable. In 1073 he had himself appointed pope. In order to further his ambitious schemes and to render the church a machine more obedient to orders, he took away the wives of the clergy. He declared that he preferred an incestuous and concubinary clergy to one with legal wives. He himself was a most degraded debaucher, a fit ancestor of a religious body whose exponents furnish more inmates of state prisons in proportion to their numbers than those of any other profession.

#### ST. DOMINIC

Was the founder of the Inquisition, a missionary institution which lasted till the 19th century. It was the most complete exemplification of the Christian religion ever conceived. A church founded on the sentence, "Believe or be damned," is fitly rep-

resented by the only means at its command of enforcing the decree. Men thoroughly impressed with the idea that faith alone can save are the very ones to compel that faith, or failing, to murder the obstinate heretics. At first Dominic tried to convert by preaching, directing his eloquence at the Albigenses. But this people refused to be converted. So Dominic instigated Pope Innocent III. to preach a crusade against them. The whole of Provence was laid waste by the papal mob. Dominic was appointed inquisitor-general. Count Simon De Montford was the leader of his armies. He took the city of Bezien by assault, and put all the inhabitants to death. At Loyal he burnt 400 Albigenses; at Cazera 60 were burnt, at another place 180. A mark of silver was offered any one who denounced a heretic. Every house that had sheltered the Albigenses was burnt to the ground. St. Dominic died in 1233, and was canonized in the same year by Gregory IX.

It may not be out of place here to briefly give an account of the Dominican order and the Inquisition. They were established to extirpate heresy. Some 18,000,000 have fallen before the church in its attempt to reduce man to an unthinking machine, and a good many more must go the same way before the church shall triumph.

At the present day, the order of Dominicans flourishes chiefly in Hungary, France, Switzerland, Belgium, and America. The Inquisition was adopted by the Count of Toulouse in 1229, and confided to the Dominicans by Pope Gregory IX. in 1233. Innocent IV., in 1251, established it in the whole of Italy, with the exception of Naples. At the com-

mencement, heretics in Milan were not subject to death ; but soon they were burnt at Milan, as well as in the other parts of Italy; and Paramo, inquisitor in the kingdom of Sicily, asserts that in 1315 some thousands of heretics spread themselves through Cremasco, a small territory included in the jurisdiction of the Milanese. The Dominican brothers burnt the greater part of them, and thus checked the theological pestilence by the flames. The first canon of the Council of Toulouse enjoined the bishops to appoint in every parish a priest and two or three laymen of reputation, who should be bound by oath to search carefully and frequently for heretics, in houses, caves, and all places where they might be able to hide themselves, and to give the speediest information to the bishop, the seigneur of the place, or his bailiff, and to take all necessary precautions against the escape of any heretics discovered. In 1473 Sixtus IV. made the inquisitions independent and separate from the tribunals of the bishops. He created for Spain an inquisitor-general, with full powers to nominate particular inquisitors ; and Ferdinand V., in 1478, founded and endowed the Inquisition. We learn from well authenticated history that in seventeen years alone, from 1481 to 1498, Torquemada, the inquisitor-general of Spain, sent 97,371 men and women to the gallows ; burned alive 10,220, and killed in secret dungeons 4,000 victims.

Nowhere in the annals of cruelty and horror can more dreadful events be discovered than those relating to this terrible tribunal. The torture and destruction of life inflicted on the race through the agency of the Holy Office, by such monsters as Tor-

quemada, Diego Deza, and Alva, simply because of a diversity of belief in matters of faith, fully verifies the remark of the pagan in the fourth century who declared there were no wild beasts so ferocious as the Christians. It is beyond the power of the pen to portray the misery mankind have suffered from the Inquisition—the Inquisition, which exhumed the dead in order to burn them as heretics, and which has burned at the stake five millions of men.

The tortures generally used upon the victims were the pulley, the fire or chafing dish, the rack, and the trouth, in which the prisoner was bound and corded. Among the punishments for blasphemy against God, the Virgin, the saints, or the pope, there was an instrument used called “mordaccia, or bit,” which was a contrivance to confine the tongue, and compress it between two cylinders of wood and iron, and furnished with spikes. This instrument not only wounds the tongue and creates intense pain, but it often so swells it as to cause the victim danger from suffocation. Every possible variety of ingenious cruelty has been practiced by the Inquisition to torture and agonize its victims. To illustrate the workings of the Inquisition in the eighteenth century the following cases are cited: Elizabeth Vasconcellas, the daughter of John Chaffer, of Devon, England, a Protestant, was taken to Madeira upon a family misfortune, and under the auspices of the English residents, continued to live in her own faith for eight years. In 1704, while her husband was in Brazil, she was taken seriously ill, and while in an unconscious state she was visited by a Romish priest, who administered the sacraments, and on her recovering was desired to attach herself

to that faith. She absolutely refused, for which she was imprisoned by the bishop of the island seven months for holding heretical sentiments. She was then removed to the Inquisition at Lisbon, in December, 1705. An inventory of all her effects was then in the prison of the Holy Office, and her person searched. She was made to swear this was all she was worth, and then was taken to her cell, where she was kept for nine months and fifteen days. The first nine days she was allowed only bread and water and a wet straw bed. On the ninth day she was questioned on her religious faith, and she declared herself a Protestant. They told her she must conform to the Romish faith or be burnt. In a month's time she was again summoned before the Fathers and questioned, but without inducing her to recant. The officials stripped her back, and after lashing her with knotted cords, told her to kneel down and thank the court for their mercy, which she refused to do. In fifteen days she was again brought forward, and a crucifix set before her, which she was commanded to bow down and adore; and refusing to do this, she was told she must expect to be burnt with the Jews at the next *auto da fé*. At the expiration of thirty days, she was again called before the judges. Her breast was laid bare by the executioner, who, with one end of a hot iron rod, burnt her to the bone in three different places on her right side, and she was sent back to her cell without any application to heal her sores. At a subsequent audience she was asked whether she would profess the Romish faith or burn. She replied she was a Protestant and a subject of the queen of England. To this the inquisitor told

her that being an English subject signified nothing in the king of Portugal's dominions; that the English in Lisbon were heretics and would certainly be damned. The executioner was then ordered to seat her in a chair, and to bind her arms and legs, so as to prevent even motion. A physician was at hand to decide how far she could be tortured without hazard of life. Her left foot was put into an iron slipper, made red hot, and fastened there, until the flesh was burned to the bone. She fainted under this torture, and the physician advised the slipper to be taken off, and she was sent to her dungeon. After some time elapsed she was again cruelly whipped, and her back torn all over, and was threatened with greater severity if she did not embrace the Romish faith. On the other hand, liberty was promised, if she would change her religion. She finally consented, and wrote her name to a paper, though she knew not what it contained. And then, without returning to her her goods and money, they dismissed her, destitute, and dependent upon the charities of the people of Lisbon.

The following is from a letter written by Mr. Wilcox (afterwards bishop of Rochester) from Lisbon to Gilbert Burnet, the historian of the Reformation, dated June 15, 1706. "I saw the whole process of an *auto da fê*. Of the five condemned, four were burnt. Heytor Dias and Maria Pinteyra were burnt alive, and the other two were strangled. The woman was half an hour alive in the flames—the man about an hour. They were fastened to a pole, six feet higher than the fagots. The wind being a little fresh, the man's back was perfectly wasted, and as he turned himself, his ribs opened before he left



speaking, the fire being recruited as he roasted, to keep him in just the same heat; but all his entreaties would not procure him a larger allowance of wood to shorten his misery and dispatch him."

Archibald Bower, one of the inquisitors of the Inquisition, made his escape in 1725. The following is taken from his statements: "There was an anvil fixed in the middle of the floor, with a spike, not very sharp, projecting upwards. The accused was hoisted up and lowered by ropes at the four corners of the room until his back-bone rested on a spike. The weight of his body tended to fracture his spine. This torture lasted eleven hours, unless the prisoner confessed. Matches of tow and pitch were wrapped around the hands of women, and then fired until their hands were consumed; or cords were tied so tightly around the thumbs as to cause the blood to flow from the nails." A manuscript was put into his hands giving him directions for applying the torture. It was so barbarous and inhuman that it was not in print, but each member possessed a copy, which is handed back to the inquisitor-general upon the death or serious indisposition of a councilor, with the seal of the Inquisition on it; after which it was death to any one to open or retain it.

Bower fainted once upon witnessing the torture of prisoners, and was severely reprov'd. He extenuated himself by ascribing it to nature. "Nature," said the inquisitor; "you must conquer nature by grace." To conquer nature, the inquisitor-general ordered him to arrest an intimate friend, who was a nobleman. Bower could devise no means to save his friend, and had to proceed with the guards to his

house. He knocked; the maid servant inquired who was there. The answer was, "The Holy Inquisition; come down and open the door without any noise, on pain of excommunication." The girl came instantly, and showed the way to her master's room. The lady awoke first and shrieked, when one of the ruffians gave her a blow on her head, which caused the blood to flow. The nobleman was astonished to find himself arrested by his best friend, but made no reproach. Bower, next morning, announced the arrest to the inquisitor-general, thus: "This is done like one who is desirous to conquer the weakness of nature." The nobleman underwent the tortures of the pulleys and died in three days. His estate was confiscated to the Holy Office, a small pension being allowed the widow.

Llorente states that when the Inquisition was opened in Spain in 1820, twenty prisoners were found who did not know the name of the city in which they were; not one knew the nature of the crime of which he was accused. One of the prisoners had been doomed to suffer death the following day. His execution was to have been by the "pendulum." The condemned by this process is fastened on his back, in a groove to a table; suspended above him is a pendulum, with a sharp edge, and so constructed as to become sharper every moment. The victim saw this coming nearer and nearer every moment; at length it cut the skin of his nose, and gradually went on, until life was extinct. This was the invention of the inquisitors to dispose of their victims at a time when they were afraid to celebrate their *auto da fẽ*.

A late writer speaks thus of the terrible Inquisi-

tion, with its dread "familiar," its racks, pulleys, and horrid instruments of cruelty: "In imagination, one can enter the gloomy 'hall of torture,' and in the dim lights see the malignant judges of that infernal court; see the rack and the waiting executioner. Look again, and oh! the fearful scene! See one of the softer sex, a woman, young, and once beautiful, but now naked—yes, actually naked—stretched out in dire agony, with dislocated limbs, bleeding and fainting before men! Men? No! but before fiends in human shape, called inquisitors. There they sit, or recline, with their books and crosses, and with the stolid indifference of the veriest savages. Alas! alas! no soothing voice can ever more be heard; no word of comfort spoken in that dolorous hour; no tender human heart throbs with sympathy for that poor victim; no eye is dimmed with pity for so much human suffering; no ear is pained to hear the death groans of that delicate girl, guilty most likely of no offense save that of having, perhaps, spoken lightly of some suspicious priest or of some absurd rite of the church. The dew of death is upon her brow; her parted lips are reddened with her own life-blood; her clotted hair, her bruised body, her broken limbs, elicit no word of remorse for her agony. Alone and unresisting, she is in the hands of her brutal persecutors; the muffled walls conduct no sound of her distress to the outward world; it is shut out to her forever. The icy hand of the last deliverer is now upon her, but the actual stare of death is less terrible to her closing eyes and fading vision than the sound of the accursed monsters who sit before her—the clerical monsters of the holy order of St. Dominic."

## INNOCENT III.,

Whose proper name was Lotharius, was another Christian who felt it to be the will of God that he should persecute heretics. In 1214 he organized a crusade against the Albigenses. Two monkish spies were commissioned to go among them and use the best means at their command for crushing their heresy, which was refusing the Romish rites. Innocent preached a crusade against them and granted absolution to all who should murder them and take possession of their property. He raised an army of five thousand priests, increased by multitudes of peasants. He equipped them with scythes and clubs. They marched on Beziers, which they captured, and slaughtered 3,800 in cold blood. He afterwards burned 300, and on taking the castle of Brom mutilated about 100 of its defenders in a horrible manner. For twenty years this crusade against the Albigenses was continued, and at its close scarcely a vestige of this people was left.

## URBAN VI.

Passing over several popes more or less noted for their beastliness and cruelty, I come now to this monster in human shape. He was a tyrannical, cruel, and malicious wretch, unable to control his own passions, and totally unfitted for any office of distinction. Urban was pope of Rome, Clement VII. of Avignon. Between the two men of God there was a ceaseless war. Clement cursed Urban and Urban excommunicated Clement. If they had confined their pious efforts to the harmless hurling of bulls, the history of the church would not be such a blood stained sheet. But it was not in the

nature of the Christian church to confine its missionaries to paper. They must burn or imprison. The queen of Naples believed that Clement was God's attorney, duly empowered to draw checks on heaven and give notes to her enemies payable in thirty days in hell. She was a pious but not a good woman, who believed in summary and fashionable divorce laws, and so strangled her husband with a silken cord. However, she had the courage of her convictions and actually supported her confessor with material aid. But Urban conquered her army and declared her a heretic fit only to be burned. She was stabbed on the altar while at her prayers. The following is an account by De Cormenin of some of the tortures inflicted by Urban upon a few of his enemies whom he got in his power :

“The victims, led into a place situated behind the castle, were handed over to the executioners, despoiled of their garments, and beaten with rods. This punishment not appearing to the holy Father to be severe enough, Buttillo, his nephew, undertook to carry on the execution himself. The unfortunate men were at once placed on the rack, and new tortures were applied to them. An archbishop, who had formerly remonstrated with Buttillo on his bad conduct, was, by order of that monster, fastened to the trunk of a tree, with his head down, and flayed alive ; the archbishop of Venice was nailed to a cross, and an old Genoese pirate, a worthy minister to the cruelties of Urban, staunched with salt and vinegar the blood which flowed from his wounds ; a deacon was hung to a plane tree, with enormous weights attached to his feet and hands, to dislocate his members ; the Cardinal Sangro had his flesh torn

from him with red-hot pincers; and as, notwithstanding his sufferings, he continued to protest his innocence, they exhausted upon him all the refinements of cruelty until fatigue constrained them to stop. Another cardinal was fastened to the rack, and burned with a red-hot iron on his breast, arms, and legs; after which his tormentors tore out his nose, tongue, and eyes, and broke his limbs with iron bars; and to finish him, Butillo caused three chafing-dishes to be lighted under the sufferer, to burn him at a slow fire. Whilst these frightful executions were proceeding, the pope was promenading in an adjoining alley, reciting his breviary in a loud voice, and stopping from time to time to encourage the executioners to do their duty."

#### THE COUNCIL OF CONSTANCE

Is remarkable for the means it took to promote religion, heal dissensions in the church, and arrange matters generally on this earth for the glory of God. The council was something like the Young Men's Christian Association, and its tools were similar to Comstock. It deposed three popes and elected a fourth, and then proceeded to the conversion of heretics.

John Huss was an eloquent preacher of the coming Reformation. He called the pope Antichrist, and denounced the burning of Wickliffe's books. Of course he was a heretic, and the council called him to appear before it to show cause why he had a mind of his own. Trusting to the promises of the pope and the Emperor Sigismund, he went to Rome. He did not realize the falsehood and baseness of the church.

The rule was adopted that no faith was to be kept with heretics. In shameful violation of the pope's and emperor's documents of safety, Huss was seized immediately upon his arrival, and cast into a horrible dungeon of the Dominican convent, and chained to the floor. Before proceeding to attack the person of Huss, the council determined to brand the source from which the brave Bohemian had derived his heresy. John Wickliffe had peacefully expired in the very country where his doctrines had been condemned, and his remains still reposed in consecrated ground. The council cited Wickliffe before it, and proceeded against his genius and dead body. After due deliberation, the council declared "that the said Wickliffe died an obstinate heretic, therefore they condemned his memory, and so order his bones to be dug up, if they can be distinguished from the faithful, and thrown upon a dunghill." The zeal of the executioners prompted them to transcend the strict letter of the sentence, when in 1428 they dug the dead reformer's bones from their grave at Sutterworth, where they had peacefully reposed for over forty years, burnt them to ashes, and then cast them into a neighboring brook.

And then the council proceeded to consummate one of the most merciless and perfidious acts recorded in the annals of popery. It proved to the Emperor Sigismund, from arguments adduced at great length, that he was free to break his faith with a man accused of heresy, and that the council, being above the emperor, could free him from his word. Huss was left to languish for six months in a loathsome cell. After enduring the most cruel abuse and mockery from his persecutors, he was condemned to

be burnt alive. On the sixth of July, 1415, he was dragged from his dungeon and led out to condemnation and death. After his executioners had placed on his head a sort of crown, upon which were pictured frightful figures of demons in flames, and upon which was the inscription of "The Arch-Heretic," he was made fast to a stake driven deeply into the ground. It being objected that he was bound with his face to the east, he was untied and fixed again with his face to the west. His head was held fast to the wood by a chain smeared with soot. Fagots were placed about his feet, and around him was piled a quantity of straw. After fire had been set to the pile, Huss prayed and sang a hymn in the midst of his torments. After his voice had been drowned by the roaring of the flames, his head and lips were observed to move as if still praying, until at last he gave up the spirit. The executioners tore in pieces the remains of his body and threw them back upon the fire until absolutely consumed, and then the ashes were thrown into the Rhine. Sigismund attended the horrid ceremonies. Being reminded by a stander-by that the course of the wind might bear an offensive effluvia to the position he occupied, he answered, "The odor of a burning heretic can never be offensive to Sigismund."

Jerome of Prague was one of the most learned and eloquent men of his time. He had studied at Oxford and had brilliantly defended his thesis against the most celebrated universities of Europe. He had been imprisoned at Vienna as a favorer of Wickliffe. Upon being set at liberty he had gone to join Huss at the university of Prague. As the most illustrious friend of the martyred Huss, Jerome



was dragged before the council, was kept chained in a noisome dungeon until his flesh literally rotted off his bones alive, and was at last led forth and tortured to death at the same stake at which Huss had suffered.

The council closed its session in 1418, after having been occupied three years and a half in deposing three papal monsters to make room for another, and in burning the bodies of two living heretics and the buried bones of one dead one. There is nothing in the history of the Romish church which reflects upon her more indelible disgrace than the proceedings at Constance. It was there that the doctrine that faith is not to be kept with heretics was not only shamelessly declared and most horribly illustrated in the burning of Huss, but was most emphatically established by the council.

#### TORQUEMADA.

This list would be incomplete without a more detailed account of this infamous man and his Inquisition than we have given to Dominic. There is a parallel between his mode of procedure and that of Comstock which my readers will not fail to perceive. Also between Judge Benedict's court and the inquisitorial methods of trial in the exclusion of witnesses and the taking of the part of prosecutor by the judge. I will take a little more about him from the "Champions of the Church."

Thomas de Torquemada, one of the most relentless, vigilant, bigoted, and cruel zealots who endeavored to promote the religion of Jesus by causing widespread human suffering and wholesale destruction of human life, was born at Torquemada, Spain,

in the year 1420. He became a Dominican monk and prior of the monastery of Santa Cruz, at Segovia, and ultimately confessor and spiritual adviser of Queen Isabella of Castile, wife of Ferdinand V. He wielded a great influence over her naturally pious and superstitious mind, and when—about the year 1480—he wished to introduce the Holy Inquisition into Spain for the suppression of heresy and crushing from the human breast the liberty of thought and opinion upon religious subjects, he found his wishes seconded by Queen Isabella, and he was appointed first inquisitor-general of Spain in 1481. He was confirmed in the position by Pope Innocent VIII., who gave him also the title of “Confessor of Sovereigns.” The Inquisition had been found a very effective means of suppressing heresy and private opinion in southern France at an earlier date; the rack, the pulley, the thumbscrew, the boot, and numerous infernal devices that human ingenuity had devised, had been discovered to exert a very persuasive influence in causing accused persons to abandon their independent views and to make them conform precisely to the rule prescribed by their merciless tormentors and murderers. Torquemada felt a burning desire to set this diabolical machinery at work within his own country, that his fellow-citizens, neighbors, and kinsmen, if need be, might be benefited by its blessed effects. That he became a most resolute and unyielding operator and director in the manipulation of this infernal machinery, the tens and hundreds of thousands who were brought within the reach of his arm of power were made most decidedly to feel.

He labored with great vigor and success in organ-

izing the Inquisition throughout Spain, especially at Seville, Cordova, Jacu, and Ciudad Real. He drew up the code of procedure subsequently followed, and was the impelling power that kept the hellish engine in active operation. He was one of the prime movers in the cruel expulsion of the Jews and Moors from Spain. He established also the *auto da fé*, in which he took great pleasure as being the most god-like agency for producing unity of thought and a perfect submission to the ruling ecclesiastical power that had ever been devised. In the eighteen years in which his power was supreme in the conduct of the "Holy Inquisition," numerous historians agree that he, with the aid of his pious coadjutors, burned at the stake from 8,000 to 12,000 persons, burned 7,000 in effigy, caused the imprisonment for life of 90,000 more, and tortured to the utmost point of endurable cruelty some 100,000 more. In addition to all this, this human hyena caused thousands of graves to be robbed of the bones there deposited, which were burned to powder, in consequence of the wicked heresy the departed ones were thought to have been guilty of. It will thus be seen that he ruled with a high and heavy hand, until even the vile and criminal pope, Alexander VI., becoming touched with the terrible scourge that Torquemada visited upon the people, evinced a modicum of mercy, and curtailed the authority of the sublime inquisitor-general by appointing four colleagues to divide the power with him, and, in fact, to curtail the hideous excesses which the man of God was committing in such a wholesale and merciless manner.

The means employed by the Inquisition for bringing accused parties before it were of the most vil-

lacious and demoniacal character: A class of insinuating, inquisitive persons, called *familiars*, were employed to pry into the secrets of families and individuals, who were by them brought before the court of terror at all hours of the day and night. "Anonymous accusations were received; the accused were not confronted by witnesses; torture of the most terrible kind was relied upon for conviction; and the same was inflicted in vaults and underground rooms where no one could hear the cries of the tormented. As, in pretended mercy, it was forbidden to inflict torture a second time, with horrible duplicity it was affirmed that the torment had not been completed at first, but had only been suspended out of charity until the following day. The families of the afflicted were plunged into irretrievable ruin." A few paragraphs descriptive of the mode of the Inquisition from Prescott's "Ferdinand and Isabella," commencing p. 255, vol. i, will here be given:

"Edicts were ordered to be published annually on the first two Sundays in Lent, throughout the churches, enjoining it as a sacred duty on all who knew or suspected another to be guilty of heresy to lodge information against him before the Holy Office; and the ministers of religion were instructed to refuse absolution to such as hesitated to comply with this, although the suspected person might stand in the relation of parent, child, husband, or wife. All accusations, anonymous as well as signed, were admitted, it being only necessary to specify the names of the witnesses, whose testimony was taken down in writing by a secretary and afterwards read to them, which, unless the inaccuracies were so

gross as to enforce themselves upon their attention, they seldom failed to confirm.

“The accused, in the meantime, whose mysterious disappearance was perhaps the only public evidence of his arrest, was conveyed to the secret chambers of the Inquisition, where he was jealously excluded from intercourse with all, save a priest of the Romish church and his jailer, both of whom might be regarded as the spies of the tribunal. In this desolate condition, the unfortunate man, cut off from all external communication and all cheering sympathy or support, was kept for some time in ignorance even of the charges preferred against him ; and at length, instead of the original process, was favored only with the extracts from the depositions of the witnesses, so garbled as to conceal every possible clue to their name and quality. With still greater unfairness, no mention whatever was made of such testimony as had arisen in course of the examination in his own favor. Counsel was indeed allowed from a list presented by the judges. But this privilege availed little, since the parties were not permitted to confer together, and the advocate was furnished with no other source of information than what had been granted to his client. To add to the injustice of these proceedings, every discrepancy in the statements of the witnesses was converted into a separate charge against the prisoner, who thus, instead of one crime, stood accused of several. This, taken in connection with the concealment of time, place, and circumstances in the accusations, created such embarrassment that unless the accused possessed unusual acuteness and

presence of mind it was sure to involve him, in his attempts to explain, in inextricable contradiction.

“If the prisoner refused to confess his guilt, or, as was usual, was suspected of evasion or attempt to conceal the truth, he was subjected to the torture. This, which was administered in the deepest vaults of the Inquisition, where the cries of the victim could fall on no ear save that of his tormentors, is admitted by the secretary of the Holy Office—who has furnished the most authentic report of its transactions—not to have been exaggerated in any of the numerous narratives which have dragged these subterranean horrors into light. If the intensity of pain extorted a confession from the sufferer, he was expected, if he survived, which did not always happen, to confirm it on the next day. Should he refuse to do this, his mutilated members were condemned to a repetition of the same sufferings, until his obstinacy (it should rather have been termed heroism) might be vanquished. Should the rack, however, prove ineffectual to enforce a confession of his guilt, he was so far from being considered as having established his innocence that, with a barbarity unknown to any tribunal where the torture had been admitted, and which of itself proves its utter incompetency to the ends it proposes, he was not unfrequently convicted on the depositions of the witnesses. At the conclusion of his mock trial, the prisoner was again returned to his dungeon, where, without the blaze of a single fagot to dispel the cold or illuminate the darkness of the long winter night, he was left in unbroken silence to await the doom which was to consign him to an ignominious death or a life scarcely less ignominious.

“The proceedings of the tribunal, as I have stated them, were plainly characterized throughout by the most flagrant injustice and inhumanity to the accused. Instead of presuming his innocence until his guilt had been established, it acted on exactly the opposite principle. Instead of affording him the protection accorded by every other judicature, and especially demanded in his forlorn situation, it used the most insidious arts to circumvent and to crush him. He had no remedy against malice or misapprehension on the part of his accusers, or the witnesses against him, who might be his bitterest enemies, since they were never revealed to nor confronted with the prisoner, nor subjected to a cross-examination, which can best expose error or wilful collusion in the evidence. Even the poor forms of justice recognized in this court might be readily dispensed with, as its proceedings were impenetrably shrouded from the public eye by the appalling oath of secrecy imposed on all, whether functionaries, witnesses, or prisoners, who entered within its precincts. The last and not the least odious feature of the whole was the connection established between the condemnation of the accused and the interest of his judges; since the confiscations which were the uniform penalties of heresy were not permitted to flow into the royal exchequer until they had first discharged the expenses, whether in the shape of salaries or otherwise, incident to the Holy Office.

“The last scene in this dismal tragedy was the *act of faith* (auto da fé), the most imposing spectacle, probably, which has been witnessed since the ancient Roman triumph, and which, as intimated by a Spanish writer, was intended somewhat profanely

to represent the terrors of the Day of Judgment. The proudest grandees of the land, on this occasion, putting on the sable livery of familiars of the Holy Office, and bearing aloft its banners, condescended to act as the escort of its ministers, while the ceremony was not unfrequently countenanced by the royal presence. . . . The effect was further heightened by the concourse of ecclesiastics in their sacerdotal robes, and the pompous ceremonial which the Church of Rome knows so well how to display on fitting occasions, and which was intended to consecrate, as it were, this bloody sacrifice by the authority of a religion which has expressly declared that it desires mercy and not sacrifice. Puigblanch, vol. i, chap. 4, says: 'The inquisitors, after the celebration of an *auto da fè* at Gaudaloupe, in 1485, wishing probably to justify those bloody executions in the eyes of the people, who had not yet become familiar with them, solicited a sign from the Virgin (whose shrine in that place is noted all over Spain) in testimony of her approbation of the Holy Office. Their petition was answered by such a profusion of miracles that Dr. Francis Sanctius de la Fuente, who acted as scribe on the occasion, became out of breath, and, after recording sixty, gave up in despair, unable to keep pace with their mavelous rapidity.'

"The most important actors in the scene were the unfortunate convicts, who were now disgorged for the first time from the dungeons of the tribunals. They were clad in coarse woolen garments, styled *san-benitos*, brought close around the neck and descending like a frock down to the knees. These were of a yellow color, embroidered with a scarlet



cross, and well garnished with figures of devils and flames of fire, which, typical of the heretic's destiny hereafter, served to make him more odious in the eyes of the superstitious multitude. The greater part of the sufferers were condemned to be *reconciled*, the manifold meanings of which soft phrase has already been explained. Those who were to be *relaxed*, as it was called, were delivered over, as impenitent heretics, to the secular arm in order to expiate their offense by the most painful of deaths, with the consciousness, still more painful, that they were to leave behind them names branded with infamy and families involved in irretrievable ruin.

“It is remarkable that a scheme so monstrous as that of the Inquisition, presenting the most effectual barrier probably that was ever opposed to the progress of knowledge, should have been revived at the close of the fifteenth century, when the light of civilization was rapidly advancing over every part of Europe. It is more remarkable that it should have occurred in Spain, at this time under a government which had displayed great religious independence on more than one occasion, and which had paid uniform regard to the rights of its subjects, and pursued a generous policy in reference to their intellectual culture. Where, we are tempted to ask, when we behold the persecution of an innocent, industrious people for the crime of adhesion to the faith of their ancestors, where was the charity which led the old Castilian to reverence valor and virtue in an Infidel, though an enemy? Where the chivalrous self-devotion which led the Aragonese monarch, three centuries before, to give away his life in defense of the persecuted sectaries of Provence? Where the

independent spirit which prompted the Castilian nobles, during the very last reign, to reject with scorn the purposed interference of the pope himself in their concerns, that they were now reduced to bow their neck to the few frantic priests, the members of an order which, in Spain at least, was quite as conspicuous for ignorance as tolerance? True, indeed, the Castilians and the Aragonese subsequently still more gave such evidence of their aversion to the institution that it can hardly be believed that the clergy would have succeeded in fastening it upon them had they not availed themselves of the popular prejudice against the Jews.

“The sufferings thus heaped upon the heads of these unfortunate people were finally requited in full measure to the nation that inflicted them. The fires of the Inquisition, which were lighted largely for the Jews, were detained eventually to consume their oppressors. They were still more deeply avenged in the moral influence of this tribunal, which, eating like a pestilent canker into the heart of the monarchy at the very time when it was exhibiting a most goodly promise, left it, at length, a bare and sapless trunk.

“The number of convicts under the guardianship of Torquemada was greatly swelled by the blunders of the Dominican monks, who acted as qualificators or interpreters of what constituted heresy, and whose ignorance led them frequently to condemn as heterodox propositions actually derived from the Fathers of the Church. The prisoners for life alone became so numerous that it was necessary to assign them their own houses as the places of their incarceration.”

As a single instance of the manner in which the business of the Inquisition was conducted, the following, from "Christian Mythology," by Rev. C. Sparry, is given: "Dr. Isaac Orobis, a learned physician, having beaten a Moorish servant for stealing, was accused by him of professing Judaism. Without considering the apparent malice of the servant, the inquisitors seized the master upon the charge. He was kept three years in prison before he had the least intimation of what he was to undergo, and then suffered the following six modes of torture:

"1. A coarse linen coat was put on him, and then drawn so tight that the circulation of the blood was nearly stopped and the breath almost pressed out of his body. After this, the strings were suddenly loosened, when the air, forcing its way hastily into his lungs, and the blood rushing into its channels, he suffered the most incredible pains.

"2. His thumbs were tied with small cords so hard that the blood gushed out from under the nails.

"3. He was seated on a bench with his back against a wall wherein small iron pulleys were fixed. Ropes being fastened to several parts of his body and limbs, were passed through the pulleys, and, being suddenly drawn with great violence, his whole frame was forced into a distorted heap.

"4. After having suffered for a considerable time the pains of the last-mentioned position, the seat was snatched away, and he was left suspended against the wall in the most excruciating misery.

"5. A little instrument with five knobs, and which went with springs, being placed near his face, he suddenly received five blows upon the cheek that

put him in such pain as to cause him to faint away.

“6. The Inquisitors fastened ropes around his wrists and then drew them about his body. Placing him on his back, with his feet against the wall, they pulled with the utmost violence till the cords had penetrated to the bones.

“The last torture he suffered three different times, and then lay seventy days before his wounds were healed. He was afterwards banished, and, in his exile, wrote the account of his sufferings, from which these details were taken.” Thousands, and tens of thousands, of cases as revolting as this, or more so, might be cited, and the details of inquisitorial horrors would be but merely commenced.

Torquemada played a very active part in the persecution and expulsion of the Jews and the Moors from Spain, during which the greatest enormities were committed against those most unfortunate races; but the subject will be detailed somewhat at length in the sketch of Ferdinand and Isabella. He, however, was the prime mover in that nefarious enterprise.

Fearing for his own safety in consequence of outraged human nature at the enormities he had committed—that he might be poisoned, assassinated, or otherwise justly dealt with—Torquemada, the “confessor of sovereigns,” went abroad in his old age and died at Avila in 1498, at the age of seventy-eight. It is greatly to be doubted if a more despicable and abhorrent character ever wore the semblance of man. Were it possible for the hundreds of thousands of the wretched victims whom he had subjected to unutterable torture to confront him after death and visit upon him the weight of their indig-

nation and revenge, what a horrible, though merited, hell he must have endured !

Diego de Dega, a Dominican friar, the friend of Columbus, the bishop of Seville, Ferdinand's confessor and the preceptor of his son John, succeeded Torquemada in 1499. Under his administration, 1,664 were burned alive, 832 in effigy, and 32,456 punished in other ways. An insurrection, however, in consequence of this extreme cruelty, cut short his time of usefulness and caused his removal in 1506. (Herzog, Real Encke, xxiii, 332).

The third inquisitor-general was Cardinal Francisco Ximenes de Cisneros, whose term in the office continued from 1507 to 1517. In these ten years, Llorente computes 2,536 were burned alive, 1,368 burned in effigy, and 27,263 punished in other ways. This number includes those who resided in Aragon. (Herzog, R. E., vi, 687).

The Spanish Inquisition long exercised its terrible power in Spain, and was effectively planted in the Netherlands, Portugal, and even into our own America was it introduced soon after its discovery, where, however, its rule was hardly as terrible as in the Old World. The number of thousands of poor unfortunates that were subjected to it in the nearly five hundred years of its terrible rule are almost beyond computation. Victor Hugo, the well known French writer, it is said, has estimated that the victims of the Inquisition amounted to 5,000,000 human beings.

Of all the religions which men have entertained in the past four thousand years, none of them, nor all of them combined, have produced such a wholesale and vast amount of terrorism, unhappiness,

persecution, torture of body and mind, bloodshed, carnage, and death, as has the system of Christianity. Its intolerance has been persistent and heartless ; its persecutions have been cruel and relentless ; its wars have been profuse and bloody ; its tyranny over the minds of men has been debasing and deadly ; and yet we are solemnly assured that it is God's own scheme, that it is the most merciful and lovely system of religious faith that has ever been devised, and that it has done more to promote the progress and happiness of mankind than all other influences combined. The claim is a false one.

D. M. B.

## LETTER IX.

DEAR READERS OF THE TRUTH SEEKER: I will now go back some years and give an account of the trial, conviction, and punishment of a man who, by his heterodox opinions, incurred the displeasure of the church.

In 1409, Thomas Badby, a tailor, was arraigned before the bishop of Worcester, in England, for having asserted that a priest could not convert a wafer into the body of Christ. Of course his offense was not so great as publishing an Infidel paper, nor did he ever have the temerity of addressing a prayer to Christ, on his own hook, through the columns of a weekly paper. But the Benedicts of those days did not require a very great offense to draw down their vengeance, and poor Badby paid with his life for his boldness.

On his examination he stoutly maintained his position, refusing to be coerced into withdrawing his blasphemous assertions. He said that it was impossible for any priest to make the body of Christ; that it was ridiculous to imagine that at the Last Supper Christ held his own body in his own hand and divided it among his disciples, and yet remained whole. "I believe," said he, "in one God; but if every consecrated wafer be a God, then there must

be in England not less than twenty thousand Gods."

This piece of rank heresy in those days was even worse than selling "Cupid's Yokes" is at present, for he was at once condemned to death. But yet another chance was given him. He was taken before the archbishop of Canterbury and again examined in the presence of a great number of bishops, the duke of York, and several of the first nobility. Great exertions were made to have him recant, but he courageously answered that he still maintained his heretical opinions, and that no power on earth could force him to change them.

On this the archbishop of Canterbury ratified the sentence given by the bishop of Worcester. When the king had signed the warrant for his death, he was taken to Smithfield, and, on the day appointed for his execution, he was bound with iron chains, fastened to a stake, and had dry wood piled up around him. Again the fiendish members of this devilish society for the suppression of vice and crime plied him with arguments, endeavoring to turn him from the error of his ways, for well they knew that his recantation would redound more to the credit of the church than any punishment they might inflict. But still he heroically resisted. The different bishops and priests who were present took turns in admonishing, counseling, and threatening him, and one or two even preached to him; but all to no purpose. Belief could not be changed by a mere effort of the will. Finally the prior of the convent of St. Bartholemew, in Smithfield, brought, with great solemnity, "the sacrament of God's body," preceded by twelve torch-bearers, and showed the wafer to the poor man at the stake. And then



they demanded of him how he believed in it. He answered that it was only bread, and not God's body.

Fire was then put to the wood. After a few moments the prince of Wales, who was one of the spectators, ordered the fire to be extinguished, and asked the unfortunate wretch if he would renounce his heresy, promising him a yearly pension if he would recant. But Badby was immovable, and refused the prince's offer. Again were the fagots set on fire, and soon nothing but ashes was left of this heretic to offend the purity of the Comstocks, Colgates, Benedicts, Cooks, and Bacons of the fifteenth century.

Shortly after this occurrence the death of Sir John Oldcastle, the leader of the Lollards, or Wickliffites, in England, was determined upon by the clergy. In no other way could they hope to "stamp out" the heresy then rapidly gaining ground. Arguments were of no more use to support the authority of the church in those days than they are at present, and force, then as now, was the only hope. The power of God must be enforced and backed by the might of man, or it will not be felt.

Sir John Oldcastle, baron of Cobham, as I said before, was the leader and protector of the Lollards; and in order to bring him into disfavor with the king, the clergy accused him of being engaged in conspiracies to overturn the state. It was even reported that the Lollards intended to murder the king, together with the princes, his brothers, and most of the lords, temporal and spiritual, in hopes that the confusion which must necessarily arise in the kingdom after such a massacre would prove

favorable to their religion. A false rumor was spread that Sir John Oldcastle had got together twenty thousand men at St. Giles's, near London, a place then overgrown with bushes. The king himself went thither at midnight, with a body of troops, and finding no more than about a hundred unarmed persons, who had assembled there for some religious purpose, he attacked them and killed all but a few, who made good their escape, excepting a few who were made prisoners. These prisoners were afterwards examined, and prevailed upon by threats, promises, and even torture, to confess whatever the clergy desired, and of course accusations against Oldcastle soon took definite shape.

Upon the strength of the confessions extorted from the wretched prisoners by the clergy, the king was convinced of the guilt of Sir John, and he offered a large reward for his capture, with a promise of perpetual exemption from taxation of any town which should secure him. Sir John was soon apprehended and imprisoned in the Tower; but escaping from thence, he fled into Wales, where he long concealed himself. But being seized by one Lord Powis he was brought back to London, to the great joy of the clergy, who were highly incensed against him and resolved to sacrifice him, to strike terror into the rest of the Lollards. Sir John was a man of extraordinary merit, having been sheriff of Hertfordshire and member of Parliament; but notwithstanding this fact, he was condemned to be hanged up by the waist with a chain and burnt alive. This most barbarous sentence was executed amidst the curses and imprecations of the priests and

monks, who used their utmost endeavors to prevent people from praying for him.

Such was the tragical end of Sir John Oldcastle, whose only crime was having dared to think for himself in matters of religion ; and such would be the fate of all Freethinkers, even at this late day, should the church regain the power it so monstrously abused.

Not satisfied with the single death of Oldcastle, the clergy induced Parliament to make fresh statutes against the Lollards. It was enacted, among other things, that "whosoever read the Scriptures in English should forfeit lands, chattels, goods, and life, and be condemned as heretics to God, enemies to the crown, and traitors to the kingdom ; that they should not have the benefit of any sanctuary ; and that, if they continued obstinate, or relapsed after being pardoned, they should first be hanged for treason against the king, and then burned for heresy against God." This act was no sooner passed than a violent persecution was raised against the Lollards. Several of them were burnt alive, some fled the kingdom, and others abjured their religion to escape the torments prepared for them.

In 1509, Henry VIII. succeeded to the throne of England. In the beginning of his reign, several persons were brought into the bishops' or ecclesiastical courts charged with Lollardism. At one time forty-eight were accused, but of these, forty-three abjured, and four men and one woman were condemned. The woman's husband and her two sons were brought as witnesses against her. The crime charged against these unfortunates was not "obscenity," but unbelief. They believed that the eucharist was nothing

but common bread ; that priests had no more power with the Almighty than other people ; that images ought not to be worshiped, and that there was no virtue in holy water nor holy bread. Of course the priests, to show that they had extraordinary power, burned them at the stake. Like the clergy of the present day, they thought that heresy and unbelief could be "stamped out" by punishing the chief offenders. But they were only sowing the seed of the Reformation that soon spread over England. And the bigoted clergy of this country, backed by their dupes and judicial accomplices, are only sowing seed from which will spring a reformation that will sweep them, as a privileged class, out of existence.

Several other executions in the same place (Smithfield) followed those last mentioned, and for similar causes—unbelief and heresy. But the Reformation soon gained such strength that the tables were turned, and those who were most active in burning others were themselves made to suffer the punishment of their monstrous crimes. The king, himself a monster of iniquity, busied himself in reforming others. It is strange that those who lead the most wicked and debauched lives are so ready and eager to superintend the private morals of others.

A visitation of the various monasteries and other religious houses throughout the kingdom was made, which resulted in the discovery of so much vice, crime, and debauchery that the houses and religious orders, to the number of over a hundred, were suppressed. Many of the clergy were beheaded for their crimes and enormities, and among them so punished were several priors and abbots.

The suppression of these monasteries disclosed to

the world many impostures about pretended relics and wonderful images, to which pilgrimages had been made. It is strange how blind people become when once they submit to the teachings of the priests. At a place called Reading was preserved the wing of an angel, who, according to the monks, brought to England the point of the spear that pierced the side of Christ while on the cross ; and as many pieces of the real cross were found as, when joined together, would make half a dozen.

The "Rood of Grace," in Kent, had been much esteemed, and had drawn many pilgrims to it on account of its possessing the power of bowing its head, rolling its eyes, smiling, and frowning, to the great astonishment of the credulous multitude, who imputed to it divine power ; but all this was now discovered to be a cheat. It was taken to London, and its mode of working, by means of concealed springs, etc., exhibited to the public.

At a place called Hales, in Gloucestershire, some of the blood of Christ was shown in a vial, and it was claimed that none could see it who were in mortal sin. Those who could bestow liberal presents were, of course, gratified by being led to believe that they were in a state of grace. This miracle was discovered to consist in the blood of a duck, renewed every week, put in a vial very thick on one side and thin on the other. Either side was turned towards the pilgrim, as the priests were satisfied or not with his oblations. Several other similar impostures were discovered.

Though the king had now been excommunicated by the pope as a heretic, he was as bigoted and intolerant as it was possible for man to be. There

were many points in common in the character of Henry VIII. and the pope, and many points in their religious beliefs were identical ; and Henry was just as zealous in rooting out heresy in his dominions as he could have been if acting under the direct instructions of the pope.

One John Lambert, a teacher of languages in London, was brought before the bishops' court to defend certain writings of his. In this court Henry was seated on his throne, having determined to hear the case in person. The bishop of Chichester was commanded to open the case. After a long oration, the bishop stated that although the king had abolished the papal authority in England, it was not to be supposed that he would allow heretics with impunity to disturb and trouble the church of which he was the head. He had, therefore, determined to punish all schismatics ; and being willing to have the advice of his bishops and counselors on so great an occasion, had assembled them to hear the arguments in the present case.

The oration being concluded, the king ordered Lambert to declare his opinion as to the sacrament of the Lord's Supper, which he did by denying it to be the body of Christ. The king then commanded Archbishop Cranmer to refute his assertions, which the latter attempted, but was interrupted by Gardiner, bishop of Winchester, who was acting as a sort of prosecuting attorney. Gardiner, being unable to bring argument to his aid, sought by abuse and virulence to overpower his antagonist, who was not allowed to answer the taunts and insults of the bishop. Several other bishops then each made a speech in attempted confutation of one of the argu-

ments advanced by Lambert in his writings ; but he was not permitted to say a word in defense.

The reader will notice a similarity in this method of trying a heretic to the method adopted by some of the judges in our United States courts in cases of the same kind. Possibly this trial of Lambert was used as a precedent for some of our modern trials ; and any person familiar with court customs knows the power of precedent, particularly when it serves to further private ends or please powerful friends.

When the trial was over, Lambert not having had an opportunity to defend himself, was, of course, found guilty, and condemned to be burned at the stake at Smithfield.

The manner of his death was dreadful ; for after his legs were consumed and burnt up to the stumps, and but a small fire was left under him, two of the inhuman monsters who stood on each side of him pierced him with their halberts, and lifted him up as far as the chains would reach, then dropping him, forced him down among the embers, and there held him until life was extinct. Meanwhile the clergy stood by, gloating over his sufferings, even as their bigoted successors of this age gloat and rejoice over the undeserved sufferings of those whom their tools have consigned to the only punishment allowed to be inflicted for heresy in these religiously half-civilized times.

In March, 1545, a lady named Anne Askew made herself offensive to the church authorities in England by too freely expressing her disbelief in certain theological doctrines. She was taken into custody, but nothing being proved against her sufficiently damaging to justify her punishment, she was released.

After ample preparations had been made by the church people, she was again arrested, and this time the sneaking informers and decoy agents made sure of their victim. Enough evidence was produced to convict her of heresy. She was sentenced to be burnt at Smithfield where so many others had suffered the same fate for a like offense. But first her prosecutors, the preservers of the people's virtue, determined to ascertain to what extent her teachings had corrupted the morals of her friends. To this end she was placed on the rack, tortured till she fainted, and, on her recovery, threatened with severer punishment if she did not reveal the names of those who shared her opinions. The Lord Chancellor of England devoted several hours of his precious time to an attempt to extort from this unfortunate woman some statement that would implicate others. She was again put to the rack and tortured till her joints were almost torn asunder; and not till death threatened to end her sufferings, and thus deprive her pious judges and persecutors of the pleasure of seeing her burnt at the stake, did they release her from the rack. On the day appointed for her execution she was carried to Smithfield in a chair, being unable to walk from the effects of the tortures she had undergone. When she arrived at the stake she was fastened to it by a chain around her body. Three other persons were brought to suffer with her for the same offense—Nicholas Belinian, John Adams, and John Lacels. The heretics being all chained to the stake, a sermon was preached to them by the chaplain appointed for that duty, one Dr. Shaxton, the torch was applied, and shortly after, the Lord Mayor of London, in pursuance of his official duty, cried, with a loud



voice, over their smouldering ashes, "*Fiat justitia.*"

There was once a man named Benet—he spelled his name differently from mine—who lived in Devonshire, England, about the year 1524. This Benet had opinions of his own concerning theological subjects, and occasionally he took occasion to express those opinions. For this he incurred the displeasure of the clergy, as such men generally do. He supported himself and wife by teaching school, and was of quiet behavior, courteous nature, humble to all men, and tried to avoid giving offense to any one. But seeing the control that the clergy were obtaining over the minds of the people, and the resulting degradation of all classes, he made bold to write some of his opinions on some sheets of paper and fasten them to the doors of the cathedral. These bills being found, the clergy were alarmed, and search was made for the heretic who had nailed them up. Orders were given that sermons should be preached every day to confute this heresy. Benet, keeping his secret, repeated his stratagem several times. The priests, being unable to discover the perpetrator of these horrible crimes, determined to make his damnation sure, so they excommunicated him. As this proceeding may seem rather interesting to my readers, I will try to describe the performance. The following is the curse uttered by the priest :

“By the authority of God the Father Almighty, and of the blessed Virgin Mary, of St. Peter and Paul, and of the Holy Saints, we excommunicate, we utterly curse and ban, commit and deliver to the devil of hell, him or her, whatsoever he or she be, that have, in spite of all holy saints, and in spite of our most holy father, the pope, God’s vicar here on earth, and in spite of the reverend father in God,

John, our diocesan, and the worshipful canons, masters, and priests, and clerks, which serve God daily in this cathedral church, fixed up with wax such cursed and heretical bills full of blasphemy, upon the doors of this and other holy churches within this city. Excommunicate plainly be he or she plenally, or they, and delivered over to the devil, as perpetual malefactors and schismatics. Accursed might they be, and given body and soul to the devil. Cursed be they, he, or she, in cities, and towns, in fields, in ways, in paths, in houses, out of houses, and in all other places, standing, lying, or rising, walking, running, waking, sleeping, eating, drinking, and whatsoever thing they do besides. We separate them, him, or her from the threshold, and from all the good prayers of the church, from the participation of the holy mass, from all sacraments, chapels, and altars, from holy bread and holy water, from all the merits of God's priests and religious men, and from all their cloisters, from all their pardons, privileges, grants, and immunities which all the holy fathers—popes of Rome—have granted to them; and we give them over utterly to the power of the fiend, and let us quench their souls, if they be dead, this night in the pains of hell-fire, as this candle is now quenched and put out" (and with that he put out one of the candles;) "and let us pray to God (if they be alive) that their eyes may be put out, as this candle light is" (he then put out the other candle); "and let us pray to God, and to our lady, and to St. Peter and Paul, and all holy saints, that all the senses of their bodies may fail them, and that they may have no feeling, as now the light of this candle is gone" (he put out the third candle) "except they, he, or she come openly now and confess their blasphemy, and by repentance (as in them shall lie) make satisfaction unto God, our lady, St. Peter, and the worshipful company of this cathedral church; and as this holy cross staff now falleth down, so might they, except they repent and show themselves."

The next day he was examined by the canons of the cathedral and the magistrates, and confessed he put up the bills. The next day after that he was sent to prison, where he was put in the stocks and strong irons. His house was searched for books and his wife ill-treated by the officers employed. He was argued with for several days, but being obstinate in his faith he was finally burnt.

William Tindall was another one who did not believe the pope was the vicar of God. For this, according to the decree of the emperor at Augsburg, he was tied to the stake, strangled, and burnt. This was in 1536.

Patrick Hamilton, of Scotland, was another man whose preaching was too powerful for the church of God to stand. He was burnt at the stake in the year 1527.

In 1543 the archbishop of St. Andrews, in making the tour of his diocese, found six persons accused of heresy. They were William Anderson, Robert Lamb, James Finlayson, James Hunter, James Raveleson, and Helen Stark. They were burnt.

George Wishart was condemned to death by the archbishop of Glasgow for the crime of disbelieving in popery. He was burnt at the stake in the usual Christian manner.

Henry VIII. of England, that royal monster, was the founder and first head of the church of England. He wanted such a church for his own use, and having the power and materials he made a church to suit his purposes. Tiring of his first wife, Catherine of Aragon, who was five years his senior, and being refused a divorce by the pope, he became his own pope. Throwing Catherine aside, he married Anne

Boleyn, one of the queen's maids of honor ; and by the persecutions of Henry, the unfortunate Catherine ended her days in misery and wretchedness. Four months after the death of Catherine, Anne Boleyn was herself divorced and brought to the block, charged with adultery and high treason. The founder of Episcopalianism had already tired of his young wife and wanted another. On the next morning after the death of his second wife, Henry married Jane Seymour. She died in giving birth to Edward VI. in 1537, When Henry was informed by the attendant physicians that either child or mother would have to die, and asked which he wished saved, he replied, "The child, by all means, for other wives can easily be found." To make a long story short, Henry divorced two of his six wives, and cut off the heads of two others. Yet the divorce and murder of his wives were not the greatest of his offenses and crimes. It was as dangerous to acknowledge the pope in England as it was to be Henry's wife. Catholics were burnt for recognizing the pope, and all Protestants who refused to recognize Henry as the head of the church shared the same fate. Of this monster, Dickens says, "The plain truth is that he was a most intolerable ruffian, a disgrace to human nature, and a blot of blood and grease upon the history of England." Yet it is to such men that our pious Christian friends look up as saints, leaders, and exemplars.

When Queen Mary ascended the throne, she declared her intention of burning every Protestant in England. A letter, in her handwriting, containing this declaration, is now in the British Museum. The first to feel the flames for opinion's sake during

her reign was John Rogers. He had the temerity to avow his belief that the pope was Antichrist. For this he was singled out to be an example to all those who should refuse to comply with the demands of the Romish clergy, who were now in the ascendant. He was tried for heresy, and made an elaborate defense. He showed that the statute under which he was prosecuted had never been legally passed; and that even if it was, it was contrary to justice, as the clergy had no right to persecute those who differed from them in opinion. But such considerations never did and never will have weight with God's anointed. Where the church has power, justice is an accident. Rogers was declared to be an obstinate heretic; and on the 4th of February, 1555, he was taken from his cell at Newgate, where he had been confined among thieves, robbers, and murderers, escorted to Smithfield, chained to a stake, and burnt to ashes in the presence of his wife and eleven children. And this was done in the name of justice and religion, by Christians fully as pious and zealous as Cook, Colgate, and Parson Newman; but their power was greater.

The next person who suffered in this reign was Laurence Saunders, a clergyman. His chief offense was that he exposed and denounced the evils of the celibacy of the clergy, for at that time, according to the Rev. John Fox, "the priests, being denied the privilege of marriage, seduced the wives and daughters of many of the laity, and filled the nation with bastards." But even marriage has not proved a remedy for that evil in this country. Saunders was arrested and placed in prison, where he was kept for fifteen months. At the expiration of that time

he was taken before the council and tried for heresy. Of course he was convicted; and the law of God, as interpreted by the prejudice of bigots, condemned him to be burnt. He was taken to Coventry, fastened to the stake, the fagots lighted, and soon the pious Christians who surrounded him, "doing God's work," rejoiced at the horrible death of one who had dared to express opinions contrary to their own.

In America, Hernando Cortez was one of the first to enforce the law of God, as laid down by the clergy. He began operations in Mexico, in 1519. Those whom he could not convert he killed. The Rev. C. Sperry, a writer of some note, says: "In the space of twelve years, from the first landing of Cortez on the continent of America to the entire reduction of the populous empire of Mexico, the amazing number of four millions of Mexicans perished through the unparalled barbarity of the Spaniards." And their only crime was a disbelief in the Christian's God.

Pizarro was another of those who considered it their duty to employ fire and sword to bring unbelievers to the "true religion," that religion whose beauties and humanizing effects are made so manifest to those who doubt its truth. He massacred or burnt at the stake all who offered him the least opposition. He killed and ravaged and robbed in the name of the church, and the church indorsed his deeds by eagerly accepting her share of the spoils, and confirming his disposal of an enslaved people.

In 1555, one Dr. Hooper, of London, was brought before Chancellor Gardiner to be tried for heresy. He had denied that the pope was the head of the

church, and the power of the law was invoked to compel him to recant or to punish him for his unbelief. He had been tried once before on the same charge, and had been confined in the Fleet prison for eighteen months. At the trial Dr. Hooper defended his position with great ability, which only added to his crime in the estimation of his judges. He was pronounced guilty, and sentenced to be burnt at the stake. It is noticeable that death by fire has ever been the favorite punishment for heresy. He was taken to Gloucester, where he had formerly resided, and prepared for death. He was stripped naked, a pound of gunpowder was placed between his legs, and the same quantity under each arm; three chains were then fixed around him, one at his neck, one at his middle, and the third at his legs, and with these he was fastened to the stake. Fire was then put to the fagots, but they being green burnt slowly, and he suffered inexpressible torments. At length the powder ignited, and his sufferings were ended. The majesty of the law was vindicated, and the pious Christians had done their duty to their peculiar deity.

Dr. Rowland Taylor was the next victim. He was tried before the zealous Chancellor Gardiner for corrupting the morals of the people of England by teaching doctrines contrary to those of the Romish church. Gardiner, who was a model Christian judge, readily found him guilty, and sentenced him to be burnt. He was taken from London, the place of his trial, to Oldham, in Essex, where he was to be executed. While traveling, his head had been covered by a close hood having holes for his eyes and mouth. Upon arriving at Oldham he tore the hood

from his face and attempted to speak to the spectators, many of whom were his friends; but the officers thrust sticks into his mouth, and threatened to cut his tongue out unless he kept silent. He was placed in a barrel partly filled with pitch, which had been prepared by those who had been commanded to love their enemies; and fire being set to the pitch, he writhed in terrible agony, till one of the officers, more humane than the rest, knocked out his brains with a halberd. Then thanks were given to God that another heretic had met his doom.

Then came the turn of Thomas Tomkins, who was tried by Bishop Bonner for heresy. During his imprisonment he was frequently visited by this God-fearing bishop, who often beat him, and with his own hands tore the beard from his face because he refused to assent to the doctrine of transubstantiation. Subsequently this good bishop took hold of his wrist and held his hand in the flame of a candle till it was charred to a crisp. Tomkins was finally burnt at Smithfield.

William Hunter, a young weaver of London, had the courage to differ with a priest concerning the value of the sacraments. For this he was taken before the Consistory court at St. Pauls, tried, and found guilty of heresy. The bishop before whom he was tried condemned him to be burnt at the stake, and on the 27th of March, 1555, the sentence was carried into execution. On the same day two other persons were burnt for the same offense—Thomas Higbed, who was executed at Horndon, and Thomas Causton, who met his fate at Rayleigh.

On the very next day William Pigot and Stephen Knight were burnt to death under the direction of



that pious Christian, Bishop Bonner, the former at Braintree, in Essex, and the latter at Malden, in the same county; and on March 29th John Lawrence suffered death by fire at Colchester. He was carried to the place of execution in a chair, being unable to walk, from the effects of tortures inflicted by the above-named bishop. The chair was fastened to the stake, and he was soon beyond the reach of further persecutions.

Scarcely a day passed by in those times without the execution of a heretic—all according to law, and after what was called a fair trial. On March 30th Dr. Robert Farrar was burnt at the stake in the market place at Carmarthen, in Wales, according to the sentence of the bloody Chancellor Gardiner.

On the same day, March 30th, Rawlins White, a poor fisherman of South Wales, who was in his sixtieth year, and had always borne an excellent reputation, was burnt for unbelief, having been condemned to suffer that horrible death by the pious bishop of Llandaff.

George Marsh was tried in the cathedral church of Chester, before the bishop of that city, on the charge of preaching and publishing heresy. He was found guilty, and on the 4th of April, 1555, he perished at the stake in a little village called Spittle-Boughton, near Chester.

Even the women did not escape in this Christian crusade against heresy. Those monsters in human form, the bishops and clergy, filled with the Bible spirit of vengeance against unbelievers, embraced every opportunity of exercising their cruelty, tyranny, and usurpation. Neither age nor sex was spared in their bigoted zeal, and nothing seemed to

give them the least feelings of humanity. Love of God was synonymous with hatred of mankind.

The bishop of Rochester caused one Margaret Polley to be brought before him on a charge of heresy. Her offense was disbelief in the dogma of transubstantiation. She was known as a charitable and humane woman, but her candid replies to the bishop's questions sealed her doom; and in July, 1555, she was taken to Tunbridge, where the flames silenced forever one whom the clergy could not convince. And with these facts staring them in the face, the clergy of the same church proclaim their faith a religion of love and mercy.

Robert Samuel was burned at the stake in 1555. He had been confined in a close prison for months, chained to a post in such a manner that he was compelled to sustain the whole weight of his body on his toes. Besides this he was kept without food for twelve days at a time, being allowed but three spoonfuls of water each day. It is no surprise to learn that his torturers and condemners were Bishop Hopton, of Norwich, and Chancellor Dunning.

About the same time that Mr. Samuel suffered death, several others shared the same fate for the same offense—refusing to accept the dogmas of the church. William Allen, a laborer, was burnt at Walsingham; Thomas Cob, a butcher, suffered the same death at Thetford—a place that afterward gave birth to one of the brightest intellects of the world, Thomas Paine.

In September of the same year Roger Coo, a gray-haired man, tottering on the verge of the grave, was burnt to death at Yexford, in Suffolk, by order of the bishop of Norwich, for refusing to

receive the sacrament. Four others suffered about the same time at Canterbury, viz., George Cotmer, Robert Streater, Anthony Burward, and George Brodridge.

Robert Glover, of Coventry, and Cornelius Bongey, of the same place, were tried for heresy and condemned to death by the bishop of Litchfield and Coventry, and on the 20th of September, 1555, these two men were made a burnt-offering to the Almighty. William Wolsey and Robert Pigot were sacrificed in the same manner on the 16th of the succeeding month.

Two of the most notable cases of persecution and murder for opinion's sake, under the forms of law, were those of Hugh Latimer, bishop of Worcester, and Nicholas Ridley, bishop of London. These two prelates were tried for heresy before the bishop of Lincoln, and, refusing to stultify themselves by professing to believe what they did not, they were found guilty and condemned to death. They were fastened to stakes with chains and staples, a bag of gunpowder was hung to the neck of each, green fagots were piled up around them, and the torch was applied. The legs of the poor wretches were almost entirely consumed before the flames reached the gunpowder, but when that exploded their sufferings were over. Meanwhile the godly workers for the cause of Christ stood by and gloated over their sufferings.

About the end of October, 1555, John Webb, George Roper, and Gregory Parke, three men who denied that the bread and wine underwent any transformation into the body and blood of deity, were burnt at the stake at Canterbury.

In December of the same year William Wiseman

and James Gore died in prison, where they were confined for differing in opinion with the clergy. It is said that Wiseman was starved to death.

In Smithfield, on the 18th of December, 1555, John Philpot, a gentleman of much learning, was burnt at the stake for refusing to be governed in matters of faith by the priests and their tools, the judges.

Archbishop Cranmer, who is revered as a saint by Protestants, was noted for his zeal in persecuting Catholics when he was in power ; but he, in his turn, tasted the bitter end of the fruits of Christianity. Under Henry VIII. he had almost unlimited power over the consciences of the English, but upon the accession of Mary to the throne he got what he had been so willing to give others—imprisonment, and death at the stake. He was burnt at Oxford, March 21, 1556, at the age of 67.

Two days after the death of Cranmer three other men were burnt at a place between Salisbury and Wilton. Their names were John Maundrel, William Coberly, and John Spicer, and their offense was the usual one—heresy. Truly the religion of Christ is a religion of love and mercy !

Six honest men, Richard and Thomas Spurg, John Cavill, George Ambrose, Robert Drake, and William Tims, were tried for heresy in the Consistory court in St. Paul's church, London, before the bishop of London. They were charged with the terrible crime of teaching erroneous opinions. They were found guilty, and on the 14th of April, 1556, they were all chained to the same stake in the town of Smithfield—a place whose name should bring a blush to the

cheek of every Christian—and were consumed in the same fire.\*

In this same year John Careless, a weaver, of Coventry, died in the King's Bench prison, after two years' imprisonment, and thus escaped a horrible death at the stake.

Julius Palmer, John Gwiu, and Thomas Askine were chained to the same stake at Newbury, in Berkshire, and after being cruelly beaten in the face with fagots by the pious followers of Christ who surrounded them, were burnt to death. They refused to believe in purgatory. This was in July, 1556.

On July 18th, 1556, three women—Catherine Cawches, an old lady, Guillemins Gilbert, and Perotine Massey, her two daughters, and an infant son of Mrs. Massey—were burnt to death in Guernsey. Their offense was a refusal to attend church. The most horrible feature of this fiendish affair was that Mrs. Massey gave birth to the infant while chained to the stake and suffering the agony of the damned from the flames that were consuming her. By order of the pious officer in charge of this brutal execution, whose sense of justice, tempered with bigotry, was fully as acute as that of Judge Benedict, the infant was thrown back into the fire, whence it had fallen, and was there consumed with its mother. The truth of this statement might well be doubted were it not that the official record of this transaction may be found among the English state documents.

As if the above-mentioned barbarity was not enough for one day, two men and one woman were burnt at the stake at Grinstead, in Sussex, on the same 18th of July.

One Thomas Moore, aged twenty-four years, asserted that he believed God was in heaven, and not in the pix, or wafer-box. For this he was tried and found guilty of heresy, and on the 26th of June, 1556, he was burnt at the stake, in the town of Leicester.

It appears from the records of those times that very few days passed without a human burnt-offering being sacrificed to the Lord. On the 1st of August, 1556, Joan Waste, an old blind woman of Derby, was burnt at the stake for heresy. She was condemned to this horrible death by pious Bishop Bayn, of Lichfield.

On September 8th, 1556, one Edward Sharp was burnt at Bristol.

On the twenty-fourth of the same month, John Hart and Thomas Ravendale were burnt at Mayfield, in Sussex.

The next day was celebrated by the death of a young carpenter by fire at Bristol.

John Horn and a woman whose name is not recorded were burnt in Gloucestershire on the 27th of the same month. These deaths were all for heresy—difference of opinion.

Among the last who suffered death for opinion's sake in the bloody year of 1556, were five persons who were cruelly starved to death in Canterbury castle. Their names were William Foster, Alice Potkins, John Archer, John Clark, and Dustan Chittenden.

The bloody Christian transactions of the year 1557 were opened by the burning of ten men who had been confined in the same prison with those who were starved to death. Their names were

Stephen Kemp, William Waterer, W. Prouting, W. Lowick, Thomas Hudson, William Hay, Thomas Stephens, John Philpot, Nicholas Final, and Matthew Bradbridge. The first six were burnt at Canterbury on the 15th of January; Stephens and Philpot suffered the next day at Wye; and Final and Bradbridge on the succeeding day at Ashford. All were heretics.

The fires of Smithfield were again lighted on the 12th of April, 1557, when Thomas Loseby, Henry Ramsey, Thomas Thyrtell, Margaret Hyde, and Agnes Stanley were burned. They had been tried and found guilty by the bishop of London.

In St. George's Fields, near London, Stephen Gratwick, William Morant, and John King suffered death by fire in May, 1557.

At Maidstone, on June 18, 1557, five women and two men were burnt for heresy. Their names were as follows: Joan Bradbridge, Walter and Petronil Appleby, Edmund and Catherine Allin, Mrs. Manning, and a blind girl named Elizabeth.

On the 22d of December of the same year, John Rough, a Scotchman, and Margaret Maring, of London, were taken to Smithfield, tied to the same stake, and burnt in the same fire. They had refused to be orthodox.

Robert Mills, Stephen Cotton, Robert Dines, Stephen Wright, John Slade, and William Pikes were caught praying together in a field near Islington. As their prayers were not those prescribed by the church, they were tried for heresy, condemned, and on the 14th of July, 1558, they were burnt at the stake.

A few days after the last-mentioned Christian ex-

execution, seven other persons, caught at the same time and in the same act, were burnt at Smithfield. Several of them were severely beaten with iron rods before being consigned to the flames.

A woman named Elizabeth Prest was burnt for heresy at Exeter, shortly after the cases mentioned above.

The death of Queen Mary, in 1558, put an end to the burnings and butcheries of the Catholics in England; but when the Protestants came into power they hastened to retaliate. Elizabeth was as bitter against the Catholics as Mary had been against the Protestants.

Elizabeth, being the head of the church, appointed a "court of high commission," consisting mostly of bishops, to punish all who did not conform to her creed. This commission was empowered to have "control over the opinions of all men," and had power to extort evidence by prison or the rack. These bishops sent hundreds to the racks in order to extort confessions from them; and on these confessions many of them were put to death.

At this time it was death to ordain a Catholic priest in the kingdom; it was death for a Catholic priest to come into England from abroad; it was death to harbor a priest; it was death to confess to a priest; it was death for a priest to say mass; it was death for any one to hear mass; it was death to deny, or not to swear, if called on to do so, that Elizabeth was the head of the church of Christ; it was an offense punishable by fine not to go to the Protestant church. For those who remained from church altogether, this fine amounted to over sixteen thousand dollars per year. Thousands upon thou-



sands refused to go to the law-church; and thus the head of the church sacked thousands upon thousands of estates! The poor conscientious Catholics who refused to go to church, and who had no money to pay fines, were crammed into the jails until the counties petitioned to be relieved from keeping them. They were then discharged, being first publicly whipped, and having their ears bored with a red-hot iron. But this not answering the purpose, an act was passed to banish for life all these non-goers to church, if they were not worth twenty pounds; and, in case of return, they were to be punished with death.

The names of the persons put to death merely for being Catholics during the reign of Elizabeth would form a long list. The usual mode of inflicting death was to hang the victim for a short time, just to benumb his or her faculties, then cut down and instantly rip open the belly and tear out the heart, and hold it up; fling the bowels into the fire; then chop off the head and cut the body into quarters; then boil the head and quarters, and then hang them up at the gates of cities, or other conspicuous places. This was done to many hundreds of persons, merely for adhering to the church in which they had been born and bred. There were one hundred and eighty-seven ripped up and boiled in England in the years from 1577 to 1603; that is to say, in the last twenty-six years of Elizabeth's reign; all these might have been spared if they would have agreed to go to church and hear the common prayer. All, or nearly all of them, were racked before they were put to death, and the cruelties in prison and the manner of execution were the most horrible that can be con-

ceived. They were flung into dungeons, kept in their filth, and fed on bullock's liver, boiled and unwashed tripe, and such things as dogs are fed on. Edwards Genings, a priest, detected in saying mass in Holburn, was, after sentence of death, offered his pardon if he would go to church; but, having refused to do this, and having, at the place of execution, boldly said that he would die a thousand deaths rather than acknowledge the Queen to be the spiritual head of the church, Topliffe, the attorney-general, ordered the rope to be cut the moment the victim was turned off, "so that," says the historian, "the priest being little or nothing stunned, stood on his feet casting his eyes towards heaven till the hangman tripped up his heels and flung him on the block, where he was ripped up and quartered." He was so much alive, even after the boweling, that he cried with a loud voice, "Oh, it smarts!"

There was a Mrs. Ward, who, for assisting a priest to escape from prison (the crime of that priest being saying mass) was imprisoned, flogged, racked, and finally hanged, ripped up, and quartered. She was executed at Tyburn on the 30th of August, 1588. At her trial the judges asked if she had done the thing laid to her charge. She said, "Yes!" They in vain endeavored to terrify her into a confession relative to the place whither the priest was gone; and when they found threats unavailing, they promised her pardon if she would go to church; but she answered that she would lose many lives, if she had them, rather than acknowledge that heretical church. They, therefore, treated her very savagely, and ripped her up while in her senses.

There was a Mrs. Clithero pressed to death at

York in the year 1558. She was a lady of good family, and her crime was relieving and harboring priests. She refused to plead, that she might not tell a lie nor expose others to danger. She was therefore pressed to death in the following manner: She was laid on the floor, on her back. Her hands and feet were bound down as close as possible. Then a great door was laid upon her, and many hundred weights placed upon that door. Sharp stones were put under her back, and the weights, pressing upon her body, first broke her ribs, and finally, though by no means quickly, extinguished life. Her husband was forced to flee the country; her little children, who wept for their mother, were taken up, and, being questioned concerning their religious belief, and answering as they were taught by her, were severely whipped, and the eldest, who was but twelve years old, was cast into prison.

Twenty large volumes, allotting only one page to each case, would not contain an account of those who have fallen victims to their refusal to conform to the church of England. Nay, a hundred volumes, each volume being five hundred pages, and one page allowed to each victim, would not suffice for the holding of this bloody record. Short of death by ripping up, there was death by martial law, death in prison—and this in cases without number—banishment, and loss of estate. Doctor Bridgewater, in a tale published by him at the end of the "*Concertatio Ecclesie Catholice*," gives the names of about 1,200 who had suffered in this way before the year 1558—that is to say, before the heat of the "tolerance." In this list there were 21 bishops, 120 monastics, 13 deans, 14 archdeacons, 60 prebendaries,

530 priests, 49 doctors of divinity, 18 doctors of law, 15 masters of colleges, 8 earls, 10 barons, 26 knights, 326 gentlemen, 60 ladies and gentlewomen. Many of these, and indeed the greater part of them, died in prison, and many of them died while under sentence of death.

But I must condense. Were I to give only the merest outlines of the many crimes committed by religious bigots in the name of law and justice, a dozen volumes would not suffice. I shall only mention some of the more prominent cases.

To show the feeling of the church toward science, it is only necessary to mention that, in 1552, all the books on astronomy and geometry in England were ordered to be destroyed as being infected with magic.

From 1555 to 1558, three short years, two hundred and seventy-seven persons were burnt alive in England for heresy.

In 1572, the Massacre of St. Bartholomew took place. In this massacre one hundred thousand innocent persons were butchered, all in the name of religion and for the glory of God.

Charles V., of Spain, the most powerful and pious monarch of his century, caused the death of a hundred thousand Germans because they refused to believe as he did.

Philip II., another pious fanatic, spent his whole life in attempting to stamp out heresy by murdering the heretics.

The Duke of Alva, another representative of religion, nearly depopulated Germany in the effort to make all think as he did.

John Knox, a Scotch bigot, burnt and destroyed

churches, monasteries, libraries, and works of art, all in the interests of the church whose views he upheld. He was an actor in many scenes of heartless persecution.

Thomas Munzer, a very pious German, caused the death of forty thousand people, all because they differed in opinion with him.

In 1574, Vallee, a Deist, was burnt for heresy.

Giordano Bruno was burnt for Atheism in 1600 by the devotees of the church.

Vanini met the same fate for the same reason in 1611.

In 1612, B. Legatt, a Unitarian, was condemned and burnt for heresy.

The bloody massacres of the Protestants in Ireland by the Catholics took place in 1641. In the castle of Lisgoul, upwards of one hundred and fifty men, women, and children were all burnt together, and at the castle of Moneah not less than a hundred were put to the sword. Great numbers were also murdered in other castles, all for the glory of God, and all in accordance with the teachings of the Bible. Many were put to deaths of the cruelest and most horrible kind. Some were stripped naked and laid with their backs on the axletree of a carriage, with their legs and head bent to the ground. In this position they were scourged and torn to pieces by dogs. Others were fastened to horses' tails and dragged to death over stony roads.

Even the women were not spared. Some were fastened with their backs to posts, stripped to the waist, and their breasts cut off by huge shears; and in this predicament they were left to bleed to death. And all this because they were heretics. These

pious demons reasoned that if God was going to burn the unbelievers eternally in hell, they would only be assisting him in his work of vengeance by torturing them on earth. But the worst is not told. To quote from a writer of that time: "Many unhappy mothers were hung naked to the branches of trees, and their bodies being cut open, the innocent offspring was taken from them and thrown to dogs and swine. And to increase the horrible scene, they would oblige the husband to be a spectator before he suffered himself." Truly a glorious record for followers of Christ to point to and exult in.

Upwards of one thousand men, women, and children were driven to Porten-down bridge, which was then cut from its abutments, throwing the unfortunates into the water, and such as attempted to reach the shore were knocked on the head.

In the same part of the country, at least four thousand persons were drowned in different places. In one town, one hundred and forty persons, after being driven for many miles stark naked, in the most severe weather, were all murdered in the same spot, some being hanged, others burnt, some shot, and many buried alive. In the county of Kilkenny, every Protestant found, without exception, was put to death.

But the soul sickens in describing these monstrous barbarities—worse than barbarities, for the most degraded and vindictive barbarian could never devise the many refinements of cruelty practiced by these bigots under the influence of Bible civilization.

The record of the Protestants is as black and bloody as that of the Catholics. In 1690, the tide in Ireland was turned. The Protestants came into

power, and all the scenes of slaughter for opinion's sake were re-enacted, but this time by the Protestants. And even to this day their persecutions have not ceased. And religious persecutions never will cease while religion is armed with civil power. The only hope of mankind for happiness and peace is in the complete and permanent separation of the two powers. But the clergy know that if the church were dependent solely upon its own resources for support its doom would be sealed.

Volumes might be written about the legal enactments against witchcraft, procured solely through the influence of the clergy upon the law-makers of two or three centuries ago, and the results of the laws thus enacted. And volumes more might be written about the legal enactments and prosecutions of the Protestant church against all who differed with them in belief. But enough has been said to show the effects of allowing civil power to pass into the hands of the church. The orthodox believe in the same God to-day that they worshiped and sacrificed to a century or three centuries ago, and the same Bible is their infallible guide. Their passions and prejudices are as strong and bitter now as when they burnt Servetus and Bruno; and Bible-guided judges and juries are no more inclined to deal justly by an Infidel than they were in the days of Jefferies and Bonner. The Benedict of to-day is but a result of the same cause that made the Jefferies of the past. A judge who will prefer creed to honor, and his own prejudices to the impartial testimony of honest men, easily becomes the pliant tool of a bigoted clergy, and in his court the name of justice is nothing but a mockery.

In Boston, June 15, 1648, Margaret Jones was executed as a witch.

Two women, one at Cambridge and another at Dorchester, were tried and executed for witchcraft in 1650.

Mrs. Ann Hibbins was tried and executed as a witch in 1655.

Two other women were executed for witchcraft in 1669.

A Mrs. Glover was put to death in Boston in 1680 for the alleged crime of bewitching four children. Cotton Mather, the celebrated preacher, was one of the witnesses in this case.

Elizabeth Howe, the mother of several children, was hanged as a witch in 1692.

Bridget Bishop was hanged in the same year charged with the same crime.

George Jacobs, a gray-headed man, was executed in the same year for being in league with the devil.

George Burroughs was imprisoned and finally hanged for the same offense.

In Salem alone thirteen women and six men were hanged, charged with witchcraft, and one man, Giles Corey, eighty-one years of age, was crushed to death under heavy weights.

But I will not particularize further. The history of witchcraft in this country and England is a history of the horrors resulting from a thorough belief in the truth of the Bible and a carrying of that belief into the legislative assemblies and courts of a nation. At that time the church virtually made and executed the laws. A dark but true picture of the result of this unholy union of church and state is given by Upham:



“The prisons in Salem, Ipswich, Boston, and Cambridge were crowded. All the securities of society were dissolved. Every man’s life was at the mercy of every other man. Fear sat on every countenance; terror and distress were in all hearts; silence pervaded the streets; all who could, quit the country; business was at a stand.” (Salem Witchcraft, ii., 247-50.)

Volumes could be filled with just the itemized statement of outrages on persons, the travesties of justice, the mockeries of trials, which have been perpetrated. Spies, in the interest of Christ, have lied, judges, for the love of God, have sentenced, and the executioners, at the command of courts, have burned, hanged, and beheaded. Pious kings, for the sake of peace in their domains, at the request of the church and to retain their interest in heaven, have aided, in every possible way, the work of Christian love. I have given enough to show the character of Christianity in the past, and to-day it seems the old spirit still lingers. I will close with a short account of the case of Abner Kneeland, one of the pioneers of modern Freethought. It is very analogous to my own.

## IMPRISONMENT OF ABNER KNEELAND FOR BLASPHEMY.

This took place in Massachusetts. Mr. Kneeland was editor of *The Boston Investigator*, a very able Freethought journal, now edited by Horace Seaver. The language, for the utterance of which Mr. Kneeland was sentenced, was the following: "The Universalists believe in a God which I do not, but I believe that their God, aside from nature, is only a chimera of their own imagination." This opinion was decided to be blasphemous, according to the statute, which is probably not repealed yet. On each of the first two trials the juries disagreed, owing to the firmness, courage, and good sense of Col. Charles G. Greene, the editor of the Democratic *Morning Post*, and Mr. Loring B. Dunbar. These intrepid and independent jurymen, who bravely maintained the constitutional right of the accused to the exercise of his free thought and free speech, were abused by the religious press and the clergy almost as much as Mr. Kneeland himself. It required not a little heroism to take the determined stand which Messrs. Greene and Dunbar did in that bigoted court, and by their manly attitude they proved they were "faithful found among the faithless, faithful only they."

Andrew Dunlap, Esq., a very able Boston lawyer of that day (and a Unitarian), defended Mr. Kneeland on his first trial; on the others he spoke in his own defense, and his speeches were marked with great ability and legal knowledge. His dignified and commanding presence, and impressive and quiet manner, as he addressed the jury in the crowded court-room, rendered him an object of much attrac-

tion, and he was listened to with evident respect and sympathy. After a conviction on the third trial, his case was appealed, and on the fourth trial he was sentenced. He made a final address before the full bench of judges, and then, on the 17th day of June, 1838 (the anniversary of that great battle of Bunker Hill, which was fought for political and mental freedom), Abner Kneeland was locked up for sixty days in a dungeon of Everett-Street Jail for the *crime* of saying that he did not believe in the same God the Universalists did. A petition, headed by the famous Rev. Dr. Channing, was numerously signed, and widely circulated, asking pardon for Mr. Kneeland, who replied that while he thanked them for their friendly feelings, he would not ask for a pardon, as he had committed no crime. A remonstrance against his release was also sent far and wide by the orthodox, and the head signer of that document was Samuel T. Armstrong, the then governor of the state, and one of "the rigid righteous" of the old Puritan stamp. The Rev. Dr. S. K. Lothrop (a unitarian of Orthodox proclivities) likewise protested, in a sermon, against Mr. Kneeland's liberation; but as Dr. Lothrop's church has recently broken down, and closed its doors for want of support, his bigotry has met its retribution, as is generally the case in the long run.

## LETTER FROM THE PENITENTIARY.—No. 1.

CELL 265, Sunday, Aug. 24, 1879.

MY DEAR FRIENDS : It is four weeks to-morrow since I was brought to this institution, and to-day I am permitted, for the first time, to write a word or even to have a pen or pencil in my hand. I have much that I wish to say to you, but as the amount of paper furnished me is limited to half a sheet of foolscap, I must necessarily leave a great deal unsaid. On the ground that I had so much that I wished to write, and of my drawing no ration of tobacco, which the men are entitled to, I requested an extra allowance of paper; but it was not granted.

The 28th of July, on the morning of which I left Ludlow-Street Jail for this place, was a lovely day. My wife was early at the jail to accompany me to the depot. Soon Deputy U. S. Marshal Holmes called for me. We walked to the elevated railroad station, where we took the cars. As I had been nearly eight weeks in jail, this opportunity to see the sun, to breathe the outside air, and to see men and women walking about in freedom, seemed peculiarly agreeable. I think nature never appeared more lovely to me than on that morning. At the depot numerous dear friends assembled to give me the parting hand-shaking and the hearty "good-bye." That parting scene will be remembered by

me to my latest moments. Deputy-Marshall Kennedy accompanied me to Albany. Very few words passed between us during the ride. It was pleasant with the exception of realizing that I was being conveyed to a Christian prison to be confined several months. We were some five hours between New York and Albany. Immediately upon leaving the cars we took a carriage for this prison, it being some fifteen or twenty minutes' ride from the depot.

The prison is a capacious building, outside the city, and located on a beautiful eminence southwest of the town. As we neared it, it looked as though it might be a college or some other institute of learning; but the lessons taught here are not pleasant to take. My reception at the prison was far from cordial or courteous. Every word addressed to me seemed harsh and unkind. I was commanded to hand over any newspapers I had in my possession, after which I was ushered into the prison proper, where after washing, I passed through the barber's hands, he cutting my hair close and taking off my beard. I requested that I might be allowed to retain the clippings, and they were wrapped in a bit of paper and put in my satchel with my discarded clothes.

I was early informed that this is a christian institution. When I had been asked my name, age, place of birth, and whether temperate or intemperate, the question was put to me whether I was Protestant or Catholic. I replied, "Neither."

"What are you, then, if you are neither a Protestant nor a Catholic?"

"I am an unbeliever," I answered, "commonly called an Infidel, and that is why I am here."

I was then informed that this is a Christian institution, and is conducted upon Christian principles.

I brought with me a copy each of "Supernatural Religion," Greg's "Creed of Christendom," and "Christian and Deist" (the last-named I read in Ludlow with pleasure), hoping I should be permitted to have them in my cell to give them a more careful perusal than, in my multitudinous cares and duties, I have hitherto been able to give them. These were taken from me, although hundreds, and probably thousands, of clergymen in Europe and America have read the first two named with interest and profit. I requested that I might be allowed to retain them. I was again told that this is a Christian institution; that the books would be examined by the chaplain, and if he thought they were proper for me to have, they could be returned to me. I have not seen them since. I notice, however, that among the books which the prisoners are allowed to read are many trashy and silly novels and love stories. They are probably considered more *Christian* than the scholarly writings of the Rev. R. W. Greg and Prof. F. W. Newman, of the London University. Several pamphlets, by Mrs. Annie Besant, presented to me while in Ludlow by Mr. Butts, publisher, which I had not time to read there, I brought here with me, trusting I should have the pleasure of perusing them. They were all taken from me, as well as other pamphlets and several weekly papers, among which were a few copies of THE TRUTH SEEKER, containing articles I wished to read. I have not seen a copy of THE TRUTH SEEKER

of any other paper since I have been here. Even the slips and cuttings from THE TRUTH SEEKER which my wife and my foreman send me in letters are carefully abstracted. Not a line has been permitted to reach me. This is a great deprivation. It would be a source of pleasure to me to read the "Letters from Friends" and other articles; but my Christian keepers say, "No!" and I must submit. I will say, however, that I think this a piece of unnecessary severity. Such trashy papers as the *Fireside Companion*, filled with nothing but falsehood and nonsense, are allowed to reach the prisoners; but papers containing sound sense and truth are carefully excluded. This is the *Christian* way of doing the business. I think if I were running an Infidel prison I would be more generous than my Christian keepers are. If a Christian editor were placed in my charge, I would allow him to have his own papers, or at all events I would not deprive him of the slips from the same sent him in letters. There is where I would be better than Christians.

I was first temporarily locked in cell No. 64, to take off my own clothes and don the prison garb, which, by the way, is not so repulsive as I had expected. It consists of gray woolen pants, a dark "round-about" coat, and no vest. The shirt was of unbleached, heavy drilling; the cap has a flat top, and is made of cloth. I retained my own shoes. The pants given me were new, all the rest of the suit old. I was next removed to cell No. 6, where I passed my first night. Having had no breakfast but two slices of toast and a cup of tea at Ludlow, and no dinner, the slice of bread and molasses which was handed in for supper I ate with a fair

relish. I found books in the cell, and spent the leisure time in reading—the cell door securely locked, mind you. About nine A. M. next day I was put through a short drill to learn how to march in procession, and then taken to shop No. 8, and placed under the charge of him who has since been my special overseer. I shall never forget my initiation. This overseer is not the most pleasant and mild-spoken person I ever met, but rather the reverse. He seems to think that whenever he speaks to a prisoner it must be in a harsh manner; austerity, in fact, seems to be the rule all around. He kept me nearly half a day standing beside his desk or platform, with my face towards the corner of the room like a little criminal in school. At length my feet began to pain me cruelly. I am not accustomed to standing; I have lame feet, the bones in one having been displaced in my early childhood by jumping from a high fence, and never replaced. I have suffered much from it all my life. As a “walkist” or “standist,” I am not a success. After a few hours had passed in pain, I looked up to the overseer and said to him that it was torture to me to stand in that way, and asked if I might not be allowed to sit. He replied harshly that I had to “do as I was told there.” I replied that I was very willing to do anything reasonable, but I saw no use in my being tortured in that way. He said I would have to stand at my work, and would have to put up with it. When dinner time came it was a relief. I marched in with the inmates of the shop to dinner, and was assigned to my present cell, No. 265, where I took my first dinner.



Let me name the furniture of the cell after giving its size :

Eight feet long, four feet wide (scant), and six feet eight inches high. The door of iron bars, occupying half the front end, is made of round, vertical rods, seven-eighths of an inch in diameter, and running through flat horizontal bars, six in number, two inches wide and half an inch thick, besides the iron frame. The round rods are nine in number, and run the whole length of the door, over six feet by two wide. The furniture is an iron bedstead, twenty-two inches wide, a wooden bucket, with cover, for evacuation and slops, a wooden "piggin" —or whatever its name may be, holding three or four quarts, with one stave left long for a handle, through which is a hole to hang it on a nail in the wall—holds the water and is replenished every day ; a tin cup, an iron spoon, and a spittoon. This is all the furniture—no chair, no table, no stand, no lamp. The bucket is the only seat, and is rather low.

After an hour or two of the afternoon had passed away, I was set at work. Shoemaking is the only work carried on here. I am in team No. 13, consisting of over thirty men. On account of my eyes being old and impaired, I was given a job that does not require a keen eyesight. I cement the channels of the soles of shoes after they have been sewed upon a machine, as well as supplying a sizing cement to the insides of the soles of such shoes as have no false soles, to prevent the oil of the upper from striking through and showing. My work is light. As Benedict sentenced me to thirteen months "at *hard* labor," perhaps he and Comstock had better look into it and see that I have harder labor to per-

form. Perhaps Mrs. Hayes might be induced to lend her influence in that direction. I found constant standing very hard upon my feet. Weighing nearly two hundred pounds, with lame feet and unused to standing, it was severe. On the evening of the second day my feet were inflamed, and even blistered. I had no way of bathing them in my cell, and held them naked on the stone floor, which gave them relief. The next day Deputy Powers consented to my having a stool, which afforded me much ease. I have been grateful for the stool from that day.

There are two "teams" in the shop where I work, consisting of about thirty-five men each. One "overseer" presides over the shop. The men work at tables, in silence and with downcast eyes. No man can leave his place without obtaining the overseer's permission by holding up his right hand. Each team has an "instructor," who inspects the work performed by each man, and passes the shoes from one man to another, which keeps him very busy. The teams in shop 8 make two hundred pairs of shoes each per day, which pass through twenty different hands or processes. Some processes require three or four men for their performance. The room is about 100x30 feet, one team on one side and one on the other. Some machinery is used, as for sewing, paring the heels, burnishing or polishing the edges, etc. I thus cement two hundred pairs of shoes per day, besides the other work. Our team made twelve thousand pairs last week. We make misses' shoes of several kinds. In other shops men's and women's shoes are made, but, I think, not boots. In all the shops 2,400 pairs are made per day, 14,000 pairs per week, or 60,000 pairs per month; a pretty big shoe

shop, you will readily admit. Some of you will have to trot around pretty lively to wear out so much shoe leather. Still I do not regard it as any privilege to work in such a shoe-shop—probably the largest in the country or in the world. The business is conducted by a company, who hire the labor of the prisoners, at a moderate price, of the penitentiary company of Albany county, to whom the penitentiary belongs. I presume I can earn twenty-five cents per day. A smart boy could be hired to do the work I do for four or five dollars per week. It seems to me like a great loss of my time to put it in in this way. I had intended, the coming fall and winter, besides editorial work, to do considerable on my projected work, "Ancient Gods and Ancient Faiths;" but it does not look much like it now. I try, however, to be resigned, and to keep as cheerful as possible; but sometimes it is a little hard to be cheerful and contented. I have ample time to think of the great wrong that has been done me in the name of law and morality; still I try to bear in mind that it is better to suffer wrong than to do wrong. And as I have to suffer I am glad that it is in the sacred cause of free thought, free speech, a free press, and free mails—the grandest rights guaranteed by the Constitution of our country. These I shall revere to the close of my life.

I might state that this prison contains about nine hundred inmates, some one hundred and twenty-five of whom are females. They occupy a department separate from that of the men, and are never seen by the men. Nearly one-half of the prisoners are United States convicts, from all parts of the country, brought here for counterfeiting, perjury, mail rob-

bery, etc. I am the only one here for mailing "Cupid's Yokes." The balance of the prisoners are from the various counties of the state which have no penitentiary of their own.

The happiest hour I see in the whole week is Sunday morning, when the letters from friends that have been received during the week are handed me. They are a source of great comfort. I thank those kind friends who have remembered me and have written. I count such as friends indeed. I think if my friends knew how acceptable their letters are getting—as in no other way do I receive intelligence from the outside world—more would take the trouble to drop me a few lines.

I have looked for letters from some that I hoped would write, but have looked in vain. I think all letters are given me that come for me. I would gladly reply to each, but I am permitted to write but one letter in four weeks. The rule here is an iron one, and the iron is made to "enter the soul." But my health is good. I eat well and sleep well; and I reflect every day that "even this shall pass away," and that after my sentence is completed I shall again be restored to liberty and to the rights of which it was a great crime to deprive me.

You, of course, will excuse all lack of news on my part. This is the poorest place to pick up items of news I was ever in. No papers, no conversation. I have not learned the name of a single officer, keeper, overseer, or instructor, save the Deputy, nor of a single prisoner. I might as well be out of the world.

I have said but a small part of what I wished to

say, but my half sheet is full and I must close.  
Receive my fondest regards.

Yours sincerely, though behind the bars,

D. M. B.

## LETTER FROM THE PENITENTIARY.—No. 2.

Sunday, Sept. 21, 1879.

MY DEAR FRIENDS: Four weeks more have passed away since I last addressed you, and to day I am again permitted to write. Be assured it is with the greatest pleasure that I seat myself to this agreeable occupation. There is nothing that gives me more happiness than to receive letters from dear dear friends and to communicate with them. I have just finished reading the generous installment of sympathetic letters from all parts of the country that were handed me this morning, and I hasten to thank the kind friends who remember me and are willing to spend an hour in writing me a comforting letter to cheer the monotony of prison life. These friendly epistles are like angels' visits; they bring genuine consolation and encourage one to bear the heavy load placed upon him. It is difficult for me to describe the great comfort these letters have been to me while locked up in my gloomy cell. Though they have again and again brought tears from my eyes, they were tears of joy and thankfulness that so many kind friends in all parts of the country are able to sympathize with me, that they approve my course in the past, and speak to me words of encouragement and hope. I count myself most fortunate that I have such a multitude of true and earnest friends who so fearlessly sustain me in the endeavor

I have made to dispense the words of truth and the honest convictions I entertain. I never can falter in following the light of reason and truth while so many true and intelligent companions accompany me. May I ever prove myself worthy of their confidence and companionship, whether I am behind the bars or enjoying the liberty to which every American citizen is entitled. I thank again every friend who has written me since I have been in prison, and only wish I was permitted to write to each in return, but this I cannot do—this must serve as a response for all. As I read them, and re-read them, and take in the happifying, loving, and truly eloquent words which they speak to my very soul, I think what a splendid volume they would make were they printed in a book. It is not impossible that I may carry out this idea when all is over and I am again a free man. Many of the letters I have received are worthy of being printed in letters of gold, and thus be handed down to posterity. I would gladly copy numbers of them and thus transmit them to the numerous readers of THE TRUTH SEEKER, but I have so much else I want to say that I have now to forego that pleasure; but I must indulge myself in giving one I have received from a valued friend dear to us all. It, of course, was not designed for publication, but it is so earnest, so comforting to me, that I trust the writer will not censure me for giving it to you:

“WASHINGTON, D. C., Aug. 29, 1879.

“D. M. BENNETT, ESQ., *My Dear Friend*: I have just read your letter in THE TRUTH SEEKER. I have thought of you every hour that I have been awake since your imprisonment. Every man on the jury that convicted you committed a crime. Benedict committed a crime when he refused a new trial, and

Hayes committed a crime when he listened to the hypocrites and religious zealots, and refused a pardon. Well, we will get even with them all some day. Superstition cannot rule the world forever, and the quicker the decisive struggle comes the better. I hope the keepers of your prison will have sense enough to treat you as you deserve, and not put you on a level with criminals. You have violated no law, committed no wrong, and made no being unhappy. You have lived an honorable, useful life, and in any country not governed by Christians you would be free and respected. Well, bear up as well as you can. Time goes on, and in a little while liberty will unlock your cell and give you back to home and friends.

Yours truly,

“ R. G. INGERSOLL.”

How can letters like this and from such a source fail to cheer and comfort one in prison? I have received many others equal to this and much more lengthy, but this must answer as a sample. Many have requested me to give the names or initials of those from whom I receive letters, but this would require much space, and would be tedious to the general reader. I have an idea that the greater part of the letters written me are allowed to reach me, but I am not sure. In the letters that do reach me objectionable passages are sometimes obliterated with ink, and from this I infer that others more objectionable may be withheld altogether. I shall know sometime.

I have been well most of the time since my last letter to you, and did my share to prevent the necessity for a large number of the little girls of this country going barefoot the coming winter. Twelve hundred pairs of shoes passed through my hands per week for me to do my part to them. But a few days



ago, having occasion to complain of an attack of vertigo, or swimming in the head, accompanied with singing in the ears, the physician of the institution saw fit to order me into the hospital for a few days' rest and medication. The swimming in the head has largely discontinued, though the singing in the ears continues. My health otherwise is very fair. The symptoms alluded to are not specially reassuring. I have had them before. My father, when a little past my age, had something similar, the last attack of which he never recovered from. I expect to die suddenly some day, but trust it may be several years yet. I have considerable work I wish to do before I go to my long rest.

My friends must not be alarmed on account of my health. It still remains generally good. I have sufficient appetite and sleep soundly. I was almost surprised at myself in my cell at the amount of sleeping I could do. As soon as it became so dark I could not read, I retired to rest, and, having a justified conscience, soon fell asleep, and some nights put in nearly ten hours of sleep. When at home, with a plenty to give my attention to, five hours was as much as I averaged. I have known many to injure themselves by over-eating, but do not remember one who injured himself by over-sleeping. Sleep is "nature's sweet restorer," and may be indulged in freely without fear of injury.

In hours spent in sleep and in dreams, I am yet among my friends at home and in other places; but waking brings again my narrow cell, the stone floor, the walls of brick, and the iron door of bars and bolts, with the full consciousness that I am a prisoner.

This prison has been in operation over thirty years, and in that time some twenty-five thousand convicts have served their time and been discharged, while some hundreds have died here in that time and gone where no tales can be told or sent back. Many of this number have died in the hospital, but probably a greater number have died in the cells, unattended and alone.

Including superintendent, deputy, clerk, guards, overseers, watchmen, and keepers, it requires about forty men to attend to the duties of the prison. These do not include the instructors, machinists, etc.—some twenty five in number—employed by the shoe manufacturing company. This company has made large profits. Less than fifteen years ago they commenced with some \$25,000 capital, and now they are reputed to be worth \$2,000,000 or \$3,000,000. Thus while a company of a few men have been making a large fortune, thousands of shoemakers have been thrown out of employment—another instance of the evils growing out of monopolies. It would have been better if the company had paid more for the men's labor and for the men to have had a portion of the profits of their work—say twenty-five per cent. In that case they would have less provocation and inclination to steal or obtain money dishonestly, to soon be returned here again.

The terms of imprisonment are, of course, constantly expiring, while new recruits are steadily coming in. At the present time the influx is more than the outgoing. The fall terms of courts are in session, and the harvest of prisoners is lively. On one day some twenty new victims came and joined

us—some from the extreme Southern states. Thus “we are gathering, gathering in.”

The officers of the prison have been as kind to me as the rigid rules of the institution will allow. I must expect to be governed by these rules so long as I remain an inmate here. I am not disposed to make complaints, though I am keenly alive to the injustice I am enduring. While the aristocratic clergy of the country have been taking themselves to the mountains and the various pleasure resorts, and have engaged in the sport of hunting and fishing, and while others have made a pleasure trip to Europe, I have been incarcerated in my little cell, with the opprobrium of *convict* resting upon my name. While Comstock, who has for two years pursued me like a bloodhound, has been taking his pleasure at the Thousand Islands, and visiting other parts of the country, I, his victim, have had the ponderous prison bolts turned on me ten times a day. I have worn the felon's garb and have been numbered with the vilest criminals. He has been telling the people how good he is and how bad I am. He has praised himself to the skies and sent me down to the regions of darkness and disgrace. He is reported as saying one great reason why I should be punished by imprisonment is because I “have been such a blasphemer.” That is really why I am in prison. My Christian enemies insist that I am working against God and speak disparagingly of him and his son. They deem it necessary to come to the rescue of those personages, and to inflict upon me the punishment which the injured parties fail to send. Here is the whole thing in a nutshell. These pious persecutors think they must defend God & Son and punish me. This

is not at all necessary. If God is as powerful and as watchful as the clergy say he is, he is perfectly able to attend to my case without the help of Comstock, Colgate, or Benedict. If he is under the necessity of having such characters to take up his cause and inflict vengeance upon those who displease him, he is not the powerful God he is represented to be, and a great fraud has been committed upon the people of Christendom. If he cannot send all necessary punishment upon such an humble offender as myself, he has been greatly misrepresented. If he has to depend upon such black-hearted men as Comstock to perform his vengeance for him, it would seem he ought to resign, and no longer allow it to be proclaimed that he is "almighty," "all-powerful," and "irresistible." On the other hand, I have no reason to think God or his reputed son harbors the slightest ill-will against me, or that they disapprove of anything I have done. They have not evinced the slightest displeasure towards me. If I have received anything from them, it has been kindness and mercy. I have no fear of any injury they may do me, now or at any future time. Had I no worse enemies than they are, I would consider myself entirely free from foes that seek to do me harm. If Comstock and his friends of the clergy and the Christian church will let me alone till God or Jesus commences a warfare upon me, I feel sure I shall be allowed to go down to my grave in peace. If Comstock and the visible enemies will only decide to let me live in quiet, I will take all the risk as to the invisible forces and powers sending punishment and vengeance upon me. If God is really displeased with me, he doubtless would personally attend to my case without the help

of Comstock or anybody else ; but as he does nothing to me to show enmity or malice, it is a strong proof that tyrants, persecutors, and oppressors ought to let me alone. If he lets me live in peace, they ought to do the same. I feel very sure if God and Jesus feel unable to attend to their affairs in this little world, and find it necessary to enlist some person or persons in their service to do what they cannot do themselves, that they never will select such a sneak and liar as Comstock to be their agent or to do what they find it inconvenient to do themselves.

But so it has ever been. For many centuries vile and unprincipled despots and persecutors have claimed to punish poor mortals who have sinned against God, and in his name have doomed countless thousands of poor unfortunate men and women to the most cruel sufferings and the most agonizing deaths. Greater wrongs and blacker crimes have been committed in the name of God and professedly in his interest than in all other ways. When will men learn to let God attend to his own business, and not make themselves so officious in attending to it for him?

While Comstock makes himself so busy in blackening my reputation, and in trying to make the credulous people of this country think me a bad man, I am most willing to have my conduct and my life placed side by side with his, and the same presented to the candid and intelligent people of this land. I am most sure my character will not suffer in comparison with his. I have not laid traps and decoys for my fellow-men, to entice them to commit some offense by which I might bring them into great

trouble and cast them into prison. He has. I have devised no hellish plot, nor forged the names of men and women to fictitious letters with which to carry it out, and thereby bring the most severe affliction upon those who have never done me the slightest wrong. He has. I have never deprived persons of their liberty or their property. He has. I have never caused people to come to an untimely death. He has. I have never destroyed the happiness of families. I have never driven people to suicide. He has. I have never carried out any foul plot or attempted to cast a victim into prison. I have never committed perjury. He has, time and time again, as I am prepared to prove as soon as I regain my liberty. But let him continue to slander me and hold me up before his Christian audiences as a bad man. The full truth must ultimately be known, and we will each stand before the people of this country as we really are. It is to be hoped the time will come when belonging to a Christian church and to the Young Men's Christian Association will not screen vile, black-hearted villains who try to do evil to their fellow-beings, and enable them to pass themselves off as saints and champions of morality.

But I will leave Comstock for a little while, and tell you something of my present surroundings. The hospital of the prison, where I am for the present, is a room eighty by thirty-two feet, containing over thirty beds, which are sometimes all occupied. There are now but eleven patients here, four of whom are colored. Among the ailments of those in the hospital are one case of consumption; one of chronic bronchitis and catarrh; one paralysis and debility; one rheumatism; one sciatica; one

debility, moroseness, and insanity; one scrofula; one fistula in ano; two epilepsy; one vertigo, or affection of the head. The prison rules are less rigid in the hospital than in the cells and workshops, but still the windows are strongly barred, the door securely locked, with quite as many restrictions as are needful. Three of the five windows face the south, allowing the genial rays of the sun to shine in upon us. As I write they fall upon me, to cheer me and give me life. This luxury I had not in my cell. It is twenty feet back from the windows facing the north, and there I never saw the sun. We here have a fine view of the prison yard—a beautiful plot of ground, in a square form, containing about half an acre, surrounded entirely by the prison and the workshops. A stone walk, six feet wide, is on the outer sides, also a graveled roadway. Walks run through the center, dividing the grass plots into four equal sections. In the center is a fountain, or reservoir, twenty-two feet in diameter, and the same in depth, walled up from the bottom, with hewn stone at the top. The great drawback to this area is its being a *prison yard*. Into this yard the prisons open their outer doors, and here, morning, noon, and night, the unhappy prisoners, in companies of sixty to seventy-five, march in prison style to and from their work.

There is indeed a sad state of facts connected with prison life. James Parton, in an article in the *New York Ledger*, quoted from Dr. Wines, the well-known prison reformer, and others, thus: "Prisons are now conducted neither to protect the public nor reform the criminal." . . . "I am opposed to long terms from which hardened men suffer but little, but

which are agonizing beyond description to men of education and sensitive nerves. While their physical sufferings may be great, their mental sufferings are greater. Many affectionate men have lived for years on recollection of home, etc., and broke down at last from mere longing and homesickness. *They have died of starved hearts* while serving long terms, which could not possibly be of any good to them." "Solitary confinement is an injuriously severe punishment." "First offenses, when committed by men of previously good character, the detection, horror of public trial, and the indelible stigma, are themselves sufficiently terrible."

On the subject of solitary confinement, a few statistics may not be out of place. In 1821 the legislature of New York directed the Superintendent of Auburn Prison to confine a number of prisoners in solitary cells. Eighty were so confined. Messrs. Beaumont and Toqueville, who were commissioned by the French government to examine and report to the American system of prison discipline, made these remarks: "This trial was fatal to the greater part of the men. This absolute solitude is beyond the strength of man. It destroys without intermission and without pity. It does not reform; *it kills*. Of the unfortunates on whom the experiments were made five succumbed during a single year. One had become insane; another, in a fit of despair, committed suicide. The Governor pardoned twenty-six of those doomed to solitary confinement."

I am satisfied that the terms of imprisonment are made too long; that too little humane treatment is meted to the unfortunate men, and that too little pains are taken in our imperfect courts to convict



only guilty men. I am more and more convinced that the wrong men are often sent to prison while the really guilty ones are allowed to remain at large and to be regarded as honorable men. How is it in my own case! I am sent here on a charge of obscenity. I am not guilty—as many thousands of the most intelligent people who have read Mr. Heywood's treatise will readily testify—while the contemptible intriguer and informer who pursued me has not only absolutely been guilty of making obscene literature, but has committed other crimes sufficient to shut him up in prison for half a century. The President of the Vice Society, Samuel Colgate, who helped to prosecute me, and who took it upon himself to go to Washington to urge the President not to pardon me, is absolutely guilty of violating the very statute under which I was convicted, and which in my case was used as a mere pretext. He advertised a remedy for the prevention of conception, and informed the public where it was to be obtained and how it should be used, and this information he mailed in numerous cases. If he were to be punished for each offense, as the statute provides, it would take more than fifty years' imprisonment for him to atone for the violations of the law he has been guilty of. But being a man of wealth, a prominent church-member, and superintendent of a Sunday-school, he receives the approval of the public, while I am sent to prison for an assumed offense infinitely less than that he is guilty of. It is the same with the judge who sent me here. The wrongs he has committed in securing the conviction of persons innocent of crime, and the unjust and wicked sentences he has imposed upon them,

are far more criminal than my act would have been even if the pamphlet had been obscene—more, in fact than all the obscene literature that has ever been mailed in the country. He really ought to be sent to prison for the rest of his life. *The Christian Union*, in an editorial article some time ago, made these sensible remarks: “A judge who disregards all previous decisions for the sake of doing what he supposes to be abstract justice in the case before him destroys all certainty in the law and constitutes himself a despot—a benevolent and well-meaning despot, it may be, but none the less a despot to be succeeded by other despots, *miscalled judges, bound by no rules and making their own prejudices and fancies of the law in each case.* A judge who makes it his business to secure the conviction of those whom he believes to be guilty, regardless of the protection afforded to them by law, usurps the function of the prosecuting officer and destroys the safeguards of the innocent. It is not the duty nor the right of a judge to pursue even acknowledged criminals, much less to set up an assumption of guilt where it is not proved. That is the sphere of the prosecutor.”

But to return to my surroundings here, there are some ten or more of the companies I have mentioned, the men working in any one shop constituting a company or gang. Three different lines are sometimes in the yard at the same time when going to and from the shops. With two exceptions, these lines have colored men for captains. I know not why, unless it is that with their flat feet they can strike the pavement with force enough so the whole line can hear it and keep step. Some of them seem to

enjoy their position, and doubtless feel specially promoted. Africa is well represented here. I judge that nearly one-third of the prisoners are colored. Two or three officers or overseers accompany each line and watch the men closely to see that they do not raise their eyes, that they keep step, have no talking, and keep closed well up together. When they find it necessary to reprove a man in the line for any dereliction of duty, it is not done in mild language, but as by one who has a right to command. I fear the occupation of prison-keeper has a tendency to make men harsh and unfeeling. Well would it be if the officers and keepers of prisons could always be humane men, not devoid of sympathy and kind feeling—more humanity and less austerity. There is unquestionably much reform necessary in our large prisons. They should be conducted with a view of making men better, not worse; of elevating unfortunates, not crushing them into the earth.

There are two classes of men sent to our prisons. One class—those who have been badly raised, or are bad characters and take to criminalty of choice—when their time expires, are not improved, and soon commit offenses for which they are again sent back. They grow worse instead of better; they are punished but not reformed. The other class—those who are not criminals naturally or from choice, those who are either entirely innocent of the charge on which they are imprisoned, or, being without money or influential friends, have been poorly defended, and convicted by perjury or by unfortunate circumstances or influences—they have committed an error which they would be the last to repeat. These two classes should not be subjected

to the same severe treatment. The innocent man, or the one who unwillingly made a single mistake, should not be put down on the same level with the worst criminals. There should be a gradation of treatment. Let those who can show a good record, or are not vile and degraded, have comparatively mild punishment. Let them not be kept from knowing what is going on in the world. Give them opportunities, so long as they obey the rules, a certain number of times a week to visit the prison's reading room, where they can, under suitable regulations, have access to the periodicals of the day or hear them read, and other things in proportion. The punishment of being severed from home and friends and being locked up in cells is sufficient for ordinary offenses without being treated like beings unfit to live. If, however, they will not be submissive to the rules of the prison, let them be placed with the lower class. I am told by some who have been here for a term of years that under the present officers here reforms have been made, and that the men are better treated than formerly.

The prison march is not attractive to me. The line is compact, the men pressing together something like sardines in a box, each man with his right hand upon the shoulder of the one before him, and his left upon his own breast. The men move mechanically, keeping step, with their eyes to the ground. If an unhappy wretch presumes to raise his eyes, the order, "Keep your eyes down!" from one of the three officers in attendance, is pretty sure to remind him of his duty. I presume some of you would laugh to see me marching in one of these companies, say in the morning, when each man bears his cell

bucket, with what it contains, in one hand, and the other hand on the shoulder of the one before him. To see the company move slowly along, the buckets bumping together, under the surveillance of the watchful officers, comes near being a ludicrous sight, despite its obnoxiousness, and I have more than once laughed, internally, at any rate, at the position I was in.

The main prison or hall is two hundred and fifty feet long by fifty or sixty feet in width, the floor of which is flagging, or flat stones. The block, containing two hundred and fifty-six cells, is in the center of this hall, and is of brick. The cells are in four tiers or stories, thirty-two in a tier on each side. These cells are unlike the cells in honeycombs in that they are not hexagonal, are not quite so small, and have no sweets connected with them. The south wing, joined to the main hall, contains twenty-three cells in a tier, and is accordingly shorter than the main hall, otherwise corresponds with it. In the two halls there are four hundred and forty cells, more than half of which contain two prisoners each. There are men here who look to be as old or older than myself; but I am the oldest man in Shop No. 8, where I have been working. My cell, No. 265, is in the south wing, and I was allowed to occupy it without a companion, which was according to my wish. A cell four by eight is small enough for a single person, and it must require very congenial habits to make two desirable. I had rather not take the risk of a strange companion in such close quarters. As I said, the lock is turned on each prisoner, including the handing in of the food, ten times a day. The clanging of the ponder-

ous bolts, the banging of the heavy iron doors against the iron frames, which one in either wing has to hear over a thousand times a day, is most infernal and wretched music, if music it may be called. I have heard few things in my life that have jarred so much upon my feelings. If hell has any worse noises, I wish to keep away from it.

Cell life is a most unpleasant one, and I shall never begrudge any poor mortal the pleasure he can find in it. But in these cells many a hapless wretch has been compelled to pass years of his miserable existence. There are some in this prison sentenced for life, one or more for thirty years, some for fifteen, some for ten, some for five, and so on, down to three months.

Oh, if these gloomy walls had the power of utterance, what sad, heart-rending tales of wretchedness and gloom could be told! But alas! a small fraction of this wretchedness can ever be known. Is it not strange, in view of these gloomy surroundings, that sensitive minds have given way to wretchedness and that they have become insane. The wonder is that more are not rendered so. One of the officers told me that prison life here was made as unpleasant as possible, so as to prevent the inmates from ever wishing to come back after they get out. I remarked that the effort had been a perfect success, and that further experiments were unnecessary.

The hospital is in a wing at right angles with the main hall and opposite the south wing. The "guard room" is on the first floor, the hospital on the second, and the chapel on the third. The latter room is forty-two by eighty feet, with a gallery. It is provided with plain wooden seats, with backs, which

will seat eight hundred comfortably. The women are seated in the gallery, but the front is so high that the men and women cannot see each other. Sermons are given every Sunday morning—three Protestant and one Catholic. The regular chaplain is the Rev. Charles Reynolds, Methodist. It is optional with the prisoners to go to the chapel or not as they prefer. I have been three times, more for the variety and to see how the matter is managed than for any special edification I expected to receive. Mr. Reynolds' preaching is unusually free from the cant and pious drawl and intoleration so often met with in the clergy. He evidently is not partial to Infidels, but he has, nevertheless, treated me very kindly. He visited my cell and conversed with me in a pleasant, genial manner. He did not try to convert me, nor I him. We were able to meet on common ground where we could agree as to what is beneficial to the human race in this life. He is engaged in a practical work, in relieving the wants of the poor of the city by furnishing them with food at cost prices, and in teaching poor female children how to cook in a palatable manner the food their families are able to obtain, and how to make a little go as far as possible. He is the Superintendent of what is called the "Home Mission," in this city. His labor is commendable, and if he mixes in more about Jesus than we Infidels deem necessary, it can be easily overlooked in view of the practical good he is striving to accomplish. I gave him my blessing, and he did me a kindness. He asked me if there were any books I would like from the library. I named Buckle's "History of Civilization" and Lecky's "European Morals," but finding neither was

in the Library, I requested Gibbon's "Decline and Fall of the Roman Empire," and some other more modern European history. In response he brought me an armful of books, including Greene and Russell's "History of Modern Europe," three volumes octavo, being a comprehensive history from the days of Constantine to 1825. I have read it with much interest, with the continuous accounts of tyranny, oppression, superstition, and bloodshed which prevailed over Europe in the name of Jesus for fifteen centuries. My memory was refreshed as to much I had read in my youthful days, and much seemed new. Two months ago a person could see to read in the cell some three hours a day outside of work hours, but the days have grown so much shorter that one hour is about all that can be reckoned upon. Soon the half hour after dinner will be all that is available, as no lights are allowed in the cells, and when the days are at their shortest the men go to their cells at four o'clock, making fifteen hours of night. It must be particularly dull and tiresome, as well as cold and dreary. I dread cell life during the winter.

The library is located in the hospital, and contains some 3,000 volumes. There are some very good books among them, though none of late date. Many of them are also of little value. The smaller volumes, among which are many novels, are carried around to the men in their cells every Sunday morning, but they are afforded no chance to make selections, or to be favored with any special work they may want. They take what is given them, asking no questions. Periodicals are rarely seen, and these of the sparsest number. The latest I saw there was



"Harper's Magazine" for 1854, containing an installment of Dickens' "Little Dorritt." This was handed to me as a favor by the keeper of the hall. I must make an exception of Mr. Reynold's little monthly, which he gave me, called *Our Work at Home*, and devoted to his mission work. It contained no news, but said something about Jesus, who is said to have been a resident of this planet for about thirty-two years, nearly nineteen hundred years ago, when he was cruelly put to death because his views, his teachings and conversation, did not correspond with the views of the bigoted orthodox of his time. It is believed that he never mailed a copy of "Cupid's Yokes," though there is no certainty but that he might have done so had he lived in these more civilized times when the mails and "Cupid's Yokes" are in fashion. But he did, as narrated, authorize one of his followers to take an ass, or mule, without the owner's consent, which some regard as a crime nearly equal to mailing Mr. Heywood's harmless pamphlet. There is, however, no little uncertainty about this character, Jesus, as to the time he was born, etc. It was claimed by the various early writers that he was born in almost every month in the year, and there is also a dispute of four years as to the year he was born. All we have to base the narrative upon is contained in the four legendary, fragmentary, imperfect, contradictory narratives attributed to Matthew, Mark, Luke, and John. As it is now pretty well settled by the learned that neither of these narratives was written till at least one hundred and fifty years after the time Jesus was said to have lived, and as his story bears such a

strong resemblance to the more ancient stories of Christna, Horus, Buddha, Apollo, Bacchus, and the score or two of other demi-gods, or sons of gods, many of them miraculously begotten, and several of them born of virgins, and some of them afterwards crucified, is it not strange that learned men relegate the whole story of Jesus to the domain of myth and uncertainty. It would seem probable that if God was to come down from heaven to earth to die for the purpose of establishing a new and heavenly religion, or if it is true that he sent his only begotten son for the purpose, and thereby to save the world from his own wrath—it would seem probable, I say, that he would be able to bring or send something new, something at least original and better than the world has had before, and that he would not be under the necessity of borrowing or adopting the antique and worn-out dogmas used by the pagans for a thousand years or more earlier. So far as I have been able to discover, there is nothing new or original in Christianity save in bloody persecutions and its putting millions of people to death for their opinions. It may justly claim originality in that line, for the pagans were not guilty of it to much extent. Nothing is now better known of the ancients than that the fable of the virgin and child, the doctrine of heaven and hell, God and devil, angels and demons, the trinity, the symbol of the cross, baptism, the eucharist, Christmas festivals, together with the other symbols, rites, sacraments, and dogmas of Christianity, were known and believed in in India, Thibet, Egypt, and other pagan countries, five hundred and a thousand years before the name of Jesus was heard on the earth. Even his beautiful morals

and divine sentiments which are so highly extolled were taught and enjoined by Zoroaster, Buddha, Confucius, Pythagoras, Socrates, Plato, Epicurus, Hillel and others, and the most of them five hundred years before Jesus was born. It is not strange, then, that patient and learned investigators who have given unceasing attention to this subject have come to the conclusion that Christianity is simply rejuvenated, revamped, and redressed paganism, and that the story of Jesus must be taken with very many grains of allowance.

But so long as clergymen can make from one to twenty thousand dollars per year in talking about "Jesus and his love," they will be pretty sure to continue it. When the time comes that they can no longer realize handsome livings and get along easily through the world at this business, Jesus will fall into neglect, and they will pursue some other vocation. It will be the same in "saving souls;" so long as it pays handsomely to save souls the clergy will pursue it eagerly, but when it no longer proves profitable they will throw up the business in disgust. As I have sometime said, when clergymen are no longer paid well for saving souls, the poor souls may go to hell and be damned for all they would do to prevent it. No money, no salvation, no gospel, no preaching, no soul saving. It will be the same with belonging to the church. So long as it is *respectable* to be a church-member, and so long as the church helps people to move in good society and sustain their trade and standing, Mrs. Grundy, Mrs. McFlimsey, Mrs. Gunnybags, and all of their ilk will continue to be zealous and sanctimonious church-members. But when all this is changed, and church-members

are found to be no better and no more respectable than other people, the Grundies, the McFlimseys, the Gunnybags, etc., will become indifferent, the churches will not be kept up, and the Rev. Cream Cheeses will have to adopt some other means of obtaining a living. I am told that Bro. Reynolds, with what he is paid for his services here and what for outside services, realizes \$2,500 per year. That, of course, is not so much as many of the more aristocratic clergymen are paid; it is not so much as Comstock makes by getting people into prison unjustly, but it does pretty well, and is far more than thousands of men can make at more arduous employment.

In my late reading I have again and again had my attention recalled to the relentless and bloody persecutions which the church vindictively and persistently pursued in the name of Jesus for hundreds of years. I have also been forcibly struck with the great numbers of distinguished men who have been imprisoned innocently on both political and religious grounds. Hundreds of cases might be cited, but I cannot take the time or space to go into it here. Some in English history were particularly noticeable. One Sir John Oldcastle, a friend to the Lollards—the disciples of Wickliffe—in the time of Henry V., for his honest religious views, Thomas Arundel, archbishop of Canterbury, caused to be thrown into the London Tower, whence he eventually made his escape, and was protected by his friends some four years; but the head of the church in England again secured his arrest, and he was burnt at the stake in Smithfield—being the first martyr to burn upon that ground where so many distinguished victims were later put to death for their religion, and in the same

cruel manner. Oldcastle was a noble old man, and died for his honesty and integrity. Shakspeare commemorated him. In his prologue to the second part of "Henry V., he said, ' Oldcastle died a martyr.' Sir Walter Raleigh was another distinguished personage who suffered long imprisonment unjustly, both for political and religious reasons. He was cast into the Tower on three different occasions, and spent more than fourteen years there. He was a great man, surpassing most men of his time in several branches of study, including history, navigation, chemistry, and kindred scientific pursuits. He was the friend of Shakspeare, Ben Jonson, Francis Bacon, and men of that class, and they often visited him when in prison to consult him and learn his views upon various subjects. He was the founder of free states on this continent, and in many respects he had not a superior in the world ; but when he had got to be an old man he was basely put to death, by order of James I., to please the very Christian and persecuting Philip II. of Spain, who bore a deadly malice towards the grand old man for the opposition he had made to the murderous, oppressive policy of Spain.

The recital of those who have been unjustly imprisoned would fill many large volumes ; so, while I reflect upon my own unjust incarceration, I remember there were thousands before me who were compelled to suffer far more. But this gross injustice should not always continue. The world sometime should learn to do better. Justice and mercy should at length rule on the earth.

I have heretofore mentioned the resemblance between some of our modern characters and those of a

few hundred years ago. I have had occasion to remark the similarity of Judge Jefferies of two hundred years ago to our own Judge Benedict, and I have recently been struck anew with the resemblance. Jefferies had a red-faced, swollen visage ; so has Benedict. He was a coarse, sensual, overbearing man ; so is Benedict. He was fond of generous stimulants and sumptuous dinners ; so is Benedict. He enacted great injustice upon those who were so unfortunate as to be brought before him ; so has Benedict. He often played the part of prosecutor as well as judge, showing a fixed determination to convict those brought before him ; so does Benedict. He bulldozed and coerced the juries that served before him ; so does Benedict. He was merciless and cruel ; so is Benedict. He sent many persons to unjust punishment ; so has Benedict. He enacted the most cruel wrongs upon his fellow-men ; so has Benedict. But there is one thing not charged upon Jefferies. It is not claimed that he ever took a little girl, named Mary Brown, from Ludlow-Street Jail to his own house for his own use, afterwards turning her over to another party.

It is not strange that I should keenly feel the great wrongs which Benedict has done to me and others—how flippantly he has sent many persons to this prison for terms varying from one to ten years, and for the most frivolous offenses, thus depriving them of their dearest rights, and disgracing them in the eyes of their fellow-men. Could he be made to serve six months or a year in this establishment, I think he would afterwards be a little more chary about sending others here for very slight offenses, or no offense at all. Look at the wrongs which, with

the aid of Comstock, he did to Leonard Fox & Son, Sullivan, and many others who were not aware that they had violated any law and who meant to do no wrong. How unceremoniously he took \$3,500 from the pocket of my dear friend, Dr. E. B. Foote, for imparting the most useful information, which every physician in the country has the most perfect right to give to his patients. Benedict and Comstock have seemed to be in partnership in committing the most dire wrongs upon their fellow-men. Well did Comstock know what he was talking about when he boastfully said he "never failed in Benedict's court." He knew that if by entrapping and decoying his victims he could once arraign them before Benedict, their conviction was certain and the prison was their doom. Brothers in the same church and in the same political party, they have been brothers in the vile work of inflicting upon unfortunate human beings the most grievous wrongs known in modern times.

It has been proposed to petition Congress the coming winter for the impeachment of Benedict. It is the only way he can be reached, as he is not amenable to the people. If such petition is sent out for signatures, I hope every friend I have in the United States, and every lover of justice and the rights guaranteed by the Constitution of our country, will sign it, for he has proved himself unfit to sit as judge in the great courts of the United States. He has committed greater wrongs than have many of the unfortunate men he has sent to prison, and, in justice, he ought to be made to take a back seat, if not a dose of his own medicine, and, for his wrongdoing, serve a term of two years in this institution.

I have also before this called attention to the striking resemblance between his friend Comstock and the notorious Matthew Hopkins, who, in England, in the seventeenth century, played such a cruel part in hunting up witches, or in accusing persons of being witches, and then subjecting them to the most intolerable sufferings and torture, and causing hundreds to be put to the most agonizing deaths because he pronounced them witches. He was immense in hunting up witches and Comstock is equally immense in hunting up obscenity and inflicting a similar character of wrongs and injustice. I have denominated Comstock the Matthew Hopkins of the nineteenth century.

There is also another character, who flourished in the time of Charles II., an infamous informer and perjurer named Titus Oates, to whom Comstock bears a striking resemblance. Oates laid his vile plans to entrap innocent persons and then inform on them and bring the direst punishment on them ; so does Comstock. He was a tool in the service of bad clergymen ; so is Comstock. He did not hesitate to commit perjury to bring his victims to punishment ; it is so with Comstock. He caused numerous persons to be cruelly and unjustly punished ; so has Comstock. He pretended to work in the interest of the church and of religion ; so does Comstock. But he finally met his just deserts ; it is to be hoped so will Comstock. He flourished for a while, made a good deal of money, was called a great man, and all that, but finally his villainy and perfidy were found out ; he was himself brought to justice, was tried for perjury and convicted ; besides being heavily fined, he was sentenced to stand twice in the pillory to be



whipped from Oldgate to Newgate one day, and from Newgate to Tyburn two days afterwards, and to stand in the pillory five times in a year as long as he lived. If some equally summary punishment could be visited upon Comstock, it would be no worse than his infamous conduct has merited.

What shall be said of District-Attorney Woodford, who, though he had been lieutenant-governor of this state, has no more discretion and judgment than to employ the courts and the treasury of the United States in prosecuting me for that which is no crime at all when he knew it was the work of spite and revenge on the part of the miserable informer who instigated the proceedings? A man who cannot better employ himself is unfit to be drawing a salary from the government of the country, and had better employ himself at selling the *Sun* or *Herald* on the streets, or at "shining boots" at five cents a pair.

I am informed Woodford threatens to prosecute me again because from Ludlow-Street Jail I published the passages of the pamphlet upon which I was convicted in comparison with passages from the Bible. It is the opinion of many that he had better think the matter over twice, at least, before he commences operations. Some of his best friends think he has played that game once too often already.

The sands of my life are pretty well run; and if it is my fate to spend the balance of my days in prison for exercising the rights of an American citizen, I shall try and endure the infliction with the best grace I can command. I remember Governor Woodford told me in his office nearly two years ago, after Comstock caused my arrest the first time, that

I was "a more honest man than himself," and I am inclined to think he spoke the truth.

I cannot forget the part that W. P. Fiero played in placing me where I am. He may be styled a cross between Bombastes Furioso and a "jack-in-a-box," or jumping-jack—a toy which children play with. But though his forensic ability is not graded as A No. 1, he did his best to convict me, and he was quite successful, as would his coat or shirt have been, with Benedict for judge and to instruct and govern the jury, had they been hung up there upon a beanpole.

I cannot help often recurring to the injustice that has been done me in the name of the law, and the agencies by which it was brought about. And as I have been meditating in my lonely cell I have speculated upon what would have been my probable fate had the votes of either of the states, South Carolina, Louisiana, or Florida, been counted for Tilden, as thousands think they justly should have been, or had Judge Bradley, of the Electoral Commission, given his vote for Tilden instead of Hayes. It would doubtless have been much better for me. My chances for a pardon or liberation from prison would be much fairer than now, for then there would have been no Mrs. Tilden to side in with Comstock and the pious clergy to influence the President to keep me behind the bars. But probably these speculations are useless.

I am pleased to hear of the success met with at the meetings of our friends at Cincinnati and Chautauqua Lake, and trust much good may grow out of them. I shall read the particulars of those meetings, when permitted to do so, with great pleasure. Of

the political contest in this state for governor at the next election I know but little save that Robinson and Cornell are opposing candidates, and that Kelly and the Greenback candidate are also on the track. Of what their relative prospects may be I know nothing, and do not longer regard myself as much of a partisan. But as between Robinson and Cornell I have considerable choice. To indicate the choice I have this much to say: I believe Robinson to be an honest, upright man, and that he has served his expiring term with ability and integrity. One thing can be said in his favor: He is opposed to Comstock and his famous decoy system for entrapping unfortunate victims. He has two or three times sent his private secretary to New York to inquire into the cases which Comstock has villainously entrapped and prosecuted. He found that gross injustice had been done, and he judiciously pardoned the sufferers who had been wrongly convicted. This was true in the cases of Charles F. Blandin and Louis Wengenwroth. The Governor acted nobly in these cases, and I shall ever respect him for his devotion to justice.

In conclusion, I wish you all continued good health, with as much prosperity and happiness as falls to the lot of mortals. May we all live to see right and justice reign in this fair land, when every man will be perfectly free to entertain and express his honest convictions, and when men will not be unjustly sent to prison on miserable, false pretexts.

Sincerely yours, D. M. BENNETT.

## LETTER FROM THE PENITENTIARY.—No. 3.

ALBANY PENITENTIARY, Oct. 6, 1879.

MY DEAR FRIENDS: Still another four weeks have passed away, and I can again address you a few lines. Let me again assure you that nothing gives me greater pleasure than this, unless it is to receive letters from you, replete, as they are, with friendship, sympathy, and encouragement. I fear that, by these numerous letters you have sent to me in prison, you have placed upon me a greater indebtedness than I shall ever be able to discharge. But if I die insolvent in this particular, it shall not grieve me excessively. I will do the best I can, and let that suffice it. Your letters have indeed been a great consolation to me, and have robbed prison life of much of its gloom. It is very gratifying to a person who is unjustly incarcerated to know that he is not forgotten nor forsaken because of it, and to feel that the hands of friendship and love are extended from all directions. I can never forget the kindness of my numerous friends in this respect. I can realize, too, how dull and thankless a task it is to write letters when no response is expected, and the talking must be all on one side. It should not be so could I have my way about it. It would please me to reply to each letter received, but I have to submit to much that is not exactly pleasant. Let us all be resigned!

Four and a half months of my imprisonment have now passed away. I take note of the days and weeks and months as they go by, all too slowly, and look forward with hope to the time when I shall again have my freedom. Let me here correct an error which I notice some of you have fallen into. Some think I have to remain here thirteen months from the time I came here. This is not the case. My term of imprisonment commenced on the day I was sentenced and taken to Ludlow-Street Jail—the 5th of June. As I remained there in obedience to instructions from Washington, the seven and a half weeks passed there count on my time. Besides, the law of this state, applying to all the prisons in the state, takes two months off each year and the fractional part of the year for good behavior. I shall, of course, try to behave myself as well as I can while here; consequently two months and five days will be deducted from the term which Benedict sent me here for. So, if Hayes continues to follow the instructions of Comstock, the pious bigots, and Mrs. Hayes, and keeps me here till the end of my term, the bolts will be withdrawn and I again be able to step out into Nature's glorious sunshine, and to breathe the pure air of freedom, on the first of May, 1880. That day is not so far removed as the millennium: and, I doubt not, will be one of the happiest May-days I ever experienced.

A friend has given me some account of two late trials of Comstock's decoy cases in the New York city courts, in which the notorious informer and spy was not eminently successful. The first was the case of Mr. Weil, the photographer—a gentleman of most excellent character—who was several

years ago thrown into prison by Comstock for a harmless photograph, purchased in his gallery by the arch-hypocrite. The case has lain dormant for several years, but was recently pressed to trial by Comstock, to gratify a spirit of revenge towards Weil for giving me some of the facts relative to his persecutions by Comstock. I understand the case was tried before Judge Gildersleeve, who had the fairness to allow the introduction of testimony by competent judges—photographers and dealers—as to whether the picture was obscene or not. Their opinion was unanimous that the photograph was not obscene. Of course Mr. Weil was acquitted. The judge was very different from the one who tried me. Had the opinions of writers, authors, book dealers, physiologists, and other literary men, been admitted when I was on trial, even that tractable Christian jury must have rendered a different verdict.

The other case was that of E. W. Baxter, for sending a certain preventive remedy by mail, and was also tried before Judge Gildersleeve. It was proved that Comstock decoyed Baxter, over a false name, first from Troy, and that Baxter wrote in reply that he could not send the preventive powders to any point in the state of New York, because it was against the law (the same law which Comstock had procured to be enacted). Comstock next, over another fictitious name, decoyed him from Toledo, O., whereupon Baxter sent the powders from Jersey City. Judge Gildersleeve, in his rulings, said the offense was not immoral in itself; that it was made so in the state of New York by statute; hence the statute should be very literally interpreted. That, inasmuch as Baxter had gone out of the state to for-

ward the powders, and they were furnished to a person living outside the state, the state laws could not properly be applied. Baxter was promptly acquitted and Comstock intensely disgusted. The *Times* said Comstock told Judge Gildersleeve that he should bring no more cases in his (Gildersleeve's) court! He has a court (Benedict's) where he can bring his dirty cases, with, as he claims, a certainty of securing a conviction. He "never fails there." Unfortunately for too many of his victims, this statement has too much truth. Far better would it have been for those victims had Benedict remained among the hills of his native Vermont, and devoted his talents to the raising of rye, potatoes, sheep, and hogs, and never been allowed to sit in judgment in the United States courts on Comstock's decoyed and hapless victims.

But the two cases alluded to, and the way in which they resulted, show an improved state of the courts and of public sentiment. The time was when Comstock sent nearly every person to prison whom he enticed within his toils. It is no longer the case; and it is to be ardently hoped that the time will also come when he will decide to take an honorable course to procure a livelihood. It is thought Judge Gildersleeve will be able to survive the withdrawal of Comstock's cases. I am somewhat acquainted with Mr. Weil, and believe him to be an honorable, law-abiding citizen, infinitely superior in everything that is moral and gentlemanly to his vile persecutor.

Comstock's victims are numerous. I have found one of them here—George H. Hickman, formerly of Baltimore, and son of Col. Hickman of that city,

many years a prominent bookseller in Baltimore street. The son was in the Union army, and held the position of adjutant in one of the Maryland regiments, and was also brevet-major. He lost his health in the service, and from wounds received in battle became a paralytic and a pensioner. He was placed at the Soldiers' Home at Fortress Monroe, where he was appointed postmaster. He had previously resided several years in Washington, and was favorably known to many persons connected with the government. He has been a man of rare intelligence and extensive reading. While acting as postmaster at the Home, some improper papers, or other mail matter, were sent to his office for some of the officers. It seems Comstock had some hand in the matter, in carrying out one of his dirty decoy games, and that he had some accomplices down there working in his interest. When Hickman learned that it was a trap set by Comstock, he prudently burnt the papers. He claims that when Comstock learned this he was angry, and entered into a conspiracy with the chaplain of the Home, one Rev. Mr. Forsyth, to get Hickman into trouble. This Forsyth—who appears to have been a dishonorable man—induced Hickman to open a certain registered letter, when he immediately had him arrested, and secured his conviction. He was sentenced to the Albany Penitentiary for five years. His time is out in December next. But prison life has been very hard on him, and though but fifty-three years of age, he is a mere wreck. He has been in the hospital nearly a year, lying most of the time prostrate upon his back. His paralysis is much worse, and he is so debilitated and emaciated that he can scarcely



walk. What he will do when his term has expired I am unable to say, and he is certainly an object of pity. He blames Comstock for what he has suffered these long dreary years, and declares him to be one of the worst men living.

My opinion of Comstock is pretty well known; but I will say again that a man who is capable of hiring with money three frail girls to exhibit themselves in a nude condition before himself and five or six other men, and he sitting by for an hour and twenty minutes (as sworn to in court), taking in the exhibition, being also director of ceremonies, ordering performances too indecent to describe; a man who, to carry out his vile purposes, will forge the names of females (he has publicly acknowledged this); a man who will send obscene books and pictures through the mail for the purpose of entrapping an innocent person within his power; a man who will persistently use his entire abilities to induce innocent persons to thoughtlessly commit deeds that will enable him to throw them into prison; a man capable of brutally dragging the good Mr. Andrew Prosch through the streets to prison for committing no wrong; a man capable, while drawing a salary of \$80 per week, of letting his poor, aged, helpless, impoverished father go for days without a mouthful to eat, and to walk the streets in cold weather with his toes literally sticking out through his shoes, being compelled to beg from acquaintances and strangers for a pittance to keep him from starvation; a man, I say, capable of doing all these disgraceful things, and many, many more of a similar character, is capable of anything mean, low, and criminal. Such a man is capable of dishonorably possessing himself of

private letters, and garbling and changing them to satisfy his spite and revenge. I may have made mistakes in my life; I may not always have been perfectly discreet; I have never claimed to be a saint; but I know I could not be guilty of the vile, low, dirty, and contemptible deeds which he has again and again committed.

Some who pretend to be Liberals; who claim to be extra-moral and high-toned, may join hands with Comstock, defend his conduct, and try to show me a criminal; but I defy them all. I have committed no crime, and I challenge them to show that I have. I envy them not the verdict which must inevitably be rendered by the public in reference to such efforts. Envy and malice are two qualities which I hope not to harbor in my breast.

The things most to be regretted in all this Comstock business is that he has been sustained by honorable, well-meaning men, and that he has been able to control the legislation of Congress and the legislation of this state to procure the passage of statutes not only unconstitutional but subversive of the dearest rights and liberties of the people—statutes that authorize a censorship of the press and the mails more detestable than anything known in Spain, Russia, or Turkey, and utterly in opposition to the genius of our institutions and the principles of American liberty. It is to be hoped that before many years pass away we may have a Congress in Washington and a legislature in this state that will have the good sense and propriety to repeal the statutes so unwisely enacted.

The Comstock theme is an unpleasant one. I revert to it only from a sense of duty to myself and

my fellow-citizens. He has doubtless done some good, but it has been with so bad a motive, and his deeds are so unmanly and dishonorable, that it would have been far better for this country had he never lived.

Two weeks ago to-day I attended the chapel to hear a sermon by the Catholic clergyman who preaches to the prisoners of his denomination one Sunday in each month. He is a plump, well-kept looking German, and appears like a clever gentleman. He visits the hospital once in a while ; I met him here.

It was high-mass day and he celebrated it in good style. It consists in chanting in Latin, bowing before the image of the Virgin, repeated kneelings before the altar, drinking wine or something else from a goblet filled by two boys in attendance dressed in white, who rang bells, swung incense, and attended upon him in various ways. An altar was there nicely rigged out with images, crosses, and eight lighted candles. He was duly dressed in priestly robes, and over all was a white garment with an immense cross in a dark color, nearly as large as himself, on the back. With that big cross plain before us I could not help thinking of the origin of the symbol and the great amount of cruelty, torture, and bloodshed that for more than a thousand years were-committed under it. I have no love for it.

One of the most pleasing portions of the service was the singing of some five or six young ladies, accompanied by a parlor organ. The singing was very nice. The sermon, on the importance of the confession of sin to the priest, was one of fair

ability, and with a "sweet German accent." The gew-gaws, the trappings, the pomponsness, and the flummery connected with the service to me seemed useless and silly. I cannot believe that God requires anything of that kind to keep his children out of the eternal fires. It is all a mistake. The audience was only about two-thirds the size of those who attend on the Protestant clergyman. I judge four hundred or more were present.

Dear Friends, I hope the times are auspicious with you, and that health and prosperity are attendant upon you. You that have fall crops to secure have had most excellent weather for the purpose. Gladly would I be with you and lend a willing hand in assisting you in your labors. It would be vastly more pleasant than being shut up here behind grates and bars, shut out from the world, from friends and family, and all that is dear in life.

The election in this state is drawing near. I am unable to form an opinion as to what the result will be. I hear it hinted that various influences are being tried to defeat Robinson for Governor. For reasons I gave you in my last letter, I hope it will not be accomplished. He has proved himself a lover of justice, a defender of the rights of the oppressed, and an honest, capable, governor. He knows well the villainy of Comstock, and has twice interfered and released his victims from cruel imprisonment. I hope that every friend of mine in the state who has a vote will give it to Governor Robinson, and that he will be re-elected.

A question is involved here more vital to us as Liberals and lovers of justice than the ordinary differences between Republicans and Democrats. With

many good wishes for your welfare—that you may  
live long and happily—I remain your sincere friend,  
D. M. BENNETT.