

LYSANDER SPOONER
Letters to Senator Thomas Bayard (1882)
and President Grover Cleveland (1886)

A LETTER

TO

GROVER CLEVELAND,

ON

HIS FALSE INAUGURAL ADDRESS, THE USURPATIONS AND
CRIMES OF LAWMAKERS AND JUDGES, AND THE
CONSEQUENT POVERTY, IGNORANCE, AND
SERVITUDE OF THE PEOPLE.

BY
LYSANDER SPOONER.

BOSTON:
BENJ. R. TUCKER, PUBLISHER.
1886.



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1. Lysander Spooner, *A Letter to Thomas F. Bayard: Challenging his Right - and that of all the Other Socalled Senators and Representatives in Congress - to Exercise any Legislative Power whatever over the People of the United States* (Boston: Published by the Author, 1882).

2. Lysander Spooner, *A Letter to Grover Cleveland, on his False Inaugural Address, the Usurpations and Crimes of Lawmakers and Judges, and the Consequent Poverty, Ignorance, and Servitude of the People* (Boston: Benj. R. Tucker, Publisher, 1886).

Editor's Introduction

To make this edition useful to scholars and to make it more readable, I have done the following:

1. inserted and highlighted the page numbers of the original edition
2. not split a word if it has been hyphenated across a new line or page (this will assist in making word searches)
3. added unique paragraph IDs (which are used in the "citation tool" which is part of the "enhanced HTML" version of this text)
4. retained the spaces which separate sections of the text
5. created a "blocktext" for large quotations
6. moved the Table of Contents to the beginning of the text
7. placed the footnotes at the end of the book
8. formatted short margin notes to float right
9. inserted Greek and Hebrew words as images

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***A LETTER TO THOMAS F. BAYARD: CHALLENGING HIS RIGHT - AND
THAT OF ALL THE OTHER SO-CALLED SENATORS AND
REPRESENTATIVES IN CONGRESS - TO EXERCISE ANY LEGISLATIVE
POWER WHATEVER OVER THE PEOPLE OF THE UNITED STATES
(1882).***[↩](#)

A LETTER

TO

THOMAS F. BAYARD:

CHALLENGING HIS RIGHT—AND THAT OF ALL THE
OTHER SO-CALLED SENATORS AND REPRESENTATIVES IN CONGRESS—

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BY LYSANDER SPOONER.

BOSTON, MASS.:
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LETTER

To Thomas F. Bayard, of Delaware:

Sir— I have read your letter to Rev. Lyman Abbott, in which you express the opinion that it is at least possible for a man to be a legislator, (under the Constitution of the United States,) and yet be an honest man.

This proposition implies that you hold it to be at least possible that some four hundred men should, by some process or other, become invested with the right *to make laws of their own* —that is, *laws wholly of their own device*, and therefore necessarily distinct from the law of nature, or the principles of natural justice; and that these laws of their own making shall be really and truly obligatory upon the people of the United States; and that, therefore, the people may rightfully be compelled to obey them.

All this implies that you are of the opinion that the Congress of the United States, of which you are a member, has, by some process or other, become possessed of some right of *arbitrary dominion* over the people of the United States; which right of arbitrary dominion is not given by, and is, therefore, necessarily in conflict with, the law of nature, the principles of natural justice, and the natural rights of men, as individuals. All this is necessarily implied in the idea that the Congress now possesses any right whatever to make any laws whatever, *of its own device* —that is, any laws that shall be either more, less, or other than that natural law, which it can neither make, unmake, nor alter—and cause them to be enforced upon the people of the United States, or any of them, against their will.

You assume that the right of arbitrary dominion—that is, [4] the right of making laws of their own device, and compelling obedience to them—is a “trust” that has been delegated to those who now exercise that power. You call it “*the trust of public power.*”

But, Sir, you are mistaken in supposing that any such power has ever been delegated, or ever can be delegated, by any body, to any body.

Any such delegation of power is naturally impossible, for these reasons, viz:—

1. No man can delegate, or give to another, any right of arbitrary dominion over himself; for that would be giving himself away as a slave. And this no one can do. Any contract to do so is necessarily an absurd one, and has no validity. To call such a contract a “Constitution,” or by any other high-sounding name, does not alter its character as an absurd and void contract.

2. No man can delegate, or give to another, any right of arbitrary dominion over a third person; for that would imply a right in the first person, not only to make the third person his slave, but also a right to dispose of him as a slave to still other persons. Any contract to do this is necessarily a criminal one, and therefore invalid. To call such a contract a “Constitution” does not at all lessen its criminality, or add to its validity.

These facts, that no man can delegate, or give away, his own natural right to liberty, nor any other man’s natural right to liberty, prove that he can delegate no right of arbitrary dominion whatever—or, what is the same thing, no legislative power whatever—over himself or any body else, to any man, or body of men.

This impossibility of any man’s delegating any legislative power whatever necessarily results from the fact, that the law of nature has drawn the line, and the only line—and that, too, [5] a line that can never be effaced nor removed—between each man’s own inherent and inalienable rights of person and property, and each and every other man’s inherent and inalienable rights of person and property. It, therefore, necessarily fixes the unalterable limits, within which every man may rightfully seek his own happiness, in his own way, free from all responsibility to, or interference by, his fellow men, or any of them.

All this pretended delegation of legislative power—that is, of a power, on the part of the legislators, so-called, to make any laws of their own device, distinct from the law of nature—is therefore an entire falsehood; a falsehood, whose only purpose is to cover and hide a pure usurpation, by one body of men, of arbitrary dominion over other men.

That this legislative power, or power of arbitrary dominion, is a pure usurpation, on the part of those who now exercise it, and not “a trust” delegated to them, is still further proved by the fact that the only delegation of power, that is even professed or pretended to be made, is made *secretly* —that is, *by secret ballot* —and not in any open and authentic manner; and therefore not by any men, or body of men, who make themselves personally responsible, as principals, for the acts of those to whom they profess to delegate the power.

All this pretended delegation of power having been made secretly—that is, only by secret ballot—not a single one of all the legislators, so-called, who profess to be exercising only a delegated power, has himself any legal knowledge, or can offer any legal proof, as to who the particular individuals were, who delegated it to him. And having no power to identify the individuals who professed to delegate the power to him, he cannot show any legal proof that any body ever even attempted or pretended to delegate it to him.

Plainly a man, who exercises any arbitrary dominion over other men, and who claims to be exercising only a delegated power, but cannot show who his principals are, nor, [6] consequently, prove that he has any principals, must be presumed, both in law and reason, to have no principals; and therefore to be exercising no power but his own. And having, of

right, no such power of his own, he is, both in law and reason, a naked usurper.

Sir, a secret ballot makes a secret government; and a secret government is a government by conspiracy; in which the people at large can have no rights. And that is the only government we now have. It is the government of which you are a voluntary member, and supporter, and yet you claim to be an honest man. If you are an honest man, is not your honesty that of a thoughtless, ignorant man, who merely drifts with the current, instead of exercising any judgment of his own?

For still another reason, all legislators, so-called, under the Constitution of the United States, are exercising simply an arbitrary and irresponsible dominion of their own; and not any authority that has been delegated, or pretended to have been delegated, to them. And that reason is, that the Constitution itself (Art. 1, Sec. 6) prescribes that:—

“For any speech or debate [or vote] in either house, they [the Senators and Representatives] shall not be questioned [held to any legal responsibility] in any other place.”

This provision makes the legislators constitutionally irresponsible to anybody; either to those on whom they exercise their power, or to those who may have, either openly or secretly, attempted or pretended to delegate power to them. And men, who are legally responsible to nobody for their acts, cannot truly be said to be the agents of any body, or to be exercising any power but their own: for all real agents are necessarily responsible both to those *on* whom they act, and to those *for* whom they act.

To say that the people of this country ever have bound, or ever could bind, themselves by any contract whatever—the [7] Constitution, or any other—to thus give away all their natural rights of property, liberty, and life, into the hands of a few men—a mere conclave—and that they should make it a part of the contract itself that these few men should be held legally irresponsible for the disposal they should make of those rights, is an utter absurdity. It is to say that they have bound themselves, and that they could bind themselves, by an utterly idiotic and suicidal contract.

If such a contract had ever been made by one private individual to another, and had been signed, sealed, witnessed, acknowledged, and delivered, with all possible legal formalities, no decent court on earth—certainly none in this country—would have regarded it, for a moment, as conveying any right, or delegating any power, or as having the slightest legal validity, or obligation.

For all the reasons now given, and for still others that might be given, the legislative power now exercised by Congress, is, in both law and reason, a purely personal, arbitrary, irresponsible, usurped dominion on the part of the legislators themselves, and not a power

delegated to them by anybody.

Yet under the pretence that this instrument gives them the right of an arbitrary and irresponsible dominion over the whole people of the United States, Congress has now gone on, for ninety years and more, filling great volumes with laws of their own device, which the people at large have never read, nor even seen, nor ever will read or see; and of whose legal meanings it is morally impossible that they should ever know any thing. Congress has never dared to require the people even to read these laws. Had it done so, the oppression would have been an intolerable one; and the people, rather than endure it, would have either rebelled, and overthrown the government, or would have fled the country. Yet these laws, which Congress has not dared to require the people even to read, it has compelled them, at the point of the bayonet, to obey.

[8]

And this moral, and legal, and political monstrosity is the kind of government which Congress claims that the Constitution authorizes it to impose upon the people.

Sir, can you say that such an arbitrary and irresponsible dominion as this, over the properties, liberties, and lives of fifty millions of people—or even over the property, liberty, or life of any one of those fifty millions—can be justified on any reason whatever? If not, with what color of truth can you say that you yourself, or anybody else, can act as a legislator, under the Constitution of the United States, and yet be an honest man?

To say that the arbitrary and irresponsible dominion, that is exercised by Congress, has been delegated to it by the Constitution, *and not solely by the secret ballots of the voters for the time being*, is the height of absurdity; for what is the Constitution? It is, at best, a writing that was drawn up more than ninety years ago; was assented to at the time only by a small number of men; generally those few white male adults who had prescribed amounts of property; probably not more than two hundred thousand in all; or one in twenty of the whole population.

Those men have been long since dead. They never had any right of arbitrary dominion over even their contemporaries; and they never had any over us. Their wills or wishes have no more rightful authority over us, than have the wills or wishes of men who lived before the flood. They never personally signed, sealed, acknowledged, or delivered, or dared to sign, seal, acknowledge, or deliver, the instrument which they imposed upon the country as law. They never, in any open and authentic manner, bound even themselves to obey it, or made themselves personally responsible for the acts of their so-called agents under it. They had no natural right to impose it, as law, upon a single human being. The whole proceeding was a pure usurpation.

[9]

In practice, the Constitution has been an utter fraud from the beginning. Professing to have been “ordained and established” by “*We, the people of the United States,*” it has never been submitted to them, as individuals, for their voluntary acceptance or rejection. They have never been asked to sign, seal, acknowledge, or deliver it, as their free act and deed. They have never signed, sealed, acknowledged, or delivered it, or promised, or laid themselves under any kind of obligation, to obey it. Very few of them have ever read, or even seen it; or ever will read or see it. Of its legal meaning (if it can be said to have any) they really know nothing; and never did, nor ever will, know any thing.

Why is it, Sir, that such an instrument as the Constitution, for which nobody has been responsible, and of which few persons have ever known any thing, has been suffered to stand, for the last ninety years, and to be used for such audacious and criminal purposes? It is solely because it has been sustained by the same kind of conspiracy as that by which it was established; that is, by the wealth and the power of those few who were to profit by the arbitrary dominion it was assumed to give them over others. While the poor, the weak, and the ignorant, who were to be cheated, plundered, and enslaved by it, have been told, and some of them doubtless made to believe, that it is a sacred instrument, designed for the preservation of their rights.

These cheated, plundered, and enslaved persons have been made to feel, if not to believe, that the Constitution had such miraculous power, that it could authorize the majority (or even a plurality) of the male adults, for the time being—a majority numbering at this time, say, five millions in all—to exercise, through their agents, secretly appointed, an arbitrary and irresponsible dominion over the properties, liberties, and lives of the whole fifty millions; and that these fifty millions have no rightful alternative but to submit all their rights to this [10] arbitrary dominion, or suffer such confiscation, imprisonment, or death as this secretly appointed, irresponsible cabal, of so-called legislators, should see fit to resort to for the maintenance of its power.

As might have been expected, and as was, to a large degree, at least, intended, this Constitution has been used from the beginning by ambitious, rapacious, and unprincipled men, to enable them to maintain, at the point of the bayonet, an arbitrary and irresponsible dominion over those who were too ignorant and too weak to protect themselves against the conspirators who had thus combined to deceive, plunder, and enslave them.

Do you really think, Sir, that such a constitution as this can avail to justify those who, like yourself, are engaged in enforcing it? Is it not plain, rather, that the members of Congress, as a legislative body, whether they are conscious of it, or not, are, in reality, a mere cabal of swindlers, usurpers, tyrants, and robbers? Is it not plain that they are stupendous blockheads, if they imagine that they are anything else than such a cabal? or that their so-called laws impose the least obligation upon anybody?

If you have never before looked at this matter in this light, I ask you to do so now. And in the hope to aid you in doing so candidly, and to some useful purpose, I take the liberty to mail for you a pamphlet entitled:

“NATURAL LAW; OR THE SCIENCE OF JUSTICE; *a Treatise on Natural Law, Natural Justice, Natural Rights, Natural Liberty, and Natural Society; Showing That All Legislation Whatsoever Is an Absurdity, A Usurpation, and a Crime. Part I.*

In this pamphlet, I have endeavored to controvert distinctly the proposition that, by any possible process whatever, any man, or body of men, can become possessed of any right of arbitrary dominion over other men, or other men's property; or, consequently, any right whatever to make any law whatever, *of their own*—distinct from the law of nature—and compel any other men to obey it.

I trust I need not suspect you, as a legislator under the Constitution, and claiming to be an honest man, of any desire to evade the issue presented in this pamphlet. If you shall see fit to meet it, I hope you will excuse me for suggesting that—to avoid verbiage, and everything indefinite—you give at least a single specimen of a law that either heretofore has been made, or that you conceive it possible for legislators to make—that is, some law of their own device—that either has been, or shall be, really and truly obligatory upon other persons, and which such other persons have been, or may be, rightfully compelled to obey.

If you can either find or devise any such law, I trust you will make it known, that it may be examined, and the question of its obligation be fairly settled in the popular mind.

But if it should happen that you can neither find such a law in the existing statute books of the United States, nor, in your own mind, conceive of such a law as possible under the Constitution, I give you leave to find it, if that be possible, in the constitution or statute book of any other people that now exist, or ever have existed, on the earth.

If, finally, you shall find no such law, anywhere, nor be able to conceive of any such law yourself, I take the liberty to suggest that it is your imperative duty to submit the question to your associate legislators; and, if they can give no light on the subject, that you call upon them to burn all the existing statute books of the United States, and then to go home and content themselves with the exercise of only such rights and powers as nature has given to them in common with the rest of mankind.

LYSANDER SPOONER.

BOSTON, May 27, 1882.

A LETTER TO GROVER CLEVELAND, ON HIS FALSE INAUGURAL ADDRESS, THE USURPATIONS AND CRIMES OF LAWMAKERS AND JUDGES, AND THE CONSEQUENT POVERTY, IGNORANCE, AND SERVITUDE OF THE PEOPLE (1886).[↩](#)

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A LETTER TO GROVER CLEVELAND.

SECTION I.

To Grover Cleveland:

SIR,—Your inaugural address is probably as honest, sensible, and consistent a one as that of any president within the last fifty years, or, perhaps, as any since the foundation of the government. If, therefore, it is false, absurd, self-contradictory, and ridiculous, it is not (as I think) because you are personally less honest, sensible, or consistent than your predecessors, but because the government itself—according to your own description of it, and according to the practical administration of it for nearly a hundred years—is an utterly and palpably false, absurd, and criminal one. Such praises as you bestow upon it are, therefore, necessarily false, absurd, and ridiculous.

Thus you describe it as “a government pledged to do equal and exact justice to all men.”

Did you stop to think what that means? Evidently you did not; for nearly, or quite, all the rest of your address is in direct contradiction to it.

Let me then remind you that justice is an immutable, natural principle; and not anything that can be made, unmade, or altered by any human power.

It is also a subject of science, and is to be learned, like mathematics, or any other science. It does not derive its authority from the commands, will, pleasure, or discretion of any possible combination of men, whether calling themselves a government, or by any other name.

It is also, at all times, and in all places, the supreme law. And being everywhere and always the supreme law, it is necessarily everywhere and always the only law.

Lawmakers, as they call themselves, can add nothing to it, nor take anything from it. Therefore all their laws, as they call them,—that is, all the laws of their own making,—have no color of authority or obligation. It is a falsehood to call them laws; for there is nothing in them that either creates men’s duties or rights, or enlightens them as to their duties or rights. There is consequently nothing binding or obligatory about them. And nobody is bound to take the least notice [4] of them, unless it be to trample them under foot, as usurpations. If they command men to do justice, they add nothing to men’s obligation to do it, or to any man’s right to enforce it. They are therefore mere idle wind, such as would be commands to

consider the day as day, and the night as night. If they command or license any man to do injustice, they are criminal on their face. If they command any man to do anything which justice does not require him to do, they are simple, naked usurpations and tyrannies. If they forbid any man to do anything, which justice would permit him to do, they are criminal invasions of his natural and rightful liberty. In whatever light, therefore, they are viewed, they are utterly destitute of everything like authority or obligation. They are all necessarily either the impudent, fraudulent, and criminal usurpations of tyrants, robbers, and murderers, or the senseless work of ignorant or thoughtless men, who do not know, or certainly do not realize, what they are doing.

This science of justice, or natural law, is the only science that tells us what are, and what are not, each man's natural, inherent, inalienable, *individual* rights, as against any and all other men. And to say that any, or all, other men may rightfully compel him to obey any or all such other laws as they may see fit to *make*, is to say that he has no rights of his own, but is their subject, their property, and their slave.

For the reasons now given, the simple maintenance of justice, or natural law, is plainly the one only purpose for which any coercive power—or anything bearing the name of government—has a right to exist.

It is intrinsically just as false, absurd, ludicrous, and ridiculous to say that lawmakers, so-called, can invent and make any laws, *of their own*, authoritatively fixing, or declaring, the rights of individuals, or that shall be in any manner authoritative or obligatory upon individuals, or that individuals may rightfully be compelled to obey, as it would be to say that they can invent and make such mathematics, chemistry, physiology, or other sciences, as they see fit, and rightfully compel individuals to conform all their actions to them, instead of conforming them to the mathematics, chemistry, physiology, or other sciences of nature.

Lawmakers, as they call themselves, might just as well claim the right to abolish, by statute, the natural law of gravitation, the natural laws of light, heat, and electricity, and all the other natural laws of matter and mind, and institute laws of their own in the place of them, and compel conformity to them, as to claim the right to set aside the natural law of justice, and compel obedience to such other laws as they may see fit to manufacture, and set up in its stead.

Let me now ask you how you imagine that your so-called lawmakers can “do equal and exact justice to all men,” by any so-called laws of their own making. If their laws command anything but justice, or forbid anything but injustice, they are themselves unjust and criminal. If they simply command justice, and forbid injustice, they add nothing to the natural authority of justice, or to men's [5] obligation to obey it. It is, therefore, a simple impertinence, and sheer impudence, on their part, to assume that *their* commands, *as such*, are of any authority whatever. It is also sheer impudence, on their part, to assume that their

commands are at all necessary to teach other men what is, and what is not, justice. The science of justice is as open to be learned by all other men, as by themselves; and it is, in general, so simple and easy to be learned, that there is no need of, and no place for, any man, or body of men, to teach it, declare it, or command it, on their own authority.

For one, or another, of these reasons, therefore, each and every law, so-called, that forty-eight different congresses have presumed to make, within the last ninety-six years, have been utterly destitute of all legitimate authority. That is to say, they have either been criminal, as commanding or licensing men to do what justice forbade them to do, or as forbidding them to do what justice would have permitted them to do; or else they have been superfluous, as adding nothing to men's knowledge of justice, or to their obligation to do justice, or abstain from injustice.

What excuse, then, have you for attempting to enforce upon the people that great mass of superfluous or criminal laws (so-called) which ignorant and foolish, or impudent and criminal, men have, for so many years, been manufacturing, and promulgating, and enforcing, in violation of justice, and of all men's natural, inherent, and inalienable rights?

SECTION II.

Perhaps you will say that there is no such science as that of justice. If you do say this, by what right, or on what reason, do you proclaim your intention "to do equal and exact justice to all men"? If there is no science of justice, how do you know that there is any such principle as justice? Or how do you know what is, and what is not, justice? If there is no science of justice,—such as the people can learn and understand for themselves,—why do you say anything about justice *to them*? Or why do you promise *them* any such thing as "equal and exact justice," if they do not know, and are incapable of learning, what justice is? Do you use this phrase to deceive those whom you look upon as being so ignorant, so destitute of reason, as to be deceived by idle, unmeaning words? If you do not, you are plainly bound to let us all know what you do mean, by doing "equal and exact justice to all men."

I can assure you, sir, that a very large portion of the people of this country do not believe that the government is doing "equal and exact justice to all men." And some persons are earnestly promulgating the idea that the government is not attempting to do, and has no intention of doing, anything like "equal and exact justice to all men"; that, on the contrary, it is knowingly, deliberately, and wilfully doing an incalculable amount of injustice; that it has always been doing this in the past, and that it has no intention of doing anything else in the future; that [6] it is a mere tool in the hands of a few ambitious, rapacious, and unprincipled men; that its purpose, in doing all this injustice, is to keep—so far as they can without driving the people to rebellion—all wealth, and all political power, in as few hands as possible; and that this injustice is the direct cause of all the widespread poverty, ignorance, and servitude

among the great body of the people.

Now, Sir, I wish I could hope that you would do something to show that you are not a party to any such scheme as that; something to show that you are neither corrupt enough, nor blind enough, nor coward enough, to be made use of for any such purpose as that; something to show that when you profess your intention “to do equal and exact justice to all men,” you attach some real and definite meaning to your words. Until you do that, is it not plain that the people have a right to consider you a tyrant, and the confederate and tool of tyrants, and to get rid of you as unceremoniously as they would of any other tyrant?

SECTION III.

Sir, if any government is to be a rational, consistent, and honest one, it must evidently be based on some fundamental, immutable, eternal principle; such as every man may reasonably agree to, and such as every man may rightfully be compelled to abide by, and obey. And the whole power of the government must be limited to the maintenance of that single principle. And that one principle is justice. There is no other principle that any man can rightfully enforce upon others, or ought to consent to have enforced against himself. Every man claims the protection of this principle for himself, whether he is willing to accord it to others, or not. Yet such is the inconsistency of human nature, that some men—in fact, many men—who will risk their lives for this principle, when their own liberty or property is at stake, will violate it in the most flagrant manner, if they can thereby obtain arbitrary power over the persons or property of others. We have seen this fact illustrated in this country, through its whole history—especially during the last hundred years—and in the case of many of the most conspicuous persons. And their example and influence have been employed to pervert the whole character of the government. It is against such men, that all others, who desire nothing but justice for themselves, and are willing to unite to secure it for all others, must combine, if we are ever to have justice established for any.

SECTION IV.

It is self-evident that no number of men, by conspiring, and calling themselves a government, can acquire any rights whatever over other men, or other men’s property, which they had not before, as individuals. And whenever any number [7] of men, calling themselves a government, do anything to another man, or to his property, which they had no right to do as individuals, they thereby declare themselves trespassers, robbers, or murderers, according to the nature of their acts.

Men, *as individuals*, may rightfully *compel* each other to obey this one law of justice. And it is the only law which any man can rightfully be compelled, *by his fellow men*, to obey. All other laws, it is optional with each man to obey, or not, as he may choose. But this one law of justice he may rightfully be compelled to obey; and all the force that is reasonably

necessary to compel him, may rightfully be used against him.

But the right of every man to do anything, and everything, *which justice does not forbid him to do*, is a natural, inherent, inalienable right. It is his right, as against any and all other men, whether they be many, or few. It is a right indispensable to every man's highest happiness; and to every man's power of judging and determining for himself what will, and what will not, promote his happiness. Any restriction upon the exercise of this right is a restriction upon his rightful power of providing for, and accomplishing, his own well-being.

Sir, these natural, inherent, inalienable, *individual* rights are sacred things. *They are the only human rights*. They are the only rights by which any man can protect his own property, liberty, or life against any one who may be disposed to take it away. Consequently they are not things that any set of either blockheads or villains, calling themselves a government, can rightfully take into their own hands, and dispose of at their pleasure, as they have been accustomed to do in this, and in nearly or quite all other countries.

SECTION V.

Sir, I repeat that individual rights are the only human rights. *Legally speaking*, there are no such things as “*public rights*,” as distinguished from individual rights. *Legally speaking*, there is no such creature or thing as “*the public*.” The term “the public” is an utterly vague and indefinite one, applied arbitrarily and at random to a greater or less number of individuals, each and every one of whom have their own separate, individual rights, *and none others*. And the protection of these separate, *individual* rights is the one only legitimate purpose, for which anything in the nature of a governing, or coercive, power has a right to exist. And these separate, individual rights all rest upon, and can be ascertained only by, the one science of justice.

Legally speaking, the term “*public rights*” is as vague and indefinite as are the terms “*public health*,” “*public good*,” “*public welfare*,” and the like. It has no legal meaning, except when used to describe the separate, private, *individual* rights of a greater or less number of individuals.

In so far as the separate, private, natural rights of *individuals* are secured, in [8] just so far, and no farther, are the “public rights” secured. In so far as the separate, private, natural rights of *individuals* are disregarded or violated, in just so far are “public rights” disregarded or violated. Therefore all the pretences of so-called lawmakers, that they are protecting “public rights,” by violating private rights, are sheer and utter contradictions and frauds. They are just as false and absurd as it would be to say that they are protecting the public *health*, by arbitrarily poisoning and destroying the health of single individuals.

The pretence of the lawmakers, that they are promoting the “public good,” by violating individual “rights,” is just as false and absurd as is the pretence that they are protecting “public rights” by violating “private rights.” Sir, the greatest “public good,” of which any coercive power, calling itself a government, or by any other name, is capable, is the protection of each and every individual in the quiet and peaceful enjoyment and exercise of *all* his own natural, inherent, inalienable, *individual* “rights.” This is a “good” that comes home to each and every individual, of whom “the public” is composed. It is also a “good,” which each and every one of these individuals, composing “the public,” can appreciate. It is a “good,” for the loss of which governments can make no compensation whatever. *It is a universal and impartial “good,”* of the highest importance to each and every human being; and not any such vague, false, and criminal thing as the lawmakers—when violating private rights—tell us they are trying to accomplish, under the name of “the public good.” It is also the only “equal and exact justice,” which you, or anybody else, are capable of securing, or have any occasion to secure, to any human being. Let but this “equal and exact justice” be secured “to all men,” and they will then be abundantly able to take care of themselves, and secure their own highest “good.” Or if any one should ever chance to need anything more than this, he may safely trust to the voluntary kindness of his fellow men to supply it.

It is one of those things not easily accounted for, that men who would scorn to do an injustice to a fellow man, in a private transaction,—who would scorn to usurp any arbitrary dominion over him, or his property,—who would be in the highest degree indignant, if charged with any private injustice,—and who, at a moment’s warning, would take their lives in their hands, to defend their own rights, and redress their own wrongs,—will, the moment they become members of what they call a government, assume that they are absolved from all principles and all obligations that were imperative upon them, as individuals; will assume that they are invested with a right of arbitrary and irresponsible dominion over other men, and other men’s property. Yet they are doing this continually. And all the laws they *make* are based upon the assumption that they have now become invested with rights that are more than human, and that those, on whom their laws are to operate, have lost even their human rights. They seem to be utterly blind to the fact, that the only reason there can be for their existence as a government, is that [9] they may protect those very “rights,” which they before scrupulously respected, but which they now unscrupulously trample upon.

SECTION VI.

But you evidently believe nothing of what I have now been saying. You evidently believe that justice is no law at all, unless in cases where the lawmakers may chance to prefer it to any law which they themselves can invent.

You evidently believe that a certain paper, called the constitution, which nobody ever signed, which few persons ever read, which the great body of the people never saw, and as to the meaning of which no two persons were ever agreed, is the supreme law of this land, anything in the law of nature—anything in the natural, inherent, inalienable, *individual* rights of fifty millions of people—to the contrary notwithstanding.

Did folly, falsehood, absurdity, assumption, or criminality ever reach a higher point than that?

You evidently believe that those great volumes of statutes, which the people at large have never read, nor even seen, and never will read, nor see, but which such men as you and your lawmakers have been manufacturing for nearly a hundred years, to restrain them of their liberty, and deprive them of their natural rights, were all made for their benefit, by men wiser than they—wiser even than justice itself—and having only their welfare at heart!

You evidently believe that the men who made those laws were duly authorized to make them; and that you yourself have been duly authorized to enforce them. But in this you are utterly mistaken. You have not so much as the honest, responsible scratch of one single pen, to justify you in the exercise of the power you have taken upon yourself to exercise. For example, you have no such evidence of your right to take any man's property for the support of your government, as would be required of you, if you were to claim pay for a single day's honest labor.

It was once said, in this country, that taxation without consent was robbery. And a seven years' war was fought to maintain that principle. But if that principle were a true one in behalf of three millions of men, it is an equally true one in behalf of three men, or of one man.

Who are ever taxed? Individuals only. Who have property that can be taxed? Individuals only. Who can give their consent to be taxed? Individuals only. Who are ever taxed without their consent? Individuals only. Who, then, are robbed, if taxed without their consent? Individuals only.

If taxation without consent is robbery, the United States government has never had, has not now, and is never likely to have, a single honest dollar in its treasury.

[10]

If taxation without consent is *not* robbery, then any band of robbers have only to declare themselves a government, and all their robberies are legalized.

If any man's money can be taken by a so-called government, without his own personal consent, all his other rights are taken with it; for with his money the government can, and will, hire soldiers to stand over him, compel him to submit to its arbitrary will, and kill him if he resists.

That your whole claim of a right to any man's money for the support of your government, without his consent, is the merest farce and fraud, is proved by the fact that you have no such evidence of your right to take it, as would be required of you, by one of your own courts, to prove a debt of five dollars, that might be honestly due you.

You and your lawmakers have no such evidence of your right of dominion over the people of this country, as would be required to prove your right to any material property, that you might have purchased.

When a man parts with any considerable amount of such material property as he has a natural right to part with,—as, for example, houses, or lands, or food, or clothing, or anything else of much value,—he usually gives, and the purchaser usually demands, some *written* acknowledgment, receipt, bill of sale, or other evidence, that will prove that he voluntarily parted with it, and that the purchaser is now the real and true owner of it. But you hold that fifty millions of people have voluntarily parted, not only with their natural right of dominion over all their material property, but also with all their natural right of dominion over their own souls and bodies; when not one of them has ever given you a scrap of writing, or even “made his mark,” to that effect.

You have not so much as the honest signature of a single human being, granting to you or your lawmakers any right of dominion whatever over him or his property.

You hold your place only by a title, which, on no just principle of law or reason, is worth a straw. And all who are associated with you in the government—whether they be called senators, representatives, judges, executive officers, or what not—all hold their places, directly or indirectly, only by the same worthless title. That title is nothing more nor less than votes given in secret (by secret ballot), by not more than one-fifth of the whole population. These votes were given in secret solely because those who gave them did not dare to make themselves personally responsible, either for their own acts, or the acts of their agents, the lawmakers, judges, etc.

These voters, having given their votes in secret (by secret ballot), have put it out of your power—and out of the power of all others associated with you in the government—to designate your principals *individually*. That is to say, you have no legal knowledge as to who voted for you, or who voted against you. And being unable to designate your principals *individually*, you have no right to say that you [11] have any principals. And having no right to say that you have any principals, you are bound, on every just principle of law or reason,

to confess that you are mere usurpers, making laws, and enforcing them, upon your own authority alone.

A secret ballot makes a secret government; and a secret government is nothing else than a government by conspiracy. And a government by conspiracy is the only government we now have.

You say that “*every voter exercises a public trust.*”

Who appointed him to that trust? Nobody. He simply usurped the power; he never accepted the trust. And because he usurped the power, he dares exercise it only in secret. Not one of all the ten millions of voters, who helped to place you in power, would have dared to do so, if he had known that he was to be held personally responsible, before any just tribunal, for the acts of those for whom he voted.

Inasmuch as all the votes, given for you and your lawmakers, were given in secret, all that you and they can say, in support of your authority as rulers, is that you venture upon your acts as lawmakers, etc., not because you have any open, authentic, written, legitimate authority granted you by any human being,—for you can show nothing of the kind,—but only because, from certain reports made to you of votes given in secret, you have reason to believe that you have at your backs a secret association strong enough to sustain you by force, in case your authority should be resisted.

Is there a government on earth that rests upon a more false, absurd, or tyrannical basis than that?

SECTION VII.

But the falsehood and absurdity of your whole system of government do not result solely from the fact that it rests wholly upon votes given in secret, or by men who take care to avoid all personal responsibility for their own acts, or the acts of their agents. On the contrary, if every man, woman, and child in the United States had openly signed, sealed, and delivered to you and your associates, a written document, purporting to invest you with all the legislative, judicial, and executive powers that you now exercise, they would not thereby have given you the slightest legitimate authority. Such a contract, purporting to surrender into your hands all their natural rights of person and property, to be disposed of at your pleasure or discretion, would have been simply an absurd and void contract, giving you no real authority whatever.

It is a natural impossibility for any man to make a *binding* contract, by which he shall surrender to others a single one of what are commonly called his “natural, inherent, *inalienable* rights.”

It is a natural impossibility for any man to make a *binding* contract, that shall invest others with any right whatever of arbitrary, irresponsible dominion over him.

[12]

The right of arbitrary, irresponsible dominion is the right of property; and the right of property is the right of arbitrary, irresponsible dominion. The two are identical. There is no difference between them. Neither can exist without the other. If, therefore, our so-called lawmakers really have that right of arbitrary, irresponsible dominion over us, which they claim to have, and which they habitually exercise, it must be because they own us as property. If they own us as property, it must be because nature made us their property; for, as no man can sell himself as a slave, we could never make a binding contract that should make us their property—or, what is the same thing, give them any right of arbitrary, irresponsible dominion over us.

As a lawyer, you certainly ought to know that all this is true.

SECTION VIII. [↩](#)

Sir, consider, for a moment, what an utterly false, absurd, ridiculous, and criminal government we now have.

It all rests upon the false, ridiculous, and utterly groundless assumption, that fifty millions of people not only could voluntarily surrender, but actually have voluntarily surrendered, all their natural rights, as human beings, into the custody of some four hundred men, called lawmakers, judges, etc., who are to be held utterly irresponsible for the disposal they may make of them.[\[1\]](#)

The only right, which any individual is supposed to retain, or possess, under the government, *is a purely fictitious one,—one that nature never gave him,* —to wit, his right (so-called), as one of some ten millions of male adults, to give away, by his vote, not only all his own natural, inherent, inalienable, human rights, but also all the natural, inherent, inalienable, human rights of forty millions of other human beings—that is, women and children.

To suppose that any one of all these ten millions of male adults would voluntarily surrender a single one of all his natural, inherent, inalienable, human rights into the hands of irresponsible men, is an absurdity; because, first, he has no [\[13\]](#) power to do so, any contract he may make for that purpose being absurd, and necessarily void; and, secondly, because he can have no rational motive for doing so. To suppose him to do so, is to suppose him to be an idiot, incapable of making any rational and obligatory contract. It is to suppose he would voluntarily give away everything in life that was of value to himself, and get nothing in return. To suppose that he would attempt to give away all the natural rights *of other persons*

—that is, the women and children—as well as his own, is to suppose him to attempt to do something that he has no right, or power, to do. It is to suppose him to be both a villain and a fool.

And yet this government now rests wholly upon the assumption that some ten millions of male adults—men supposed to be *compos mentis*—have not only attempted to do, but have actually succeeded in doing, these absurd and impossible things.

It cannot be said that men put all their rights into the hands of the government, in order to have them protected; because there can be no such thing as a man's being protected in his rights, *any longer than he is allowed to retain them in his own possession*. The only possible way, in which any man can be protected in his rights, *is to protect him in his own actual possession and exercise of them*. And yet our government is absurd enough to assume that a man can be protected in his rights, after he has surrendered them altogether into other hands than his own.

This is just as absurd as it would be to assume that a man had given himself away as a slave, in order to be protected in the enjoyment of his liberty.

A man wants his rights protected, solely that he himself may possess and use them, and have the full benefit of them. But if he is compelled to give them up to somebody else,—to a government, so-called, or to any body else,—he ceases to have any rights of his own to be protected.

To say, as the advocates of our government do, that a man must give up *some* of his natural rights, to a government, in order to have the rest of them protected—the government being all the while the sole and irresponsible judge as to what rights he does give up, and what he retains, and what are to be protected—is to say that he gives up all the rights that the government chooses, *at any time*, to assume that he has given up; and that he retains none, and is to be protected in none, except such as the government shall, *at all times*, see fit to protect, and to permit him to retain. This is to suppose that he has retained no rights at all, that he can, *at any time*, claim as his own, *as against the government*. It is to say that he has really given up every right, and reserved none.

For a still further reason, it is absurd to say that a man must give up *some* of his rights to a government, in order that government may protect him in the rest. That reason is, that every right he gives up diminishes his own power of self-protection, and makes it so much more difficult for the government to protect him. And yet our government says a man must give up *all* his rights, in order that it [14] may protect him. It might just as well be said that a man must consent to be bound hand and foot, in order to enable a government, or his friends, to protect him against an enemy. Leave him in full possession of his limbs, and of all his powers, and he will do more for his own protection than he otherwise could, and will have

less need of protection from a government, or any other source.

Finally, if a man, who is *compos mentis*, wants any outside protection for his rights, he is perfectly competent to make his own bargain for such as he desires; and other persons have no occasion to thrust their protection upon him, against his will; or to insist, as they now do, that he shall give up all, or any, of his rights to them, in consideration of such protection, and only such protection, as they may afterwards *choose* to give him.

It is especially noticeable that those persons, who are so impatient to protect other men in their rights that they cannot wait until they are requested to do so, have a somewhat inveterate habit of killing all who do not voluntarily accept their protection; or do not consent to give up to them all their rights in exchange for it.

If A were to go to B, a merchant, and say to him, “Sir, I am a night-watchman, and I insist upon your employing me as such in protecting your property against burglars; and to enable me to do so more effectually, I insist upon your letting me tie your own hands and feet, so that you cannot interfere with me; and also upon your delivering up to me all your keys to your store, your safe, and to all your valuables; and that you authorize me to act solely and fully according to my own will, pleasure, and discretion in the matter; and I demand still further, that you shall give me an absolute guaranty that you will not hold me to any accountability whatever for anything I may do, or for anything that may happen to your goods while they are under my protection; and unless you comply with this proposal, I will now kill you on the spot,”—if A were to say all this to B, B would naturally conclude that A himself was the most impudent and dangerous burglar that he (B) had to fear; and that if he (B) wished to secure his property against burglars, his best way would be to kill A in the first place, and then take his chances against all such other burglars as might come afterwards.

Our government constantly acts the part that is here supposed to be acted by A. And it is just as impudent a scoundrel as A is here supposed to be. It insists that every man shall give up all his rights unreservedly into its custody, and then hold it wholly irresponsible for any disposal it may make of them. And it gives him no alternative but death.

If by putting a bayonet to a man’s breast, and giving him his choice, to die, or be “protected in his rights,” it secures his consent to the latter alternative, it then proclaims itself a free government,—a government resting on consent!

You yourself describe such a government as “the best government ever vouchsafed to man.”

Can you tell me of one that is worse in principle?

But perhaps you will say that ours is not so bad, in principle, as the others, for the reason that here, once in two, four, or six years, each male adult is permitted to have one vote in ten millions, in choosing the public protectors. Well, if you think that that materially alters the case, I wish you joy of your remarkable discernment.

SECTION IX.

Sir, if a government is to “do equal and exact justice to all men,” *it must do simply that, and nothing more*. If it does more than that to any,—that is, if it gives monopolies, privileges, exemptions, bounties, or favors to any,—it can do so only by doing injustice to more or less others. *It can give to one only what it takes from others; for it has nothing of its own to give to any one*. The best that it can do for all, and the only honest thing it can do for any, is simply to secure to each and every one his own rights,—the rights that nature gave him,—his rights of person, and his rights of property; leaving him, then, to pursue his own interests, and secure his own welfare, by the free and full exercise of his own powers of body and mind; so long as he trespasses upon the equal rights of no other person.

If he desires any favors from any body, he must, I repeat, depend upon the voluntary kindness of such of his fellow men as may be willing to grant them. No government can have any right to grant them; because no government can have a right to take from one man any thing that is his, and give it to another.

If this be the only true idea of an honest government, it is plain that it can have nothing to do with men’s “interests,” “welfare,” or “prosperity,” *as distinguished from their “rights.”* Being secured in their rights, each and all must take the sole charge of, and have the sole responsibility for, their own “interests,” “welfare,” and “prosperity.”

By simply protecting every man in his rights, a government necessarily keeps open to every one the widest possible field, that he honestly can have, for such industry as he may choose to follow. It also insures him the widest possible field for obtaining such capital as he needs for his industry, and the widest possible markets for the products of his labor. With the possession of these rights, he must be content.

No honest government can go into business with any individuals, be they many, or few. It cannot furnish capital to any, nor prohibit the loaning of capital to any. It can give to no one any special aid to competition; nor protect any one from competition. It must adhere inflexibly to the principle of entire freedom for all honest industry, and all honest traffic. It can do to no one any favor, nor render to any one any assistance, which it withholds from another. It must hold the scales impartially between them; taking no cognizance of any man’s “interests,” “welfare,” or “prosperity,” otherwise than by simply protecting him in his “rights.”

In opposition to this view, lawmakers profess to have weighty duties laid upon [16] them, to promote men's "interests," "welfare," and "prosperity," *as distinguished from their "rights."* They seldom have any thing to say about men's "*rights.*" On the contrary, they take it for granted that they are charged with the duty of promoting, superintending, directing, and controlling the "business" of the country. In the performance of this supposed duty, all ideas of individual "*rights*" are cast aside. Not knowing any way—because there is no way—in which they can impartially promote all men's "interests," "welfare," and "prosperity," *otherwise than by protecting impartially all men's rights,* they boldly proclaim that "*individual rights must not be permitted to stand in the way of the public good, the public welfare, and the business interests of the country.*"

Substantially all their lawmaking proceeds upon this theory; for there is no other theory, on which they can find any justification whatever for any lawmaking at all. So they proceed to give monopolies, privileges, bounties, grants, loans, etc., etc., to particular persons, or classes of persons; justifying themselves by saying that these privileged persons will "give employment" to the unprivileged; and that this employment, given by the privileged to the unprivileged, will compensate the latter for the loss of their "*rights.*" And they carry on their lawmaking of this kind to the greatest extent they think is possible, without causing rebellion and revolution, on the part of the injured classes.

Sir, I am sorry to see that you adopt this lawmaking theory to its fullest extent; that although, for once only, and in a dozen words only,—and then merely incidentally,—you describe the government as "a government pledged to do equal and exact justice to all men," you show, throughout the rest of your address, that you have no thought of abiding by that principle; that you are either utterly ignorant, or utterly regardless, of what that principle requires of you; that the government, so far as your influence goes, is to be given up to the business of lawmaking,—that is, to the business of abolishing justice, and establishing injustice in its place; that you hold it to be the proper duty and function of the government to be constantly looking after men's "interests," "welfare," "prosperity," etc., etc., *as distinguished from their rights*; that it must consider men's "rights" as no guide to the promotion of their "interests"; that it must give favors to some, and withhold the same favors from others; that in order to give these favors to some, it must take from others their *rights*; that, in reality, it must traffic in both men's interests and their rights; that it must keep open shop, and sell men's interests and rights to the highest bidders; and that this is your only plan for promoting "the general welfare," "the common interest," etc., etc.

That such is your idea of the constitutional duties and functions of the government, is shown by different parts of your address: but more fully, perhaps, by this:

The large variety of diverse and *competing interests* subject to *federal control, persistently seeking recognition of their claims,* need give us no fear that the greatest good of the greatest [17] number will fail to be accomplished, if, *in*

the halls of national legislation, that spirit of amity and mutual concession shall prevail, in which the constitution had its birth. If this involves the *surrender* or *postponement* of *private interests*, and the *abandonment* of *local advantages*, compensation will be found in the assurance that thus the *common interest* is subserved, and *the general welfare* advanced.

What is all this but saying that the government is not at all an institution for “doing equal and exact justice to all men,” or for the impartial protection of all men’s *rights*; but that it is its proper business to take sides, for and against, a “large variety of diverse and *competing interests*”; that it has this “large variety of diverse and *competing interests*” under its arbitrary “*control*”; that it can, at its pleasure, make such laws as will give success to some of them, and insure the defeat of others; that these “various, diverse, and *competing interests*” will be “*persistently seeking recognition of their claims . . . in the halls of national legislation*,”—that is, will be “persistently” clamoring for laws to be made in their favor; that, in fact, “the halls of national legislation” are to be mere arenas, into which the government actually invites the advocates and representatives of all the selfish schemes of avarice and ambition that unprincipled men can devise; that these schemes will there be free to “*compete*” with each other in their corrupt offers for government favor and support; and that it is to be the proper and ordinary business of the lawmakers to listen to all these schemes; to adopt some of them, and sustain them with all the money and power of the government; and to “postpone,” “abandon,” oppose, and defeat all others; it being well known, all the while, that the lawmakers will, *individually*, favor, or oppose, these various schemes, according to their own irresponsible will, pleasure, and discretion,—that is, according as they can better serve their own personal interests and ambitions by doing the one or the other.

Was a more thorough scheme of national villainy ever invented?

Sir, do you not know that in this conflict, between these “various, diverse, and *competing interests*,” all ideas of individual “*rights*”—all ideas of “equal and exact justice to all men”—will be cast to the winds; that the boldest, the strongest, the most fraudulent, the most rapacious, and the most corrupt, men will have control of the government, and make it a mere instrument for plundering the great body of the people?

Your idea of the real character of the government is plainly this: The lawmakers are to assume absolute and irresponsible “*control*” of all the financial resources, all the legislative, judicial, and executive powers, of the government, and employ them all for the promotion of such schemes of plunder and ambition as they may select from all those that may be submitted to them for their approval; that they are to keep “the halls of national legislation” wide open for the admission of all persons having such schemes to offer; and that they are to grant monopolies, privileges, loans, and bounties to all such of these schemes as they can make [18] subserve their own individual interests and ambitions, and reject or “postpone” all others. And that there is to be no limit to their operations of this kind, except their fear of

exciting rebellion and resistance on the part of the plundered classes.

And you are just fool enough to tell us that such a government as this may be relied on to “accomplish the greatest good to the greatest number,” “to subserve the common interest,” and “advance the general welfare,” “if,” only, “in the halls of national legislation, that spirit of amity and mutual concession shall prevail, in which the constitution had its birth.”

You here assume that “the general welfare” is to depend, not upon the free and untrammelled enterprise and industry of the whole people, acting individually, and each enjoying and exercising all his natural rights; but wholly or principally upon the success of such particular schemes as the government may take under its special “control.” And this means that “the general welfare” is to depend, wholly or principally, upon such privileges, monopolies, loans, and bounties as the government may grant to more or less of that “large variety of diverse and competing *interests*”—that is, schemes—that may be “persistently” pressed upon its attention.

But as you impliedly acknowledge that the government cannot take all these “interests” (schemes) under its “control,” and bestow its favors upon all alike, you concede that some of them must be “surrendered,” “postponed,” or “abandoned”; and that, consequently, the government cannot get on at all, unless, “in the halls of national legislation, that spirit of amity and mutual concession shall prevail, in which the constitution had its birth.”

This “spirit of amity and mutual concession in the halls of legislation,” you explain to mean this: a disposition, on the part of the lawmakers respectively—whose various schemes of plunder cannot all be accomplished, by reason of their being beyond the financial resources of the government, or the endurance of the people—to “surrender” some of them, “postpone” others, and “abandon” others, in order that the general business of robbery may go on to the greatest extent possible, and that each one of the lawmakers may succeed with as many of the schemes he is specially intrusted with, as he can carry through by means of such bargains, for mutual help, as he may be able to make with his fellow lawmakers.

Such is the plan of government, to which you say that you “consecrate” yourself, and “engage your every faculty and effort.”

Was a more shameless avowal ever made?

You cannot claim to be ignorant of what crimes such a government will commit. You have had abundant opportunity to know—and if you have kept your eyes open, you do know—what these schemes of robbery have been in the past; and from these you can judge what they will be in the future.

You know that under such a system, every senator and representative—probably without an exception—will come to the congress as the champion of the dominant scoundrelisms of his own State or district; that he will be elected solely to serve [19] those “interests,” as you call them; that in offering himself as a candidate, he will announce the robbery, or robberies, to which all his efforts will be directed; that he will call these robberies his “policy”; or if he be lost to all decency, he will call them his “principles”; that they will always be such as he thinks will best subserve his own interests, or ambitions; that he will go to “the halls of national legislation” with his head full of plans for making bargains with other lawmakers—as corrupt as himself—for mutual help in carrying their respective schemes.

Such has been the character of our congresses nearly, or quite, from the beginning. It can scarcely be said that there has ever been an honest man in one of them. A man has sometimes gained a reputation for honesty, in his own State or district, by opposing some one or more of the robberies that were proposed by members from other portions of the country. But such a man has seldom, or never, deserved his reputation; for he has, generally, if not always, been the advocate of some one or more schemes of robbery, by which more or less of his own constituents were to profit, and which he knew it would be indispensable that he should advocate, in order to give him votes at home.

If there have ever been any members, who were consistently honest throughout,—who were really in favor of “doing equal and exact justice to all men,”—and, of course, nothing more than that to any,—their numbers have been few; so few as to have left no mark upon the general legislation. They have but constituted the exceptions that proved the rule. If you were now required to name such a lawmaker, I think you would search our history in vain to find him.

That this is no exaggerated description of our national lawmaking, the following facts will prove.

For the first seventy years of the government, one portion of the lawmakers would be satisfied with nothing less than permission to rob one-sixth, or one-seventh, of the whole population, not only of their labor, but even of their right to their own persons. In 1860, this class of lawmakers comprised all the senators and representatives from fifteen, of the then thirty-three, States.[2]

This body of lawmakers, standing always firmly together, and capable of turning the scale for, or against, any scheme of robbery, in which northern men were interested, but on which northern men were divided,—such as navigation acts, tariffs, bounties, grants, war, peace, etc.,—could purchase immunity for their own crime, by supporting such, and so many, northern crimes—second only to their own in atrocity—as could be mutually agreed on.

[20]

In this way the slaveholders bargained for, and secured, protection for slavery and the slave trade, by consenting to such navigation acts as some of the northern States desired, and to such tariffs on imports—such as iron, coal, wool, woollen goods, etc.,—as should enable the home producers of similar articles to make fortunes by robbing everybody else in the prices of their goods.

Another class of lawmakers have been satisfied with nothing less than such a monopoly of money, as should enable the holders of it to suppress, as far as possible, all industry and traffic, except such as they themselves should control; such a monopoly of money as would put it wholly out of the power of the great body of wealth-producers to hire the capital needed for their industries; and thus compel them—especially the mechanical portions of them—by the alternative of starvation—to sell their labor to the monopolists of money, for just such prices as these latter should choose to pay. This monopoly of money has also given, to the holders of it, a control, so nearly absolute, of all industry—agricultural as well as mechanical—and all traffic, as has enabled them to plunder all the producing classes in the prices of their labor, or the products of their labor.

Have you been blind, all these years, to the existence, or the effects, of this monopoly of money?

Still another class of lawmakers have demanded unequal taxation on the various kinds of home property, that are subject to taxation; such unequal taxation as would throw heavy burdens upon some kinds of property, and very light burdens, or no burdens at all, upon other kinds.

And yet another class of lawmakers have demanded great appropriations, or loans, of money, or grants of lands, to enterprises intended to give great wealth to a few, at the expense of everybody else.

These are some of the schemes of downright and outright robbery, which you mildly describe as “the large variety of diverse and competing interests, *subject to federal control*, persistently seeking recognition of their claims in the halls of national legislation”; and each having its champions and representatives among the lawmakers.

You know that all, or very nearly all, the legislation of congress is devoted to these various schemes of robbery; and that little, or no, legislation goes through, except by means of such bargains as these lawmakers may enter into with each other, for mutual support of their respective robberies. And yet you have the mendacity, or the stupidity, to tell us that so much of this legislation as does go through, may be relied on to “accomplish the greatest good to the greatest number,” to “subserve the common interest,” and “advance the general welfare.”

And when these schemes of robbery become so numerous, atrocious, and unendurable that they can no longer be reconciled “in the halls of national legislation,” by “surrendering” some of them, “postponing” others, and “abandoning” others, you assume—for such has been the prevailing opinion, and you say nothing to [21] the contrary—that it is the right of the strongest party, or parties, to murder a half million of men, if that be necessary,—and as we once did,—not to secure liberty or justice to any body,—but to compel the weaker of these would-be robbers to submit to all such robberies as the stronger ones may choose to practise upon them.

SECTION X.

Sir, your idea of the true character of our government is plainly this: you assume that all the natural, inherent, inalienable, individual, *human* rights of fifty millions of people—all their individual rights to preserve their own lives, and promote their own happiness—have been thrown into one common heap,—into hotchpotch, as the lawyers say: and that this hotchpotch has been given into the hands of some four hundred champion robbers, each of whom has pledged himself to carry off as large a portion of it as possible, to be divided among those men—well known to himself, but who—to save themselves from all responsibility for his acts—have secretly (by secret ballot) appointed him to be their champion.

Sir, if you had assumed that all the people of this country had thrown all their wealth, all their rights, all their means of living, into hotchpotch; and that this hotchpotch had been given over to four hundred ferocious hounds; and that each of these hounds had been selected and trained to bring to his masters so much of this common plunder as he, in the general fight, or scramble, could get off with, you would scarcely have drawn a more vivid picture of the true character of the government of the United States, than you have done in your inaugural address.

No wonder that you are obliged to confess that such a government can be carried on only “amid the din of party strife”; that it will be influenced—you should have said *directed* —by “purely partisan zeal”; and that it will be attended by “the animosities of political strife, the bitterness of partisan defeat, and the exultation of partisan triumph.”

What gang of robbers, quarrelling over the division of their plunder, could exhibit a more shameful picture than you thus acknowledge to be shown by the government of the United States?

Sir, nothing of all this “din,” and “strife,” and “animosity,” and “bitterness,” is caused by any attempt, on the part of the government, to simply “do equal and exact justice to all men,” —to simply protect every man impartially in all his natural rights to life, liberty, and property. It is all caused simply and solely by the government’s violation of some men’s

“rights,” to promote other men’s “interests.” If you do not know this, you are mentally an object of pity.

Sir, men’s “rights” are always harmonious. That is to say, each man’s “rights” are always consistent and harmonious with each and every other man’s “rights.” But their “interests,” as you estimate them, constantly clash; especially such [22] “interests” as depend on government grants of monopolies, privileges, loans, and bounties. And these “interests,” like the interests of other gamblers, clash with a fury proportioned to the amounts at stake. It is these clashing “interests,” and not any clashing “rights,” that give rise to all the strife you have here depicted, and to all this necessity for “that spirit of amity and mutual concession,” which you hold to be indispensable to the accomplishment of such legislation as you say is necessary to the welfare of the country.

Each and every man’s “rights” being consistent and harmonious with each and every other man’s “rights”; and all men’s rights being immutably fixed, and easily ascertained, by a science that is open to be learned and known by all; a government that does nothing but “equal and exact justice to all men”—that simply gives to every man his own, and nothing more to any—has no cause and no occasion for any “political parties.” What are these “political parties” but standing armies of robbers, each trying to rob the other, and to prevent being itself robbed by the other? A government that seeks only to “do equal and exact justice to all men,” has no cause and no occasion to enlist all the fighting men in the nation in two hostile ranks; to keep them always in battle array, and burning with hatred towards each other. It has no cause and no occasion for any “political warfare,” any “political hostility,” any “political campaigns,” any “political contests,” any “political fights,” any “political defeats,” or any “political triumphs.” It has no cause and no occasion for any of those “political leaders,” so called, whose whole business is to invent new schemes of robbery, and organize the people into opposing bands of robbers; all for their own aggrandizement alone. It has no cause and no occasion for the toleration, or the existence, of that vile horde of political bullies, and swindlers, and blackguards, who enlist on one side or the other, and fight for pay; who, year in and year out, employ their lungs and their ink in spreading lies among ignorant people, to excite their hopes of gain, or their fears of loss, and thus obtain their votes. In short, it has no cause and no occasion for all this “din of party strife,” for all this “purely partisan zeal,” for all “the bitterness of partisan defeat,” for all “the exultation of partisan triumph,” nor, worst of all, for any of “that spirit of amity and mutual concession [by which you evidently mean that readiness, “in the halls of national legislation,” to sacrifice some men’s “rights” to promote other men’s “interests”] in which [you say] the constitution had its birth.”

If the constitution does really, or naturally, give rise to all this “strife,” and require all this “spirit of amity and mutual concession,”—and I do not care now to deny that it does,—so much the worse for the constitution. And so much the worse for all those men who, like

yourself, swear to “preserve, protect, and defend it.”

And yet you have the face to make no end of professions, or pretences, that the impelling power, the real motive, in all this robbery and strife, is nothing else [23] than “the service of the people,” “their interests,” “the promotion of their welfare,” “good government,” “government by the people,” “the popular will,” “the general weal,” “the achievements of our national destiny,” “the benefits which our happy form of government can bestow,” “the lasting welfare of the country,” “the priceless benefits of the constitution,” “the greatest good to the greatest number,” “the common interest,” “the general welfare,” “the people’s will,” “the mission of the American people,” “our civil policy,” “the genius of our institutions,” “the needs of our people in their home life,” “the settlement and development of the resources of our vast territory,” “the prosperity of our republic,” “the interests and prosperity of all the people,” “the safety and confidence of business interests,” “making the wage of labor sure and steady,” “a due regard to the interests of capital invested and workingmen employed in American industries,” “reform in the administration of the government,” “the application of business principles to public affairs,” “the constant and ever varying wants of an active and enterprising population,” “a firm determination to secure to all the people of the land the full benefits of the best form of government ever vouchsafed to man,” “the blessings of our national life,” etc., etc.

Sir, what is the use of such a deluge of unmeaning words, unless it be to gloss over, and, if possible, hide, the true character of the acts of the government?

Such “generalities” as these do not even “glitter.” They are only the stale phrases of the demagogue, who wishes to appear to promise everything, but commits himself to nothing. Or else they are the senseless talk of a mere political parrot, who repeats words he has been taught to utter, without knowing their meaning. At best, they are the mere gibberish of a man destitute of all political ideas, but who imagines that “good government,” “the general welfare,” “the common interest,” “the best form of government ever vouchsafed to man,” etc., etc., must be very good things, if anybody can ever find out what they are. There is nothing definite, nothing real, nothing tangible, nothing honest, about them. Yet they constitute your entire stock in trade. In resorting to them—in holding them up to public gaze as comprising your political creed—you assume that they have a meaning; that they are matters of overruling importance; that they require the action of an omnipotent, irresponsible, lawmaking government; that all these “interests” must be represented, and can be secured, only “in the halls of national legislation”; and by such political hounds as have been selected and trained, and sent there, solely that they may bring off, to their respective masters, as much as possible of the public plunder they hold in their hands; that is, as much as possible of the earnings of all the honest wealth-producers of the country.

And when these masters count up the spoils that their hounds have thus brought home to them, they set up a corresponding shout that “the public prosperity,” “the common interest,” and “the general welfare” have been “advanced.” And the scoundrels by whom the work has been accomplished, “in the halls of national [24] legislation,” are trumpeted to the world as “great statesmen.” And you are just stupid enough to be deceived into the belief, or just knave enough to pretend to be deceived into the belief, that all this is really the truth.

One would infer from your address that you think the people of this country incapable of doing anything for themselves, *individually*; that they would all perish, but for the employment given them by that “large variety of diverse and competing interests”—that is, such purely selfish schemes—as may be “persistently seeking recognition of their claims in the halls of national legislation,” and secure for themselves such monopolies and advantages as congress may see fit to grant them.

Instead of your recognizing the right of each and every individual to judge of, and provide for, his own well-being, according to the dictates of his own judgment, and by the free exercise of his own powers of body and mind,—so long as he infringes the equal rights of no other person,—you assume that fifty millions of people, who never saw you, and never will see you, who know almost nothing about you, and care very little about you, are all so weak, ignorant, and degraded as to be humbly and beseechingly looking to you—and to a few more lawmakers (so called) whom they never saw, and never will see, and of whom they know almost nothing—to enlighten, direct, and “*control*” them in their daily labors to supply their own wants, and promote their own happiness!

You thus assume that these fifty millions of people are so debased, mentally and morally, that they look upon you and your associate lawmakers as their earthly gods, holding their destinies in your hands, and anxiously studying their welfare; instead of looking upon you—as most of you certainly ought to be looked upon—as a mere cabal of ignorant, selfish, ambitious, rapacious, and unprincipled men, who know very little, and care to know very little, except how you can get fame, and power, and money, by trampling upon other men’s rights, and robbing them of the fruits of their labor.

Assuming yourself to be the greatest of these gods, charged with the “welfare” of fifty millions of people, you enter upon the mighty task with all the mock solemnity, and ridiculous grandiloquence, of a man ignorant enough to imagine that he is really performing a solemn duty, and doing an immense public service, instead of simply making a fool of himself. Thus you say:

Fellow citizens: In the presence of this vast assemblage of my countrymen, I am about to supplement and seal, by the oath which I shall take, the manifestation of the will of a great and free people. In the exercise of their power and right of self-government, they have committed to one of their fellow citizens

a supreme and sacred trust, and he here consecrates himself to their service. This impressive ceremony adds little to the solemn sense of responsibility with which I contemplate the duty I owe to all the people of the land. Nothing can relieve me from anxiety lest by any act of mine their *interests* [not their *rights*] may suffer, and nothing is needed to strengthen my resolution to engage every faculty and effort in the [25] promotion of their *welfare*. [Not in “doing equal and exact justice to all men.” After having once described the government as one “pledged to do equal and exact justice to all men,” you drop that subject entirely, and wander off into “interests,” and “welfare,” and an astonishing number of other equally unmeaning things.]

Sir, you would have no occasion to take all this tremendous labor and responsibility upon yourself, if you and your lawmakers would but keep your hands off the “*rights*” of your “countrymen.” Your “countrymen” would be perfectly competent to take care of their own “*interests*,” and provide for their own “*welfare*,” if their hands were not tied, and their powers crippled, by such fetters as men like you and your lawmakers have fastened upon them.

Do you know so little of your “countrymen,” that you need to be told that their own strength and skill must be their sole reliance for their own well-being? Or that they are abundantly able, and willing, and anxious above all other things, to supply their own “needs in their home life,” and secure their own “welfare”? Or that they would do it, not only without jar or friction, but as their highest duty and pleasure, if their powers were not manacled by the absurd and villainous laws you propose to execute upon them? Are you so stupid as to imagine that putting chains on men’s hands, and fetters on their feet, and insurmountable obstacles in their paths, is the way to supply their “needs,” and promote their “welfare”? Do you think your “countrymen” need to be told, either by yourself, or by any such gang of ignorant or unprincipled men as all lawmakers are, what to do, and what not to do, to supply their own “needs in their home life”? Do they not know how to grow their own food, make their own clothing, build their own houses, print their own books, acquire all the knowledge, and create all the wealth, they desire, without being domineered over, and thwarted in all their efforts, by any set of either fools or villains, who may call themselves their lawmakers? And do you think they will never get their eyes open to see what blockheads, or impostors, you and your lawmakers are? Do they not now—at least so far as you will permit them to do it—grow their own food, build their own houses, make their own clothing, print their own books? Do they not make all the scientific discoveries and mechanical inventions, by which all wealth is created? *Or are all these things done by “the government”?* Are you an idiot, that you can talk as you do, about what you and your lawmakers are doing to provide for the real wants, and promote the real “welfare,” of fifty millions of people?

SECTION XI. ↩

But perhaps the most brilliant idea in your whole address, is this:

Every citizen owes the country a vigilant watch and close scrutiny of its public servants, and a fair and reasonable estimate of their fidelity and usefulness. Thus is the people's will [26] impressed upon the whole framework of our civil policy, municipal, State, and federal; and this is the price of our liberty, and the inspiration of our faith in the republic.

The essential parts of this declaration are these:

"Every citizen owes the country a vigilant watch and close scrutiny of its public servants, and this is the price of our liberty."

Who are these "public servants," that need all this watching? Evidently they are the lawmakers, and the lawmakers only. They are not only the *chief* "public servants," but they are absolute masters of all the other "public servants." These other "public servants," judicial and executive,—the courts, the army, the navy, the collectors of taxes, etc., etc.,—have no function whatever, except that of simple obedience to the lawmakers. They are appointed, paid, and have their duties prescribed to them, by the lawmakers; and are made responsible only to the lawmakers. They are mere puppets in the hands of the lawmakers. Clearly, then, the lawmakers are the only ones we have any occasion to watch.

Your declaration, therefore, amounts, practically, to this, and this only:

Every citizen owes the country a vigilant watch and close scrutiny of ITS LAWMAKERS, and this is the price of our liberty.

Sir, your declaration is so far true, as that all the danger to "our liberty" *comes solely from the lawmakers.*

And why are the lawmakers dangerous to "our liberty"? Because it is a natural impossibility that they can *make* any law—that is, any law of their own invention—that does *not* violate "our liberty."

The law of justice is the one only law that does not violate "our liberty." And that is not a law that was made by the lawmakers. It existed before they were born, and will exist after they are dead. It derives not one particle of its authority from any commands of theirs. It is, therefore, in no sense, one of their laws. Only laws of their own invention are their laws. And as it is naturally impossible that they can invent any law of their own, that shall not conflict with the law of justice, it is naturally impossible that they can make a law—that is, a law of their own invention—that shall not violate "our liberty."

The law of justice is the precise measure, and the only precise measure, of the rightful "liberty" of each and every human being. Any law—made by lawmakers—that should give to any man more liberty than is given him by the law of justice, would be a license to commit an injustice upon one or more other persons. On the other hand, any law—made by

lawmakers—that should take from any human being any “liberty” that is given him by the law of justice, would be taking from him a part of his own rightful “liberty.”

Inasmuch, then, as every possible law, that can be made by lawmakers, must either give to some one or more persons more “liberty” than the law of nature—or the law of justice—gives them, and more “liberty” than is consistent with the natural and equal “liberty” of all other persons; or else must take from some one [27] or more persons some portion of that “liberty” which the law of nature—or the law of justice—gives to every human being, it is inevitable that every law, that can be made by lawmakers, must be a violation of the natural and rightful “liberty” of some one or more persons.

Therefore the very idea of a *lawmaking* government—a government that is to make laws of its own invention—is necessarily in direct and inevitable conflict with “our liberty.” In fact, the whole, sole, and only real purpose of any *lawmaking* government whatever is to take from some one or more persons their “liberty.” Consequently the only way in which all men can preserve their “liberty,” is not to have any *lawmaking* government at all.

We have been told, time out of mind, that “*Eternal vigilance is the price of liberty.*” But this admonition, by reason of its indefiniteness, has heretofore fallen dead upon the popular mind. It, in reality, tells us nothing that we need to know, to enable us to preserve “our liberty.” It does not even tell us what “our liberty” is, or how, or when, or through whom, it is endangered, or destroyed.

1. It does not tell us that *individual* liberty is the only *human* liberty. It does not tell us that “national liberty,” “political liberty,” “republican liberty,” “democratic liberty,” “constitutional liberty,” “liberty under law,” and all the other kinds of liberty that men have ever invented, and with which tyrants, as well as demagogues, have amused and cheated the ignorant, are not liberty at all, unless in so far as they may, under certain circumstances, have chanced to contribute something to, or given some impulse toward, *individual* liberty.

2. It does not tell us that *individual* liberty means freedom from all compulsion to do anything whatever, except what justice requires us to do, and freedom to do everything whatever that justice permits us to do. It does not tell us that individual liberty means freedom from all human restraint or coercion whatsoever, so long as we “live honestly, hurt nobody, and give to every one his due.”

3. It does not tell us that there is any *science of liberty*; any science, which every man may learn, and by which every man may know, what is, and what is not, his own, and every other man’s, rightful “liberty.”

4. It does not tell us that this right of individual liberty rests upon an immutable, natural principle, which no human power can make, unmake, or alter; nor that all human authority, that claims to set it aside, or modify it, is nothing but falsehood, absurdity, usurpation,

tyranny, and crime.

5. It does not tell us that this right of individual liberty is a *natural, inherent, inalienable right; that therefore no man can part with it, or delegate it to another, if he would*; and that, consequently, all the claims that have ever been made, by governments, priests, or any other powers, that individuals have voluntarily surrendered, or “delegated,” their liberty to others, are all impostures and frauds.

6. It does not tell us that all human laws, so called, and all human lawmaking,—all commands, either by one man, or any number of men, calling themselves a [28] government, or by any other name—requiring any individual to do this, or forbidding him to do that—so long as he “lives honestly, hurts no one, and gives to every one his due”—are all false and tyrannical assumptions of a right of authority and dominion over him; are all violations of his natural, inherent, inalienable, rightful, individual liberty; and, as such, are to be resented and resisted to the utmost, by every one who does not choose to be a slave.

7. And, finally, it does not tell us that all *lawmaking* governments whatsoever—whether called monarchies, aristocracies, republics, democracies, or by any other name—are all alike violations of men’s natural and rightful liberty.

We can now see why lawmakers are the only enemies, from whom “our liberty” has anything to fear, or whom we have any occasion to watch. They are to be watched, because they claim the right to abolish justice, and establish injustice in its stead; because they claim the right to command us to do things which justice does not require us to do, and to forbid us to do things which justice permits us to do; because they deny our right to be, *individually, and absolutely*, our own masters and owners, so long as we obey the one law of justice towards all other persons; because they claim to be our masters, and that *their* commands, *as such*, are authoritative and binding upon us as law; and that they may rightfully compel us to obey them.

“Our liberty” is in danger only from the lawmakers, because it is only through the agency of lawmakers, that anybody pretends to be able to take away “our liberty.” It is only the lawmakers that claim to be above all responsibility for taking away “our liberty.” Lawmakers are the only ones who are impudent enough to assert for themselves the right to take away “our liberty.” They are the only ones who are impudent enough to tell us that we have voluntarily surrendered “our liberty” into their hands. They are the only ones who have the insolent condescension to tell us that, in consideration of our having surrendered into their hands “our liberty,” and all our natural, inherent, inalienable rights as human beings, they are disposed to give us, in return, “good government,” “the best form of government ever vouchsafed to man”; to “protect” us, to provide for our “welfare,” to promote our “interests,” etc., etc.

And yet you are just blockhead enough to tell us that if “Every citizen”—fifty millions and more of them—will but keep “a vigilant watch and close scrutiny” upon these lawmakers, “our liberty” may be preserved!

Don’t you think, sir, that you are really the wisest man that ever told “a great and free people” how they could preserve “their liberty”?

To be entirely candid, don’t you think, sir, that a surer way of preserving “our liberty” would be to have no lawmakers at all?

[29]

SECTION XII.

But, in spite of all I have said, or, perhaps, can say, you will probably persist in your idea that the world needs a great deal of lawmaking; that mankind in general are not entitled to have any will, choice, judgment, or conscience of their own; that, if not very wicked, they are at least very ignorant and stupid; that they know very little of what is for their own good, or how to promote their own “interests,” “welfare,” or “prosperity”; that it is therefore necessary that they should be put under guardianship to lawmakers; that these lawmakers, being a very superior race of beings,—wise beyond the rest of their species,—and entirely free from all those selfish passions which tempt common mortals to do wrong,—must be intrusted with absolute and irresponsible dominion over the less favored of their kind; must prescribe to the latter, authoritatively, what they may, and may not, do; and, in general, manage the affairs of this world according to their discretion, free of all accountability to any human tribunals.

And you seem to be perfectly confident that, under this absolute and irresponsible dominion of the lawmakers, the affairs of this world will be rightly managed; that the “interests,” “welfare,” and “prosperity” of “a great and free people” will be properly attended to; that “the greatest good of the greatest number” will be accomplished, etc., etc.

And yet you hold that all this lawmaking, and all this subjection of the great body of the people to the arbitrary, irresponsible dominion of the lawmakers, will not interfere at all with “our liberty,” if only “every citizen” will but keep “a vigilant watch and close scrutiny” of the lawmakers.

Well, perhaps this is all so; although this subjection to the arbitrary will of any man, or body of men, whatever, and under any pretence whatever, seems, on the face of it, to be much more like slavery, than it does like “liberty.”

If, therefore, you really intend to continue this system of lawmaking, it seems indispensable that you should explain to us what you mean by the term “our liberty.”

So far as your address gives us any light on the subject, you evidently mean, by the term “our liberty,” just such, and only such, “liberty,” as the lawmakers may see fit to allow us to have.

You seem to have no conception of any other “liberty” whatever.

You give us no idea of any other “liberty” that we can secure to ourselves, even though “every citizen”—fifty millions and more of them—shall all keep “a vigilant watch and close scrutiny” upon the lawmakers.

Now, inasmuch as the human race always have had all the “liberty” their lawmakers have seen fit to permit them to have; and inasmuch as, under your system of lawmaking, they always will have as much “liberty” as their lawmakers shall see fit to give them; and inasmuch as you apparently concede the right, which the [30] lawmakers have always claimed, of killing all those who are not content with so much “liberty” as their lawmakers have seen fit to allow them,—it seems very plain that you have not added anything to our stock of knowledge on the subject of “our liberty.”

Leaving us thus, as you do, in as great darkness as we ever were, on this all-important subject of “our liberty,” I think you ought to submit patiently to a little questioning on the part of those of us, who feel that all this lawmaking—each and every separate particle of it—is a violation of “our liberty.”

Will you, therefore, please tell us whether any, and, if any, how much, of that *natural* liberty—of that natural, inherent, inalienable, *individual* right to liberty—with which it has generally been supposed that God, or Nature, has endowed every human being, will be left to us, if the lawmakers are to continue, as you would have them do, the exercise of their arbitrary, irresponsible dominion over us?

Are you prepared to answer that question?

No. You appear to have never given a thought to any such question as that.

I will therefore answer it for you.

And my answer is, that from the moment it is conceded that any man, or body of men, whatever, under any pretence whatever, have the right to *make laws of their own invention*, and compel other men to obey them, every vestige of man’s *natural* and rightful liberty is denied him.

That this is so is proved by the fact that *all* a man’s *natural* rights stand upon one and the same basis, *viz.*, that they are the gift of God, or Nature, to him, *as an individual*, for his own uses, and for his own happiness. If any one of these natural rights may be arbitrarily taken from him by other men, *all* of them may be taken from him on the same reason. No one of

these rights is any more sacred or inviolable in its nature, than are all the others. The denial of any one of these rights is therefore equivalent to a denial of all the others. The violation of any one of these rights, by lawmakers, is equivalent to the assertion of a right to violate all of them.

Plainly, unless *all* a man's natural rights are inviolable by lawmakers, *none* of them are. It is an absurdity to say that a man has any rights *of his own*, if other men, whether calling themselves a government, or by any other name, have the right to take them from him, without his consent. Therefore the very idea of a lawmaking government necessarily implies a denial of all such things as individual liberty, or individual rights.

From this statement it does not follow that every lawmaking government will, in practice, take from every man *all* his natural rights. It will do as it pleases about it. It will take some, leaving him to enjoy others, just as its own pleasure or discretion shall dictate at the time. It would defeat its own ends, if it were wantonly to take away *all* his natural rights,—as, for example, his right to live, and to breathe,—for then he would be dead, and the government could then get [31] nothing more out of him. The most tyrannical government will, therefore, if it have any sense, leave its victims enough liberty to enable them to provide for their own subsistence, to pay their taxes, and to render such military or other service as the government may have need of. *But it will do this for its own good, and not for theirs.* In allowing them this liberty, it does not at all recognize their right to it, but only consults its own interests.

Now, sir, this is the real character of the government of the United States, as it is of all other *lawmaking* governments. There is not a single human right, which the government of the United States recognizes as inviolable. It tramples upon any and every individual right, whenever its own will, pleasure, or discretion shall so dictate. It takes men's property, liberty, and lives whenever it can serve its own purposes by doing so.

All these things prove that the government does not exist at all for the protection of men's *rights*; but that it absolutely denies to the people any rights, or any liberty, whatever, except such as it shall see fit to permit them to have for the time being. It virtually declares that it does not itself exist at all for the good of the people, but that the people exist solely for the use of the government.

All these things prove that the government is not one voluntarily established and sustained by the people, for the protection of their natural, inherent, individual rights, but that it is merely a government of usurpers, robbers, and tyrants, who claim to own the people as their slaves, and claim the right to dispose of them, and their property, at their (the usurpers') pleasure or discretion.

Now, sir, since you may be disposed to deny that such is the real character of the government, I propose to prove it, by evidences so numerous and conclusive that you cannot dispute them.

My proposition, then, is, that there is not a single *natural*, human right, that the government of the United States recognizes as inviolable; that there is not a single *natural*, human right, that it hesitates to trample under foot, whenever it thinks it can promote its own interests by doing so.

The proofs of this proposition are so numerous, that only a few of the most important can here be enumerated.

1. The government does not even recognize a man's natural right to his own life. If it have need of him, for the maintenance of its power, it takes him, against his will (conscripts him), and puts him before the cannon's mouth, to be blown in pieces, as if he were a mere senseless thing, having no more *rights* than if he were a shell, a canister, or a torpedo. It considers him simply as so much senseless war material, to be consumed, expended, and destroyed for the maintenance of its power. It no more recognizes his right to have anything to say in the matter, than if he were but so much weight of powder or ball. It does not recognize him at all as a human being, having any rights whatever of his own, but only as an instrument, a weapon, or a machine, to be used in killing other men.

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2. The government not only denies a man's right, as a moral human being, to have any will, any judgment, or any conscience of his own, as to whether he himself will be killed in battle, but it equally denies his right to have any will, any judgment, or any conscience of his own, as a moral human being, as to whether he shall be used as a mere weapon for killing other men. If he refuses to kill any, or all, other men, whom it commands him to kill, it takes his own life, as unceremoniously as if he were but a dog.

Is it possible to conceive of a more complete denial of all a man's *natural*, *human* rights, than is the denial of his right to have any will, judgment, or conscience of his own, either as to his being killed himself, or as to his being used as a mere weapon for killing other men?

3. But in still another way, than by its conscriptions, the government denies a man's right to any will, choice, judgment, or conscience of his own, in regard either to being killed himself, or used as a weapon in its hands for killing other people.

If, in private life, a man enters into a perfectly voluntary agreement to work for another, at some innocent and useful labor, for a day, a week, a month, or a year, he cannot lawfully be compelled to fulfil that contract; because such compulsion would be an acknowledgment of his right to sell his own liberty. And this is what no one can do.

This right of personal liberty is inalienable. No man can sell it, or transfer it to another; or give to another any right of arbitrary dominion over him. All contracts for such a purpose are absurd and void contracts, that no man can rightfully be compelled to fulfil.

But when a deluded or ignorant young man has once been enticed into a contract to kill others, and to take his chances of being killed himself, in the service of the government, for any given number of years, the government holds that such a contract to sell his liberty, his judgment, his conscience, and his life, is a valid and binding contract; and that if he fails to fulfil it, he may rightfully be shot.

All these things prove that the government recognizes no right of the individual, to his own life, or liberty, or to the exercise of his own will, judgment, or conscience, in regard to his killing his fellow-men, or to being killed himself, if the government sees fit to use him as mere war material, in maintaining its arbitrary dominion over other human beings.

4. The government recognizes no such thing as any *natural* right of property, on the part of individuals.

This is proved by the fact that it takes, for its own uses, any and every man's property—when it pleases, and as much of it as it pleases—without obtaining, or even asking, his consent.

This taking of a man's property, without his consent, is a denial of his right of property; for the right of property is the right of supreme, absolute, and irresponsible dominion over anything that is naturally a subject of property,—that is, of [33] ownership. *It is a right against all the world.* And this right of property—this right of supreme, absolute, and irresponsible dominion over anything that is naturally a subject of ownership—is subject only to this qualification, *viz.*, that each man must so use his own, as not to injure another.

If A uses his own property so as to injure the person or property of B, his own property may rightfully be taken to any extent that is necessary to make reparation for the wrong he has done.

This is the only qualification to which the *natural* right of property is subject.

When, therefore, a government takes a man's property, for its own support, or for its own uses, without his consent, it practically denies his right of property altogether; for it practically asserts that *its* right of dominion is superior to his.

No man can be said to have any right of property at all, in any thing—that is, any right of supreme, absolute, and irresponsible dominion over any thing—of which any other men may rightfully deprive him at their pleasure.

Now, the government of the United States, in asserting its right to take at pleasure the property of individuals, without their consent, virtually denies their right of property altogether, because it asserts that *its* right of dominion over it, is superior to theirs.

5. The government denies the *natural* right of human beings to live on this planet. This it does by denying their *natural* right to those things that are indispensable to the maintenance of life. It says that, for every thing necessary to the maintenance of life, they must have a special permit from the government; and that the government cannot be required to grant them any other means of living than it chooses to grant them.

All this is shown as follows, *viz.*:

The government denies the *natural* right of individuals to take possession of wilderness land, and hold and cultivate it for their own subsistence.

It asserts that wilderness land is the property of the government; and that individuals have no right to take possession of, or cultivate, it, unless by special grant of the government. And if an individual attempts to exercise this natural right, the government punishes him as a trespasser and a criminal.

The government has no more right to claim the ownership of wilderness lands, than it has to claim the ownership of the sunshine, the water, or the atmosphere. And it has no more right to punish a man for taking possession of wilderness land, and cultivating it, without the consent of the government, than it has to punish him for breathing the air, drinking the water, or enjoying the sunshine, without a special grant from the government.

In thus asserting the government's right of property in wilderness land, and in denying men's right to take possession of and cultivate it, except on first obtaining a grant from the government,—which grant the government may withhold if it pleases,—the government plainly denies the *natural* right of men to live on this [34] planet, by denying their *natural* right to the means that are indispensable to their procuring the food that is necessary for supporting life.

In asserting its right of arbitrary dominion over that natural wealth that is indispensable to the support of human life, it asserts its right to withhold that wealth from those whose lives are dependent upon it. In this way it denies the *natural* right of human beings to live on the planet. It asserts that government owns the planet, and that men have no right to live on it, except by first getting a permit from the government.

This denial of men's *natural* right to take possession of and cultivate wilderness land is not altered at all by the fact that the government consents to sell as much land as it thinks it expedient or profitable to sell; nor by the fact that, in certain cases, it gives outright certain lands to certain persons. Notwithstanding these sales and gifts, the fact remains that the

government claims the original ownership of the lands; and thus denies the *natural* right of individuals to take possession of and cultivate them. In denying this *natural* right of individuals, it denies their *natural* right to live on the earth; and asserts that they have no other right to life than the government, by its own mere will, pleasure, and discretion, may see fit to grant them.

In thus denying man's *natural* right to life, it of course denies every other *natural* right of human beings; and asserts that they have no *natural* right to anything; but that, for all other things, as well as for life itself, they must depend wholly upon the good pleasure and discretion of the government.

SECTION XIII. [↩](#)

In still another way, the government denies men's *natural* right to life. And that is by denying their *natural* right to make any of those contracts with each other, for buying and selling, borrowing and lending, giving and receiving, property, which are necessary, if men are to exist in any considerable numbers on the earth.

Even the few savages, who contrive to live, mostly or wholly, by hunting, fishing, and gathering wild fruits, without cultivating the earth, and almost wholly without the use of tools or machinery, are yet, *at times*, necessitated to buy and sell, borrow and lend, give and receive, articles of food, if no others, as their only means of preserving their lives. But, in civilized life, where but a small portion of men's labor is necessary for the production of food, and they employ themselves in an almost infinite variety of industries, and in the production of an almost infinite variety of commodities, it would be impossible for them to live, if they were wholly prohibited from buying and selling, borrowing and lending, giving and receiving, the products of each other's labor.

Yet the government of the United States—either acting separately, or jointly [35] with the State governments—has heretofore constantly denied, and still constantly denies, the *natural* right of the people, *as individuals*, to make their own contracts, for such buying and selling, borrowing and lending, and giving and receiving, such commodities as they produce for each other's uses.

I repeat that both the national and State governments have constantly denied the *natural* right of individuals to make their own contracts. They have done this, sometimes by arbitrarily forbidding them to make particular contracts, and sometimes by arbitrarily qualifying the obligations of particular contracts, when the contracts themselves were naturally and intrinsically as just and lawful as any others that men ever enter into; and were, consequently, such as men have as perfect a *natural* right to make, as they have to make any of those contracts which they are permitted to make.

The laws arbitrarily prohibiting, or arbitrarily qualifying, certain contracts, that are naturally and intrinsically just and lawful, are so numerous, and so well known, that they need not all be enumerated here. But any and all such prohibitions, or qualifications, are a denial of men's *natural* right to make their own contracts. They are a denial of men's right to make any contracts whatever, except such as the governments shall see fit to permit them to make.

It is the *natural* right of any and all human beings, who are mentally competent to make reasonable contracts, to make any and every possible contract, that is naturally and intrinsically just and honest, for buying and selling, borrowing and lending, giving and receiving, any and all possible commodities, that are naturally vendible, loanable, and transferable, and that any two or more individuals may, at any time, without force or fraud, choose to buy and sell, borrow and lend, give and receive, of and to each other.

And it is plainly only by the untrammelled exercise of this *natural* right, that all the loanable capital, that is required by men's industries, can be lent and borrowed, or that all the money can be supplied for the purchase and sale of that almost infinite diversity and amount of commodities, that men are capable of producing, and that are to be transferred from the hands of the producers to those of the consumers.

But the government of the United States—and also the governments of the States—utterly deny the *natural* right of any individuals whatever to make any contracts whatever, for buying and selling, borrowing and lending, giving and receiving, any and all such commodities, as are naturally vendible, loanable, and transferable, and as the producers and consumers of such commodities may wish to buy and sell, borrow and lend, give and receive, of and to each other.

These governments (State and national) deny this *natural* right of buying and selling, etc., by arbitrarily prohibiting, or qualifying, all such, and so many, of these contracts, as they choose to prohibit, or qualify.

The prohibition, or qualification, of *any one* of these contracts—that are intrinsically [36] just and lawful—is a denial of all individual *natural* right to make any of them. For the right to make any and all of them stands on the same grounds of *natural* law, natural justice, and men's natural rights. If a government has the right to prohibit, or qualify, any one of these contracts, it has the same right to prohibit, or qualify, all of them. Therefore the assertion, by the government, of a right to prohibit, or qualify, any one of them, is equivalent to a denial of all *natural* right, on the part of individuals, to make any of them.

The power that has been thus usurped by governments, to arbitrarily prohibit or qualify all contracts that are naturally and intrinsically just and lawful, has been the great, perhaps the greatest, of all the instrumentalities, by which, in this, as in other countries, nearly all the

wealth, accumulated by the labor of the many, has been, and is now, transferred into the pockets of the few.

It is by this arbitrary power over contracts, that the monopoly of money is sustained. Few people have any real perception of the power, which this monopoly gives to the holders of it, over the industry and traffic of all other persons. And the one only purpose of the monopoly is to enable the holders of it to rob everybody else in the prices of their labor, and the products of their labor.

The theory, on which the advocates of this monopoly attempt to justify it, is simply this: *That it is not at all necessary that money should be a bona fide equivalent of the labor or property that is to be bought with it;* that if the government will but specially license a small amount of money, and prohibit all other money, the holders of the licensed money will then be able to buy with it the labor and property of all other persons for a half, a tenth, a hundredth, a thousandth, or a millionth, of what such labor and property are really and truly worth.

David A. Wells, one of the most prominent—perhaps at this time, the most prominent—advocate of the monopoly, in this country, states the theory thus:

A three-cent piece, if it could be divided into a sufficient number of pieces, with each piece capable of being handled, would undoubtedly suffice for doing all the business of the country in the way of facilitating exchanges, if no other better instrumentality was available.— *New York Herald*, February 13, 1875.

He means here to say, that “a three-cent piece” contains *as much real, true, and natural market value*, as it would be necessary that all the money of the country should have, *if the government would but prohibit all other money*; that is, if the government, by its arbitrary legislative power, would but make all other and better money unavailable.

And this is the theory, on which John Locke, David Hume, Adam Smith, David Ricardo, J. R. McCulloch, and John Stuart Mill, in England, and Amasa Walker, Charles H. Carroll, Hugh McCulloch, in this country, and all the other conspicuous advocates of the monopoly, both in this country and in England, have attempted to justify it. They have all held that it was not necessary that money should be [37] a *bona fide* equivalent of the labor or property to be bought with it; but that, by the prohibition of all other money, the holders of a comparatively worthless amount of licensed money would be enabled to buy, at their own prices, the labor and property of all other men.

And this is the theory on which the governments of England and the United States have always, with immaterial exceptions, acted, in prohibiting all but such small amounts of money as they (the governments) should specially license. *And it is the theory upon which they act now.* And it is so manifestly a theory of pure robbery, that scarce a word can be

necessary to make it more evidently so than it now is.

But inasmuch as your mind seems to be filled with the wildest visions of the excellency of this government, and to be strangely ignorant of its wrongs; and inasmuch as this monopoly of money is, in its practical operation, one of the greatest—possibly the greatest—of all these wrongs, and the one that is most relied upon for robbing the great body of the people, and keeping them in poverty and servitude, it is plainly important that you should have your eyes opened on the subject. I therefore submit, for your consideration, the following self-evident propositions:

1. That to make all traffic just and equal, it is indispensable that, in each separate purchase and sale, the money paid should be a *bona fide* equivalent of the labor or property bought with it.

Dare you, or any other man, of common sense and common honesty, dispute the truth of that proposition? If not, let us consider that principle established. It will then serve as one of the necessary and infallible guides to the true settlement of all the other questions that remain to be settled.

2. That so long as no force or fraud is practised by either party, the parties themselves, to each separate contract, have the sole, absolute, and unqualified right to decide for themselves, *what money, and how much of it*, shall be considered a *bona fide* equivalent of the labor or property that is to be exchanged for it. All this is necessarily implied in the *natural* right of men to make their own contracts, for buying and selling their respective commodities.

Will you dispute the truth of that proposition?

3. That any one man, who has an honest dollar, of any kind whatsoever, has as perfect a right, as any other man can have, to offer it in the market, in competition with any and all other dollars, in exchange for such labor or property as may be in the market for sale.

Will you dispute the truth of that proposition?

4. That where no fraud is practised, every person, who is mentally competent to make reasonable contracts, must be presumed to be as competent to judge of the value of the money that is offered in the market, as he is to judge of the value of all the other commodities that are bought and sold for money.

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Will you dispute the truth of that proposition?

5. That the free and open market, in which all honest money and all honest commodities are free to be given and received in exchange for each other, is the true, final, absolute, and only test of the true and natural market value of all money, as of all the other commodities that are bought and sold for money.

Will you dispute the truth of that proposition?

6. That any prohibition, by a government, of any such kind or amount of money—provided it be honest in itself—as the parties to contracts may voluntarily agree to give and receive in exchange for labor or property, is a palpable violation of their natural right to make their own contracts, and to buy and sell their labor and property on such terms as they may find to be necessary for the supply of their wants, or may think most beneficial to their interests.

Will you dispute the truth of that proposition?

7. That any government, that licenses a small amount of an article of such universal necessity as money, and that gives the control of it into a few hands, selected by itself, and then prohibits any and all other money—that is intrinsically honest and valuable—palpably violates all other men's natural right to make their own contracts, and infallibly proves its purpose to be to enable the few holders of the licensed money to rob all other persons in the prices of their labor and property.

Will you dispute the truth of that proposition?

Are not all these propositions so self-evident, or so easily demonstrated, that they cannot, with any reason, be disputed?

If you feel competent to show the falsehood of any one of them, I hope you will attempt the task.

SECTION XIV.

If, now, you wish to form some rational opinion of the extent of the robbery practised in this country, by the holders of this monopoly of money, you have only to look at the following facts.

There are, in this country, I think, at least twenty-five millions of persons, male and female, sixteen years old, and upwards, mentally and physically capable of running machinery, producing wealth, and supplying their own needs for an independent and comfortable subsistence.

To make their industry most effective, and to enable them, *individually*, to put into their own pockets as large a portion as possible of their own earnings, they need, *on an average*, one thousand dollars each of *money capital*. Some need one, two, three, or five hundred dollars, others one, two, three, or five thousand. These persons, then, need, *in the aggregate*, twenty-five thousand millions of dollars (\$25,000,000,000), of money capital.

[39]

They need all this *money capital* to enable them to buy the raw materials upon which to bestow their labor, the implements and machinery with which to labor, and their means of subsistence while producing their goods for the market.

Unless they can get this capital, they must all either work at a disadvantage, or not work at all. A very large portion of them, to save themselves from starvation, have no alternative but to sell their labor to others, at just such prices as these others choose to pay. And these others choose to pay only such prices as are far below what the laborers could produce, if they themselves had the necessary capital to work with.

But this needed capital your lawmakers arbitrarily forbid them to have; and for no other reason than to reduce them to the condition of servants; and subject them to all such extortions as their employers—the holders of the privileged money—may choose to practise upon them.

If, now, you ask me where these twenty-five thousand millions of dollars of money capital, which these laborers need, are to come from, I answer:

Theoretically there are, in this country, fifty thousand millions of dollars of money capital (\$50,000,000,000)—or twice as much as I have supposed these laborers to need—NOW LYING IDLE! *And it is lying idle, solely because the circulation of it, as money, is prohibited by the lawmakers.*

If you ask how this can be, I will tell you.

Theoretically, every dollar's worth of material property, that is capable of being taken by law, and applied to the payment of the owner's debts, is capable of being represented by a promissory note, that shall circulate as money.

But taking all this material property at *only half* its actual value, it is still capable of supplying the twenty-five thousand millions of dollars—or one thousand dollars each—which these laborers need.

Now, we know—because experience has taught us—that *solvent* promissory notes, made payable in coin on demand, are the best money that mankind have ever had; (although probably not the best they ever will have).

To make a note solvent, and suitable for circulation as money, it is only necessary that it should be made payable in coin on demand, and be issued by a person, or persons, who are known to have in their hands abundant material property, that can be taken by law, and applied to the payment of the note, with all costs and damages for non-payment on demand.

Theoretically, I repeat, all the material property in the country, that can be taken by law, and applied to the payment of debts, can be used as banking capital; and be represented by promissory notes, made payable in coin on demand. And, *practically*, so much of it can be used as banking capital as may be required for supplying all the notes that can be kept in circulation as money.

Although these notes are made legally payable in coin on demand, it is seldom that such payment is demanded, *if only it be publicly known that the notes are solvent*: [40] that is, if it be publicly known that they are issued by persons who have so much material property, that can be taken by law, and sold, as may be necessary to bring the coin that is needed to pay the notes. In such cases, the notes are preferred to the coin, because they are so much more safe and convenient for handling, counting, and transportation, than is the coin; and also because we can have so many times more of them.

These notes are also a legal tender, to the banks that issue them, in payment of the notes discounted; that is, in payment of the notes given by the borrowers to the banks. And, in the ordinary course of things, *all* the notes, issued by the banks for circulation, are wanted, and come back to the banks, in payment of the notes discounted; thus saving all necessity for redeeming them with coin, except in rare cases. For meeting these rare cases, the banks find it necessary to keep on hand small amounts of coin; probably not more than one per cent. of the amount of notes in circulation.

As the notes discounted have usually but a short time to run,—say three months on an average,—the bank notes issued for circulation will *all* come back, *on an average*, once in three months, and be redeemed by the bankers, by being accepted in payment of the notes discounted.

Then the bank notes will be re-issued, by discounting new notes, and will go into circulation again; to be again brought back, at the end of another three months, and redeemed, by being accepted in payment of the new notes discounted.

In this way the bank notes will be continually re-issued, and redeemed, in the greatest amounts that can be kept in circulation long enough to earn such an amount of interest as will make it an object for the bankers to issue them.

Each of these notes, issued for circulation, if known to be solvent, will always have the same value in the market, as the same nominal amount of coin. And this value is a just one, because the notes are in the nature of a lien, or mortgage, upon so much property of the

bankers as is necessary to pay the notes, and as can be taken by law, and sold, and the proceeds applied to their payment.

There is no danger that any more of these notes will be issued than will be wanted for buying and selling property at its true and natural market value, relatively to coin; for as the notes are all made legally payable in coin on demand, if they should ever fall below the value of coin in the market, the holders of them will at once return them to the banks, and demand coin for them; *and thus take them out of circulation.*

The bankers, therefore, have no motive for issuing more of them than will remain long enough in circulation, to earn so much interest as will make it an object to issue them; the only motive for issuing them being to draw interest on them while they are in circulation.

The bankers readily find how many are wanted for circulation, by the time those issued remain in circulation, before coming back for redemption. If they [41] come back immediately, or very quickly, after being issued, the bankers know that they have over-issued, and that they must therefore pay in coin—to their inconvenience, and perhaps loss—notes that would otherwise have remained in circulation long enough to earn so much interest as would have paid for issuing them; and would then have come back to them in payment of notes discounted, instead of coming back on a demand for redemption in coin.

Now, the best of all possible banking capital is real estate. It is the best, because it is visible, immovable, and indestructible. It cannot, like coin, be removed, concealed, or carried out of the country. And its aggregate value, in all civilized countries, is probably a hundred times greater than the amount of coin in circulation. It is therefore capable of furnishing a hundred times as much money as we can have in coin.

The owners of this real estate have the greatest inducements to use it as banking capital, because all the banking profit, over and above expenses, is a clear profit; inasmuch as the use of the real estate as banking capital does not interfere at all with its use for other purposes.

Farmers have a double, and much more than a double, inducement to use their lands as banking capital; because they not only get a direct profit from the loan of their notes, but, by loaning them, they furnish the necessary capital for the greatest variety of manufacturing purposes. They thus induce a much larger portion of the people, than otherwise would, to leave agriculture, and engage in mechanical employments; and thus become purchasers, instead of producers, of agricultural commodities. They thus get much higher prices for their agricultural products, and also a much greater variety and amount of manufactured commodities in exchange.

The amount of money, capable of being furnished by this system, is so great that every man, woman, and child, who is worthy of credit, could get it, and do business for himself, or herself—either singly, or in partnerships—and be under no necessity to act as a servant, or

sell his or her labor to others. All the great establishments, of every kind, now in the hands of a few proprietors, but employing a great number of wage laborers, would be broken up; for few, or no persons, who could hire capital, and do business for themselves, would consent to labor for wages for another.

The credit furnished by this system would always be stable; for the system is probably capable of furnishing, *at all times*, all the credit, and all the money, that can be needed. It would also introduce a substantially universal system of cash payments. Everybody, who could get credit at all, would be able to get it at bank, *in money*. With the money, he would buy everything he needed for cash. He would also sell everything for cash; for when everybody buys for cash, everybody sells for cash; since buying for cash, and selling for cash, are necessarily one and the same thing.

[42]

We should, therefore, never have another crisis, panic, revulsion of credit, stagnation of industry, or fall of prices; for these are all caused by the lack of money, and the consequent necessity of buying and selling on credit; whereby the amount of indebtedness becomes so great, so enormous, in fact, in proportion to the amount of money extant, with which to meet it, that the whole system of credit breaks down; to the ruin of everybody, except the few holders of the monopoly of money, who reap a harvest in the fall of prices, and the consequent bankruptcy of everybody who is dependent on credit for his means of doing business.

It would be inadmissible for me, in this letter, to occupy the space that would be necessary, to expose all the false, absurd, and ridiculous pretences, by which the advocates of the monopoly of money have attempted to justify it. The only real argument they ever employed has been that, by means of the monopoly, the few holders of it were enabled to rob everybody else in the prices of their labor and property.

And our governments, State and national, have hitherto acted together in maintaining this monopoly, in flagrant violation of men's natural right to make their own contracts, and in flagrant violation of the self-evident truth, that, to make all traffic just and equal, it is indispensable that the money paid should be, in all cases, a *bona fide* equivalent of the labor or property that is bought with it.

The holders of this monopoly now rule and rob this nation; and the government, in all its branches, is simply their tool. And being their tool for this gigantic robbery, it is equally their tool for all the lesser robberies, to which it is supposed that the people at large can be made to submit.

SECTION XV.

But although the monopoly of money is one of the most glaring violations of men's natural right to make their own contracts, and one of the most effective—perhaps *the* most effective—for enabling a few men to rob everybody else, and for keeping the great body of the people in poverty and servitude, it is not the only one that our government practises, nor the only one that has the same robbery in view.

The so-called taxes or duties, which the government levies upon imports, are a practical violation both of men's natural right of property, and of their natural right to make their own contracts.

A man has the same *natural* right to traffic with another, who lives on the opposite side of the globe, as he has to traffic with his next-door neighbor. And any obstruction, price, or penalty, interposed by the government, to the exercise of that right, is a practical violation of the right itself.

The ten, twenty, or fifty per cent. of a man's property, which is taken from him, for the reason that he purchased it in a foreign country, must be considered either [43] as the price he is required to pay for the *privilege* of buying property in that country, or else as a penalty for having exercised his *natural right* of buying it in that country. Whether it be considered as a price paid for a privilege, or a penalty for having exercised a natural right, it is a violation both of his natural right of property, and of his natural right to make a contract in that country.

In short, it is nothing but downright robbery.

And when a man seeks to avoid this robbery, by evading the government robbers who are lying in wait for him,—that is, the so-called revenue officers,—whom he has as perfect a right to evade, as he has to evade any other robbers, who may be lying in wait for him,—the seizure of his whole property,—instead of the ten, twenty, or fifty per cent. that would otherwise have been taken from him,—is not merely adding so much to the robbery itself, but is adding insult to the robbery. It is punishing a man as a criminal, for simply trying to save his property from robbers.

But it will be said that these taxes or duties are laid to raise revenue for the support of the government.

Be it so, for the sake of the argument. All taxes, levied upon a man's property for the support of government, without his consent, are mere robbery; a violation of his natural right of property. And when a government takes ten, twenty, or fifty per cent. of a man's property, for the reason that he bought it in a foreign country, such taking is as much a violation of his natural right of property, or of his natural right to purchase property, as is the taking of property which he has himself produced, or which he has bought in his own village.

A man's natural right of property, in a commodity he has bought in a foreign country, is intrinsically as sacred and inviolable as it is in a commodity produced at home. The foreign commodity is bought with the commodity produced at home; and therefore stands on the same footing as the commodity produced at home. And it is a plain violation of one's right, for a government to make any distinction between them.

Government assumes to exist for the impartial protection of all rights of property. If it really exists for that purpose, it is plainly bound to make each kind of property pay its proper proportion, and only its proper proportion, of the cost of protecting all kinds. To levy upon a few kinds the cost of protecting all, is a naked robbery of the holders of those few kinds, for the benefit of the holders of all other kinds.

But the pretence that heavy taxes are levied upon imports, solely, or mainly, for the support of government, while light taxes, or no taxes at all, are levied upon property at home, is an utterly false pretence. They are levied upon the imported commodity, mainly, if not solely, for the purpose of enabling the producers of competing home commodities to extort from consumers a higher price than the home commodities would bring in free and open market. And this additional [44] price is sheer robbery, and is known to be so. And the amount of this robbery—which goes into the pockets of the home producers—is five, ten, twenty, or fifty times greater than the amount that goes into the treasury, for the support of the government, according as the amount of the home commodities is five, ten, twenty, or fifty times greater than the amount of the imported competing commodities.

Thus the amounts that go to the support of the government, and also the amounts that go into the pockets of the home producers, in the higher prices they get for their goods, are all sheer robberies; and nothing else.

But it will be said that the heavy taxes are levied upon the foreign commodity, not to put great wealth into a few pockets, but “*to protect the home laborer against the competition of the pauper labor of other countries.*”

This is the great argument that is relied on to justify the robbery.

This argument must have originated with the employers of home labor, and not with the home laborers themselves.

The home laborers themselves could never have originated it, because they must have seen that, so far as they were concerned, the object of the “protection,” so-called, was, *at best*, only to benefit them, by robbing others who were as poor as themselves, and who had as good a right as themselves to live by their labor. That is, they must have seen that the object of the “protection” was to rob the foreign laborers, in whole, or in part, of the pittance on which they were already necessitated to live; and, secondly, to rob consumers at home,—in the increased prices of the protected commodities,—when many or most of these home

consumers were also laborers as poor as themselves.

Even if any class of laborers would have been so selfish and dishonest as to wish to thus benefit themselves by injuring others, as poor as themselves, they could have had no hope of carrying through such a scheme, if they alone were to profit by it; because they could have had no such influence with governments, as would be necessary to enable them to carry it through, in opposition to the rights and interests of consumers, both rich and poor, and much more numerous than themselves.

For these reasons it is plain that the argument originated with the employers of home labor, and not with the home laborers themselves.

And why do the employers of home labor advocate this robbery? Certainly not because they have such an intense compassion for their own laborers, that they are willing to rob everybody else, rich and poor, for their benefit. Nobody will suspect them of being influenced by any such compassion as that. But they advocate it solely because they put into their own pockets a very large portion certainly—probably three-fourths, I should judge—of the increased prices their commodities are thus made to bring in the market. The home laborers themselves probably get not more than one-fourth of these increased prices.

Thus the argument for “protection” is really an argument for robbing foreign [45] laborers—as poor as our own—of their equal and rightful chances in our markets; and also for robbing all the home consumers of the protected article—the poor as well as the rich—in the prices they are made to pay for it. And all this is done at the instigation, and principally for the benefit, of the employers of home labor, and not for the benefit of the home laborers themselves.

Having now seen that this argument—of “protecting our home laborers against the competition of the pauper labor of other countries”—is, of itself, an utterly dishonest argument; that it is dishonest towards foreign laborers and home consumers; that it must have originated with the employers of home labor, and not with the home laborers themselves; and that the employers of home labor, and not the home laborers themselves, are to receive the principal profits of the robbery, let us now see how utterly false is the argument itself.

1. The pauper laborers (if there are any such) of other countries have just as good a right to live by their labor, and have an equal chance in our own markets, and in all the markets of the world, as have the pauper laborers, or any other laborers, of our own country.

Every human being has the same natural right to buy and sell, of and to, any and all other people in the world, as he has to buy and sell, of and to, the people of his own country. And none but tyrants and robbers deny that right. And they deny it for their own benefit solely, and not for the benefit of their laborers.

And if a man, in our own country—either from motives of profit to himself, or from motives of pity towards the pauper laborers of other countries— *chooses* to buy the products of the foreign pauper labor, rather than the products of the laborers of his own country, he has a perfect legal right to do so. And for any government to forbid him to do so, or to obstruct his doing so, or to punish him for doing so, is a violation of his natural right of purchasing property of whom he pleases, and from such motives as he pleases.

2. To forbid our own people to buy in the best markets, is equivalent to forbidding them to sell the products of their own labor in the best markets; for they can buy the products of foreign labor, only by giving the products of their own labor in exchange. Therefore to deny our right to buy in foreign markets, is to forbid us to sell in foreign markets. And this is a plain violation of men's natural rights.

If, when a producer of cotton, tobacco, grain, beef, pork, butter, cheese, or any other commodity, in our own country, has carried it abroad, and exchanged it for iron or woollen goods, and has brought these latter home, the government seizes one-half of them, because they were manufactured abroad, the robbery committed upon the owner is the same as if the government had seized one-half of his cotton, tobacco, or other commodity, before he exported it; because the iron or woollen goods, which he purchased abroad with the products of his own home labor, are as much his own property, as was the commodity with which he purchased them.

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Therefore the tax laid upon foreign commodities, that have been bought with the products of our home labor, is as much a robbery of the home laborer, as the same tax would have been, if laid directly upon the products of our home labor. It is, at best, only a robbery of one home laborer—the producer of cotton, tobacco, grain, beef, pork, butter, or cheese—for the benefit of another home laborer—the producer of iron or woollen goods.

3. But this whole argument is a false one, for the further reason that our home laborers do not have to compete with “*the pauper labor*” of any country on earth; since the *actual paupers* of no country on earth are engaged in producing commodities for export to any other country. They produce few, or no, other commodities than those they themselves consume; and ordinarily not even those.

There are a great many millions of *actual paupers* in the world. In some of the large provinces of British India, for example, it is said that nearly half the population are paupers. But I think that the commodities they are producing for export to other countries than their own, have never been heard of.

The term, “pauper labor,” is therefore a false one. And when these robbers—the employers of home labor—talk of protecting their laborers against the competition of “*the pauper labor*” of other countries, they do not mean that they are protecting them against the competition of *actual paupers*; but only against the competition of that immense body of laborers, in all parts of the world, *who are kept constantly on the verge of pauperism, or starvation*; who have little, or no, means of subsistence, except such as their employers see fit to give them,—which means are usually barely enough to keep them in a condition to labor.

These are the only “pauper laborers,” from whose competition our own laborers are sought to be protected. They are quite as badly off as our own laborers; and are in equal need of “protection.”

What, then, is to be done? This policy of excluding foreign commodities from our markets, is a game that all other governments can play at, as well as our own. And if it is the duty of our government to “protect” our laborers against the competition of “the pauper labor,” so-called, of all other countries, it is equally the duty of every other government to “protect” its laborers against the competition of the so-called “pauper labor” of all other countries. So that, according to this theory, each nation must either shut out entirely from its markets the products of all other countries; or, at least, lay such heavy duties upon them, as will, *in some measure*, “protect” its own laborers from the competition of the “pauper labor” of all other countries.

This theory, then, is that, instead of permitting all mankind to supply each other’s wants, by freely exchanging their respective products with each other, the government of each nation should rob the people of every other, by imposing heavy duties upon all commodities imported from them.

The natural effect of this scheme is to pit the so-called “pauper labor” of each [47] country against the so-called “pauper labor” of every other country; and all for the benefit of their employers. And as it holds that so-called “pauper labor” is cheaper than free labor, it gives the employers in each country a constant motive for reducing their own laborers to the lowest condition of poverty, consistent with their ability to labor at all. In other words, the theory is, that the smaller the portion of the products of labor, that is given to the laborers, the larger will be the portion that will go into the pockets of the employers.

Now, it is not a very honorable proceeding for any government to pit its own so-called “pauper laborers”—or laborers that are on the verge of pauperism—against similar laborers in all other countries: and all for the sake of putting the principal proceeds of their labor into the pockets of a few employers.

To set two bodies of “pauper laborers”—or of laborers on the verge of pauperism—to robbing each other, for the profit of their employers, is the next thing, in point of atrocity, to setting them to killing each other, as governments have heretofore been in the habit of doing, for the benefit of their rulers.

The laborers, who are paupers, or on the verge of pauperism—who are destitute, or on the verge of destitution—comprise (with their families) doubtless nine-tenths, probably nineteen-twentieths, of all the people on the globe. They are not all wage laborers. Some of them are savages, living only as savages do. Others are barbarians, living only as barbarians do. But an immense number are mere wage laborers. Much the larger portion of these have been reduced to the condition of wage laborers, by the monopoly of land, which mere bands of robbers have succeeded in securing for themselves by military power. This is the condition of nearly all the Asiatics, and of probably one-half the Europeans. But in those portions of Europe and the United States, where manufactures have been most extensively introduced, and where, by science and machinery, great wealth has been created, the laborers have been kept in the condition of wage laborers, principally, if not wholly, by the monopoly of money. This monopoly, established in all these manufacturing countries, has made it impossible for the manufacturing laborers to hire the money capital that was necessary to enable them to do business for themselves; and has consequently compelled them to sell their labor to the monopolists of money, for just such prices as these latter should choose to give.

It is, then, by the monopoly of land, and the monopoly of money, that more than a thousand millions of the earth’s inhabitants—as savages, barbarians, and wage laborers—are kept in a state of destitution, or on the verge of destitution. Hundreds of millions of them are receiving, for their labor, not more than three, five, or, at most, ten cents a day.

In western Europe, and in the United States, where, within the last hundred and fifty years, machinery has been introduced, and where alone any considerable wealth is now created, the wage laborers, although they get so small a portion of the wealth they create, are nevertheless in a vastly better condition than are the laboring classes in other parts of the world.

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If, now, the employers of wage labor, in this country,—who are also the monopolists of money,—and who are ostensibly so distressed lest their own wage laborers should suffer from the competition of the pauper labor of other countries,—have really any of that humanity, of which they make such profession, they have before them a much wider field for the display of it, than they seem to desire. That is to say, they have it in their power, not only to elevate immensely the condition of the laboring classes in this country, but also to set an example that will be very rapidly followed in all other countries; and the result will be the elevation of all oppressed laborers throughout the world. This they can do, by simply

abolishing the monopoly of money. The real producers of wealth, with few or no exceptions, will then be able to hire all the capital they need for their industries, and will do business for themselves. They will also be able to hire their capital at very low rates of interest; and will then put into their own pockets all the proceeds of their labor, except what they pay as interest on their capital. And this amount will be too small to obstruct materially their rise to independence and wealth.

SECTION XVI. [↩](#)

But will the monopolists of money give up their monopoly? Certainly not voluntarily. They will do it only upon compulsion. They will hold on to it as long as they own and control governments as they do now. And why will they do so? Because to give up their monopoly would be to give up their control of those great armies of servants—the wage laborers—from whom all their wealth is derived, and whom they can now coerce by the alternative of starvation, to labor for them at just such prices as they (the monopolists of money) shall choose to pay.

Now these monopolists of money have no plans whatever for making their “capital,” as they call it—that is, their money capital— *their privileged money capital* —profitable to themselves, *otherwise than by using it to employ other men’s labor*. And they can keep control of other men’s labor only by depriving the laborers themselves of all other means of subsistence. And they can deprive them of all other means of subsistence only by putting it out of their power to hire the money that is necessary to enable them to do business for themselves. And they can put it out of their power to hire money, only by forbidding all other men to lend them their credit, in the shape of promissory notes, to be circulated as money.

If the twenty-five or fifty thousand millions of loanable capital—promissory notes—which, *in this country*, are now lying idle, were permitted to be loaned, these wage laborers would hire it, and do business for themselves, instead of laboring as servants for others; and would of course retain in their own hands all the wealth they should create, except what they should pay as interest for their capital.

And what is true of this country, is true of every other where civilization exists; for wherever civilization exists, land has value, and can be used as banking [49] capital, and be made to furnish all the money that is necessary to enable the producers of wealth to hire the capital necessary for their industries, and thus relieve them from their present servitude to the few holders of privileged money.

Thus it is that the monopoly of money is the one great obstacle to the liberation of the laboring classes all over the world, and to their indefinite progress in wealth.

But we are now to show, more definitely, what relation this monopoly of money is made to bear to the freedom of international trade; and why it is that the holders of this monopoly, *in this country*, demand heavy tariffs on imports, on the lying pretence of protecting our home labor against the competition of the so-called pauper labor of other countries.

The explanation of the whole matter is as follows.

1. The holders of the monopoly of money, in each country,—more especially in the manufacturing countries like England, the United States, and some others,—assume that the present condition of poverty, for the great mass of mankind, all over the world, is to be perpetuated forever; or at least for an indefinite period. From this assumption they infer that, if free trade between all countries is to be allowed, the so-called pauper labor of each country is to be forever pitted against the so-called pauper labor of every other country. Hence they infer that it is the duty of each government—or certainly of our government—to protect the so-called pauper labor of our own country—that is, the class of laborers who are constantly on the verge of pauperism—against the competition of the so-called pauper labor of all other countries, by such duties on imports as will secure to our own laborers a monopoly of our own home market.

This is, on the face of it, the most plausible argument—and almost, if not really, the only argument—by which they now attempt to sustain their restrictions upon international trade.

If this argument is a false one, their whole case falls to the ground. That it is a false one, will be shown hereafter.

2. These monopolists of money assume that pauper labor, so-called, is the cheapest labor in the world; and that therefore each nation, in order to compete with the pauper labor of all other nations, must itself have “cheap labor.” In fact, “cheap labor” is, with them, the great *sine qua non* of all national industry. To compete with “cheap labor,” say they, we must have “cheap labor.” This is, with them, a self-evident proposition. And this demand for “cheap labor” means, of course, that the laboring classes, in this country, must be kept, as nearly as possible, on a level with the so-called pauper labor of all other countries.

Thus their whole scheme of national industry is made to depend upon “cheap labor.” And to secure “cheap labor.” they hold it to be indispensable that the laborers shall be kept constantly either in actual pauperism, or on the verge of pauperism. And, in this country, they know of no way of keeping the laborers on the [50] verge of pauperism, but by retaining in their (the monopolists’) own hands such a monopoly of money as will put it out of the power of the laborers to hire money, and do business for themselves; and thus compel them, by the alternative of starvation, to sell their labor to the monopolists of money at such prices as will enable them (the monopolists) to manufacture goods in competition with the so-called pauper laborers of all other countries.

Let it be repeated—as a vital proposition—that the whole industrial programme of these monopolists rests upon, and implies, such a degree of poverty, on the part of the laboring classes, as will put their labor in direct competition with the so-called pauper labor of all other countries. So long as they (the monopolists) can perpetuate this extreme poverty of the laboring classes, in this country, they feel safe against all foreign competition; for, in all other things than “cheap labor,” we have advantages equal to those of any other nation.

Furthermore, this extreme poverty, in which the laborers are to be kept, necessarily implies that they are to receive no larger share of the proceeds of their own labor, than is necessary to keep them in a condition to labor. It implies that their industry—which is really the national industry—is not to be carried on at all for their own benefit, but only for the benefit of their employers, the monopolists of money. It implies that the laborers are to be mere tools and machines in the hands of their employers; that they are to be kept simply in running order, like other machinery; but that, beyond this, they are to have no more rights, and no more interests, in the products of their labor, than have the wheels, spindles, and other machinery, with which the work is done.

In short, this whole programme implies that the laborers—the real producers of wealth—are not to be considered at all as human beings, having rights and interests of their own; but only as tools and machines, to be owned, used, and consumed in producing such wealth as their employers—the monopolists of money—may desire for their own subsistence and pleasure.

What, then, is the remedy? Plainly it is to abolish the monopoly of money. Liberate all this loanable capital—promissory notes—that is now lying idle, and we liberate all labor, and furnish to all laborers all the capital they need for their industries. We shall then have no longer, all over the earth, the competition of pauper labor with pauper labor, but only the competition of free labor with free labor. And from this competition of free labor with free labor, no people on earth have anything to fear, but all peoples have everything to hope.

And why have all peoples everything to hope from the competition of free labor with free labor? Because when every human being, who labors at all, has, as nearly as possible, all the fruits of his labor, and all the capital that is necessary to make his labor most effective, he has all needed inducements to the best use of both his brains and his muscles, his head and his hands. He applies both his head and his hands to his work. He not only acquires, as far as possible, for his own use, all the [51] scientific discoveries and mechanical inventions, that are made by others, but he himself makes scientific discoveries and mechanical inventions. He thus multiplies indefinitely his powers of production. And the more each one produces of his own particular commodity, the more he can buy of every other man's products, and the more he can pay for them.

With freedom in money, the scientific discoveries and mechanical inventions, made in each country, will not only be used to the utmost in that country, but will be carried into all other countries. And these discoveries and inventions, given by each country to every other, and received by each country from every other, will be of infinitely more value than all the material commodities that will be exchanged between these countries.

In this way each country contributes to the wealth of every other, and the whole human race are enriched by the increased power and stimulus given to each man's labor of body and mind.

But it is to be kept constantly in mind, that there can be no such thing as free labor, unless there be freedom in money; that is, unless everybody, who can furnish money, shall be at liberty to do so. Plainly labor cannot be free, unless the laborers are free to hire all the money capital that is necessary for their industries. And they cannot be free to hire all this money capital, unless all who can lend it to them, shall be at liberty to do so.

In short, labor cannot be free, unless each laborer is free to hire all the capital—money capital, as well as all other capital—that he honestly can hire; free to buy, wherever he can buy, all the raw material he needs for his labor; and free to sell, wherever he can sell, all the products of his labor. Therefore labor cannot be free, unless we have freedom in money, and free trade with all mankind.

We can now understand the situation. In the most civilized nations—such as Western Europe and the United States—labor is utterly crippled, robbed, and enslaved by the monopoly of money; and also, in some of these countries, by the monopoly of land. In nearly or quite all the other countries of the world, labor is not only robbed and enslaved, but to a great extent paralyzed, by the monopoly of land, and by what may properly be called the utter absence of money. There is, consequently, in these latter countries, almost literally, no diversity of industry, no science, no skill, no invention, no machinery, no manufactures, no production, and no wealth; but everywhere miserable poverty, ignorance, servitude, and wretchedness.

In this country, and in Western Europe, where the uses of money are known, there is no excuse to be offered for the monopoly of money. It is maintained, in each of these countries, by a small knot of tyrants and robbers, who have got control of the governments, and use their power principally to maintain this monopoly; understanding, as they do, that this one monopoly of money gives them a substantially absolute control of all other men's property and labor.

But not satisfied with this substantially absolute control of all other men's property [52] and labor, the monopolists of money, *in this country*, —feigning great pity for their laborers, but really seeking only to make their monopoly more profitable to themselves,—cry out for

protection against the competition of the pauper labor of all other countries; when they alone, *and such as they*, are the direct cause of all the pauper labor in the world. But for them, and others like them, there would be neither poverty, ignorance, nor servitude on the face of the earth.

But to all that has now been said, the advocates of the monopoly of money will say that, if all the material property of the country were permitted to be represented by promissory notes, and these promissory notes were permitted to be lent, bought, and sold as money, the laborers would not be able to hire them, for the reason that they could not give the necessary security for repayment.

But let those who would say this, tell us why it is that, in order to prevent men from loaning their promissory notes, for circulation as money, it has always been necessary for governments to prohibit it, either by penal enactments, or prohibitory taxation. These penal enactments and prohibitory taxation are acknowledgments that, but for them, the notes would be loaned to any extent that would be profitable to the lenders. What this extent would be, nothing but experience of freedom can determine. But freedom would doubtless give us ten, twenty, most likely fifty, times as much money as we have now, if so much could be kept in circulation. And laborers would at least have ten, twenty, or fifty times better chances for hiring capital, than they have now. And, furthermore, all labor and property would have ten, twenty, or fifty times better chances of bringing their full value in the market, than they have now.

But in the space that is allowable in this letter, it is impossible to say all, or nearly all, of what might be said, to show the justice, the utility, or the necessity, for perfect freedom in the matters of money and international trade. To pursue these topics further would exclude other matters of great importance, as showing how the government acts the part of robber and tyrant in all its legislation on contracts; and that the whole purpose of all its acts is that the earnings of the many may be put into the pockets of the few.

SECTION XVII.

Although, as has already been said, the constitution is a paper that nobody ever signed, that few persons have ever read, and that the great body of the people never saw; and that has, consequently, no more claim to be the supreme law of the land, or to have any authority whatever, than has any other paper, that nobody ever signed, that few persons ever read, and that the great body of the people never saw; and although it purports to authorize a government, in which the lawmakers, judges, and executive officers are all to be secured against any responsibility whatever *to the people*, whose liberty and rights are at stake; and although [53] this government is kept in operation only by votes given in secret (by secret ballot), and in a way to save the voters from all personal responsibility for the acts of their agents,—the lawmakers, judges, etc.; and although the whole affair is so audacious a fraud

and usurpation, that no people could be expected to agree to it, or ought to submit to it, for a moment; yet, inasmuch as the constitution declares itself to have been ordained and established by the people of the United States, for the maintenance of liberty and justice for themselves and their posterity; and inasmuch as all its supporters—that is, the voters, lawmakers, judges, etc.—profess to derive all their authority from it; and inasmuch as all lawmakers, and all judicial and executive officers, both national and State, swear to support it; and inasmuch as they claim the right to kill, and are evidently determined to kill, and esteem it the highest glory to kill, all who do not submit to its authority; we might reasonably expect that, from motives of common decency, if from no other, those who profess to administer it, would pay some deference to its commands, *at least in those particular cases where it explicitly forbids any violation of the natural rights of the people.*

Especially might we expect that the judiciary—whose courts claim to be courts of justice—and who profess to be authorized and sworn to expose and condemn all such violations of individual rights as the constitution itself expressly forbids—would, in spite of all their official dependence on, and responsibility to, the lawmakers, have sufficient respect for their personal characters, and the opinions of the world, to induce them to pay some regard to all those parts of the constitution that expressly require any rights of the people to be held inviolable.

If the judicial tribunals cannot be expected to do justice, even in those cases where the constitution expressly commands them to do it, and where they have solemnly sworn to do it, it is plain that they have sunk to the lowest depths of servility and corruption, and can be expected to do nothing but serve the purposes of robbers and tyrants.

But how futile have been all expectations of justice from the judiciary, may be seen in the conduct of the courts—and especially in that of the so-called Supreme Court of the United States—in regard to men's natural right to make their own contracts.

Although the State lawmakers have, more frequently than the national lawmakers, made laws in violation of men's natural right to make their own contracts, yet all laws, State and national, having for their object the destruction of that right, have always, without a single exception, I think, received the sanction of the Supreme Court of the United States. And having been sanctioned by that court, they have been, as a matter of course, sanctioned by all the other courts, State and national. And this work has gone on, until, if these courts are to be believed, nothing at all is left of men's natural right to make their own contracts.

That such is the truth, I now propose to prove.

[54]

And, first, as to the State governments.

The constitution of the United States (*Art. 1, Sec. 10*) declares that:

No State shall pass any law impairing the obligation of contracts.

This provision does not designate what contracts have, and what have not, an “obligation.” But it clearly presupposes, implies, assumes, and asserts that there *are* contracts that *have* an “obligation.” Any State law, therefore, which declares that such contracts shall have *no obligation*, is plainly in conflict with this provision of the constitution of the United States.

This provision, also, by implying that there *are* contracts, that *have* an “obligation,” *necessarily implies that men have a right to enter into them*; for if men had no right to enter into the contracts, the contracts themselves could have no “obligation.”

This provision, then, of the constitution of the United States, not only implies that there are contracts that *have* an obligation, *but it also implies that the people have the right to enter into all such contracts, and have the benefit of them*. And “*any*” State “*law*,” conflicting with either of these implications, is necessarily unconstitutional and void.

Furthermore, the language of this provision of the constitution, to wit, “the obligation [singular] of contracts” [plural], implies *that there is one and the same “obligation” to all “contracts” whatsoever, that have any legal obligation at all*. And there obviously must be some one principle, that gives validity to all contracts alike, that have any validity.

The law, then, of this whole country, as established by the constitution of the United States, is, that all contracts whatsoever, in which this one principle of validity, or “obligation,” is found, shall be held valid; and that the States shall impose no restraint whatever upon the people’s entering into all such contracts.

All, therefore, that courts have to do, in order to determine whether any particular contract, or class of contracts, are valid, *and whether the people have a right to enter into them*, is simply to determine whether the contracts themselves have, or have not, this one principle of validity, or “obligation,” which the constitution of the United States declares shall not be impaired.

State legislation can obviously have nothing to do with the solution of this question. It can neither create, nor destroy, that “obligation of contracts,” which the constitution forbids it to impair. It can neither give, nor take away, the right to enter into any contract whatever, that has that “obligation.”

On the supposition, then, that the constitution of the United States is, what it declares itself to be, *viz.*, “the supreme law of the land, . . . anything in the constitutions or laws of the States to the contrary notwithstanding,” this provision against “any” State “law impairing

the obligation of contracts,” is so explicit, and so authoritative, that the legislatures and courts of the States have no color of authority [55] for violating it. And the Supreme Court of the United States has had no color of authority or justification for suffering it to be violated.

This provision is certainly one of the most important—perhaps *the* most important—of all the provisions of the constitution of the United States, *as protective of the natural rights of the people to make their own contracts, or provide for their own welfare.*

Yet it has been constantly trampled under foot, by the State legislatures, by all manner of laws, declaring who may, and who may not, make certain contracts; and what shall, and what shall not, be “the obligation” of particular contracts; thus setting at defiance all ideas of justice, of natural rights, and equal rights; conferring monopolies and privileges upon particular individuals, and imposing the most arbitrary and destructive restraints and penalties upon others; all with a view of putting, as far as possible, all wealth into the hands of the few, and imposing poverty and servitude upon the great body of the people.

And yet all these enormities have gone on for nearly a hundred years, and have been sanctioned, not only by all the State courts, but also by the Supreme Court of the United States.

And what color of excuse have any of these courts offered for thus upholding all these violations of justice, of men’s natural rights, and even of that constitution which they had all sworn to support?

They have offered only this: *They have all said they did not know what “the obligation of contracts” was!*

Well, suppose, for the sake of the argument, that they have not known what “the obligation of contracts” was, what, then, was their duty? Plainly this, to neither enforce, nor annul, any contract whatever, until they should have discovered what “the obligation of contracts” was.

Clearly they could have no right to either enforce, or annul, any contract whatever, until they should have ascertained whether it had any “obligation,” and, if any, what that “obligation” was.

If these courts really do not know—as perhaps they do not—what “the obligation of contracts” is, they deserve nothing but contempt for their ignorance. If they *do* know what “the obligation of contracts” is, and yet sanction the almost literally innumerable laws that violate it, they deserve nothing but detestation for their villainy.

And until they shall suspend all their judgments for either enforcing, or annulling, contracts, or, on the other hand, shall ascertain what “the obligation of contracts” is, and sweep away all State laws that impair it, they will deserve both contempt for their ignorance, and detestation for their crimes.

Individual Justices of the Supreme Court of the United States have, at least in one instance, in 1827 (*Ogden vs. Saunders*, 12 Wheaton 213), attempted to give a definition of “the obligation of contracts.” But there was great disagreement [56] among them; and no one definition secured the assent of the whole court, *or even of a majority*. Since then, so far as I know, that court has never attempted to give a definition. And, so far as the opinion of that court is concerned, the question is as unsettled now, as it was sixty years ago. And the opinions of the Supreme Courts of the States are equally unsettled with those of the Supreme Court of the United States. The consequence is, that “the obligation of contracts”—the principle on which the real validity, or invalidity, of all contracts whatsoever depends—is practically unknown, or at least unrecognized, by a single court, either of the States, or of the United States. And, as a result, every species of absurd, corrupt, and robber legislation goes on unrestrained, as it always has done.

What, now, is the reason why not one of these courts has ever so far given its attention to the subject as to have discovered what “the obligation of contracts” is? What that principle is, I repeat, which they have all sworn to sustain, and on which the real validity, or invalidity, of every contract on which they ever adjudicate, depends? Why is it that they have all gone on sanctioning and enforcing all the nakedly iniquitous laws, by which men’s natural right to make their own contracts has been trampled under foot?

Surely it is not because they do not know that all men have a natural right to make their own contracts; for they know *that*, as well as they know that all men have a natural right to live, to breathe, to move, to speak, to hear, to see, or to do anything whatever for the support of their lives, or the promotion of their happiness.

Why, then, is it, that they strike down this right, without ceremony, and without compunction, whenever they are commanded to do so by the lawmakers? It is because, and solely because, they are so servile, slavish, degraded, and corrupt, as to act habitually on the principle, that justice and men’s natural rights are matters of no importance, in comparison with the commands of the impudent and tyrannical lawmakers, on whom they are dependent for their offices and their salaries. It is because, and solely because, they, like the judges under all other irresponsible and tyrannical governments, are part and parcel of a conspiracy for robbing and enslaving the great body of the people, to gratify the luxury and pride of a few. It is because, and solely because, they do not recognize our governments, State or national, as institutions designed simply to maintain justice, or to protect all men in the enjoyment of all their natural rights; but only as institutions designed to accomplish such objects as irresponsible cabals of lawmakers may agree upon.

In proof of all this, I give the following.

Previous to 1824, two cases had come up from the State courts, to the Supreme Court of the United States, involving the question whether a State law, *invalidating some particular contract*, came within the constitutional prohibition of “any law impairing the obligation of contracts.”

[57]

One of these cases was that of *Fletcher vs. Peck*, (6 Cranch 87), in the year 1810. In this case the court held simply that a grant of land, once made by the legislature of Georgia, could not be rescinded by a subsequent legislature.

But no general definition of “the obligation of contracts” was given.

Again, in the year 1819, in the case of *Dartmouth College vs. Woodward* (4 Wheaton 518), the court held that a charter, granted to Dartmouth College, by the king of England, before the Revolution, was a contract; and that a law of New Hampshire, annulling, or materially altering, the charter, without the consent of the trustees, was a “law impairing the obligation” of *that* contract.

But, in this case, as in that of *Fletcher vs. Peck*, the court gave no general definition of “the obligation of contracts.”

But in the year 1824, and again in 1827, in the case of *Ogden vs. Saunders* (12 Wheaton 213) the question was, whether an insolvent law of the State of New York, which discharged a debtor from a debt, *contracted after the passage of the law*, or, as the courts would say, “*contracted under the law*”—on his giving up his property to be distributed among his creditors—was a “law impairing the obligation of contracts?”

To the correct decision of this case, it seemed indispensable that the court should give a comprehensive, precise, and *universal* definition of “the obligation of contracts”; one by which it might forever after be known what was, and what was not, that “obligation of contracts,” which the State governments were forbidden to “impair” by “*any law*” whatever.

The cause was heard at two terms, that of 1824, and that of 1827.

It was argued by Webster, Wheaton, Wirt, Clay, Livingston, Ogden, Jones, Sampson, and Haines; nine in all. Their arguments were so voluminous that they could not be reported at length. Only summaries of them are given. But these summaries occupy thirty-eight pages in the reports.

The judges, at that time, were seven, viz., Marshall, Washington, Johnson, Duvall, Story, Thompson, and Trimble.

The judges gave five different opinions; occupying one hundred pages of the reports.

But no one definition of “the obligation of contracts” could be agreed on; *not even by a majority*.

Here, then, sixteen lawyers and judges—many of them among the most eminent the country has ever had—were called upon to give their opinions upon a question of the highest importance to all men’s natural rights, to all the interests of civilized society, and to the very existence of civilization itself; a question, upon the answer to which depended the real validity, or invalidity, of every contract that ever was made, or ever will be made, between man and man. And yet, by their disagreements, they all virtually acknowledged that they did not know what “the obligation of contracts” was!

[58]

But this was not all. Although they could not agree as to what “the obligation of contracts” was, they did all agree that it could be nothing which the State lawmakers could not prohibit and abolish, *by laws passed before the contracts were made*. That is to say, they all agreed that the State lawmakers had absolute power to prohibit all contracts whatsoever, for buying and selling, borrowing and lending, giving and receiving, property; and that, whenever they did prohibit any particular contract, or class of contracts, *all such contracts, thereafter made, could have no “obligation”* !

They said this, be it noted, not of contracts that were naturally and intrinsically criminal and void, but of contracts that were naturally and intrinsically as just, and lawful, and useful, and necessary, as any that men ever enter into; and that had as perfect a natural, intrinsic, inherent “obligation,” as any of those contracts, by which the traffic of society is carried on, or by which men ever buy and sell, borrow and lend, give and receive, property, of and to each other.

Not one of these sixteen lawyers and judges took the ground that the constitution, in forbidding any State to “pass any law impairing the obligation of contracts,” intended to protect, against the arbitrary legislation of the States, the only true, real, and natural “obligation of contracts,” or the right of the people to enter into all really just, and naturally obligatory contracts.

Is it possible to conceive of a more shameful exhibition, or confession, of the servility, the baseness, or the utter degradation, of both bar and bench, than their refusal to say one word in favor of justice, liberty, men’s natural rights, or the natural, and only real, “obligation” of their contracts?

And yet, from that day to this—a period of sixty years, save one—neither bar nor bench, so far as I know, have ever uttered one syllable in vindication of men’s natural right to make their own contracts, or to have the only true, real, natural, inherent, intrinsic “obligation” of their contracts respected by lawmakers or courts.

Can any further proof be needed that all ideas of justice and men’s natural rights are absolutely banished from the minds of lawmakers, and from so-called courts of justice? or that absolute and irresponsible lawmaking has usurped their place?

Or can any further proof be needed, of the utter worthlessness of all the constitutions, which these lawmakers and judges swear to support, and profess to be governed by?

SECTION XVIII. [↩](#)

If, now, it be asked, what is this constitutional “obligation of contracts,” which the States are forbidden to impair, the answer is, that it is, and necessarily must be, the *natural* obligation; or that obligation, which contracts have, on principles [59] of natural law, and natural justice, as distinguished from any arbitrary or unjust obligation, which lawmakers may assume to create, and attach to contracts.

This natural obligation is the only *one* “obligation,” which *all* obligatory contracts can be said to have. It is the only *inherent* “obligation,” that any contract can be said to have. It is recognized all over the world—at least as far as it is known—as the one only *true* obligation, that any, or all, contracts can have. And, so far as it is known—it is held valid all over the world, except in those exceptional cases, where arbitrary and tyrannical governments have assumed to annul it, or substitute some other in its stead.

The constitution assumes that this *one* “obligation of contracts,” which it designs to protect, is the natural one, because it assumes that it existed, *and was known*, at the time the constitution itself was established; and certainly no *one* “obligation,” *other than the natural one*, can be said to have been known, as applicable to *all* obligatory contracts, at the time the constitution was established. Unless, therefore, the constitution be presumed to have intended the natural “obligation,” it cannot be said to have intended any *one* “obligation” whatever; or, consequently, to have forbidden the violation of any *one* “obligation” whatever.

It cannot be said that “the obligation,” which the constitution designed to protect, was any arbitrary “obligation,” that was unknown at the time the constitution was established, but that was to be created, and made known afterward; for then this provision of the constitution could have had no effect, until such arbitrary “obligation” should have been created, and made known. And as it gives us no information as to how, or by whom, this arbitrary “obligation” was to be created, or what the obligation itself was to be, or how it could ever be known to be the one that was intended to be protected, the provision itself becomes a mere

nullity, having no effect to protect any “obligation” at all.

It would be a manifest and utter absurdity to say that the constitution intended to protect any “obligation” whatever, unless it be presumed to have intended some particular “obligation,” *that was known at the time*; for that would be equivalent to saying that the constitution intended to establish a law, of which no man could know the meaning.

But this is not all.

The right of property is a natural right. The only real right of property, that is known to mankind, is the natural right. Men have also a natural right to convey their natural rights of property from one person to another. And there is no means known to mankind, by which this *natural* right of property can be transferred, or conveyed, by one man to another, except by such contracts as are *naturally* obligatory; that is, naturally capable of conveying and binding the right of property.

All contracts whatsoever, that are naturally capable, competent, and sufficient to convey, transfer, and bind the natural right of property, are naturally obligatory; [60] and really and truly do convey, transfer, and bind such rights of property as they purport to convey, transfer, and bind.

All the other modes, by which one man has ever attempted to acquire the property of another, have been thefts, robberies, and frauds. But these, of course, have never conveyed any real rights of property.

To make any contract binding, obligatory, and effectual for conveying and transferring rights of property, these three conditions only are essential, *viz.*, 1, That it be entered into by parties, who are mentally competent to make reasonable contracts. 2. That the contract be a purely voluntary one: that is, that it be entered into without either force or fraud on either side. 3. That the right of property, which the contract purports to convey, be such an one as is naturally capable of being conveyed, or transferred, by one man to another.

Subject to these conditions, all contracts whatsoever, for conveying rights of property—that is, for buying and selling, borrowing and lending, giving and receiving property—are naturally obligatory, and bind such rights of property as they purport to convey.

Subject to these conditions, all contracts, for the conveyance of rights of property, are recognized as valid, all over the world, by both civilized and savage man, except in those particular cases where governments arbitrarily and tyrannically prohibit, alter, or invalidate them.

This *natural* “obligation of contracts” must necessarily be presumed to be the one, and the only one, which the constitution forbids to be impaired, by any State law whatever, if we are to presume that the constitution was intended for the maintenance of justice, or men’s natural rights.

On the other hand, if the constitution be presumed not to protect this *natural* “obligation of contracts,” we know not *what* other “obligation” it did intend to protect. It mentions no other, describes no other, gives us no hint of any other; and nobody can give us the least information as to what other “obligation of contracts” was intended.

It could not have been any “obligation” which the *State* lawmakers might arbitrarily create, and annex to *all* contracts; for this is what no lawmakers have ever attempted to do. And it would be the height of absurdity to suppose they ever will invent any *one* “obligation,” and attach it to *all* contracts. They have only attempted either to annul, or impair, the natural “obligation” of *particular* contracts; or, *in particular cases*, to substitute other “obligations” of their own invention. And this is the most they will ever attempt to do.

SECTION XIX. [↩](#)

Assuming it now to be proved that the “obligation of contracts,” which the States are forbidden to “impair,” is the *natural* “obligation”; and that, *constitutionally [61] speaking*, this provision secures, to all the people of the United States, the right to enter into, and have the benefit of, all contracts whatsoever, that have that *one natural* “obligation,” let us look at some of the more important of those State laws that have either impaired that obligation, or prohibited the exercise of that right.

1. That law, in all the States, by which any, or all, the contracts of persons, under twenty-one years of age, are either invalidated, or forbidden to be entered into.

The mental capacity of a person to make reasonable contracts, is the only criterion, by which to determine his legal capacity to make obligatory contracts. And his mental capacity to make reasonable contracts is certainly not to be determined by the fact that he is, or is not, twenty-one years of age. There would be just as much sense in saying that it was to be determined by his height, or his weight, as there is in saying that it should be determined by his age.

Nearly all persons, male and female, are mentally competent to make reasonable contracts, long before they are twenty-one years of age. And as soon as they are mentally competent to make reasonable contracts, they have the same natural right to make them, that they ever can have. And their contracts have the same natural “obligation” that they ever can have.

If a person's mental capacity to make reasonable contracts be drawn in question, that is a question of fact, to be ascertained by the same tribunal that is to ascertain all the other facts involved in the case. It certainly is not to be determined by any arbitrary legislation, that shall deprive any one of his natural right to make contracts.

2. All the State laws, that do now forbid, or that have heretofore forbidden, married women to make any or all contracts, that they are, or were, mentally competent to make reasonably, are violations of their natural right to make their own contracts.

A married woman has the same natural right to acquire and hold property, and to make all contracts that she is mentally competent to make reasonably, as has a married man, or any other man. And any law invalidating her contracts, or forbidding her to enter into contracts, on the ground of her being married, are not only absurd and outrageous in themselves, but are also as plainly violations of that provision of the constitution, which forbids any State to pass any law impairing the natural obligation of contracts, as would be laws invalidating or prohibiting similar contracts by married men.

3. All those State laws, commonly called acts of incorporation, by which a certain number of persons are licensed to contract debts, without having their individual properties held liable to pay them, are laws impairing the natural obligation of their contracts.

On natural principles of law and reason, these persons are simply partners; and their private properties, like those of any other partners, should be held liable for [62] their partnership debts. Like any other partners, they take the profits of their business, if there be any profits. And they are naturally bound to take all the risks of their business, as in the case of any other business. For a law to say that, if they make any profits, they may put them all into their own pockets, but that, if they make a loss, they may throw it upon their creditors, is an absurdity and an outrage. Such a law is plainly a law impairing the natural obligation of their contracts.

4. All State insolvent laws, so-called, that distribute a debtor's property equally among his creditors, are laws impairing the natural obligation of his contracts.

If the natural obligation of contracts were known, and recognized as law, we should have no need of insolvent or bankrupt laws.

The only force, function, or effect of a *legal* contract is to convey and bind rights of property. A contract that conveys and binds no right of property, has no *legal* force, effect, or obligation whatever.[3]

Consequently, the natural obligation of a contract of debt binds the debtor's property, and nothing more. That is, it gives the creditor a mortgage upon the debtor's property, and nothing more.

A first debt is a first mortgage; a second debt is a second mortgage; a third debt is a third mortgage; and so on indefinitely.

The first mortgage must be paid in full, before anything is paid on the second. The second must be paid in full, before anything is paid on the third; and so on indefinitely.

When the mortgaged property is exhausted, the debt is cancelled; there is no other property that the contract binds.

If, therefore, a debtor, at the time his debt becomes due, pays to the extent of his ability, and has been guilty of no fraud, fault, or neglect, during the time his debt had to run, he is thenceforth discharged from all legal obligation.

If this principle were acknowledged, we should have no occasion, and no use, for insolvent or bankrupt laws.

Of course, persons who have never asked themselves what the *natural* “obligation of contracts” is, will raise numerous objections to the principle, that a legal contract binds nothing else than rights of property. But their objections are all shallow and fallacious.

I have not space here to go into all the arguments that may be necessary to prove that contracts can have no *legal* effect, except to bind rights of property; or to show the truth of that principle in its application to all contracts whatsoever. To do this would require a somewhat elaborate treatise. Such a treatise I hope sometime to publish. For the present, I only assert the principle; and assert that the ignorance of this truth is at least one of the reasons why courts and lawyers have never been able to agree as to what “the obligation of contracts” was.

[63]

In all the cases that have now been mentioned,—that is, of minors (so-called), married women, corporations, insolvents, and in all other like cases—the tricks, or pretences, by which the courts attempt to uphold the validity of all laws that forbid persons to exercise their natural right to make their own contracts, or that annul, or impair, the *natural* “obligation” of their contracts, are these:

1. They say that, if a law forbids any particular contract to be made, such contract, being then an illegal one, can have no “obligation.” Consequently, say they, the law cannot be said to impair it; because the law cannot impair an “obligation,” that has never had an existence.

They say this of all contracts, that are arbitrarily forbidden; although, naturally and intrinsically, they have as valid an obligation as any others that men ever enter into, or as any that courts enforce.

By such a naked trick as this, these courts not only strike down men's natural right to make their own contracts, but even seek to evade that provision of the constitution, which they are all sworn to support, and which commands them to hold valid the *natural* "obligation" of all men's contracts; "anything in the constitutions or laws of the States to the contrary notwithstanding."

They might as well have said that, if the constitution had declared that "no State shall pass any law impairing any man's natural right to life, liberty, or property"—(that is, his *natural* right to live, and do what he will with himself and his property, so long as he infringes the right of no other person)—this prohibition could be evaded by a State law declaring that, from and after such a date, no person should have any natural right to life, liberty, or property; and that, therefore, a law arbitrarily taking from a man his life, liberty, and property, could not be said to impair his right to them, because no law could impair a right that did not exist.

The answer to such an argument as this, would be, that it is a natural truth that every man, who ever has been, or ever will be, born into the world, *necessarily has been, and necessarily will be, born with an inherent right to life, liberty, and property*; and that, in forbidding this right to be impaired, *the constitution presupposes, implies, assumes, and asserts that every man has, and will have, such a right*; and that this *natural* right is the very right, which the constitution forbids any State law to impair.

Or the courts might as well have said that, if the constitution had declared that "no State shall pass any law impairing the obligation of contracts made for the purchase of food," that provision could have been evaded by a State law forbidding any contract to be made for the purchase of food; and then saying that such contract, being illegal, could have no "obligation," that could be impaired.

The answer to this argument would be that, by forbidding any State law impairing the obligation of contracts made for the purchase of food, the constitution presupposes, implies, assumes, and asserts that such contracts have, and always [64] will have, a *natural* "obligation"; and that this *natural* "obligation" is the very "obligation," which the constitution forbids any State law to impair.

So in regard to all other contracts. The constitution presupposes, implies, assumes, and asserts the natural truth, that certain contracts have, *and always necessarily will have*, a *natural* "obligation." And this *natural* "obligation"—which is the only real obligation that any contract can have—is the very one that the constitution forbids any State law to impair, in the case of any contract whatever that has such obligation.

And yet all the courts hold the direct opposite of this. They hold that, if a State law forbids any contract to be made, such a contract can then have no obligation; and that, consequently, no State law can impair an obligation that never existed.

But if, by forbidding a contract to be made, a State law can prevent the contract's having any obligation, State laws, by forbidding any contracts at all to be made, can prevent all contracts, thereafter made, from having any obligation; and thus utterly destroy all men's natural rights to make any obligatory contracts at all.

2. A second pretence, by which the courts attempt to evade that provision of the constitution, which forbids any State to "pass any law impairing the obligation of contracts," is this: They say that the State law, that requires, or obliges, a man to fulfil his contracts, *is itself "the obligation,"* which the constitution forbids to be impaired; and that therefore the constitution only prohibits the impairing of any law for enforcing such contracts as shall be made under it.

But this pretence, it will be seen, utterly discards the idea that contracts have any *natural* obligation. It implies that contracts have no obligation, except the laws that are made for enforcing them. But if contracts have no *natural* obligation, they have no obligation at all, *that ought to be enforced*; and the State is a mere usurper, tyrant, and robber, in passing any law to enforce them.

Plainly a State cannot rightfully enforce any contracts at all, unless they have a *natural* obligation.

3. A third pretence, by which the courts attempt to evade this provision of the constitution, is this: They say that "the law is a part of the contract" itself; and therefore cannot impair its obligation.

By this they mean that, if a law is standing upon the statute book, prescribing what obligation certain contracts shall, or shall not, have, it must then be presumed that, whenever such a contract is made, the parties intended to make it according to that law; and really to make the law a part of their contract; *although they themselves say nothing of the kind.*

This pretence, that the law is a part of the contract, is a mere trick to cheat people out of their natural right to make their own contracts; and to compel them to make only such contracts as the lawmakers choose to permit them to make.

[65]

To say that it must be presumed that the parties intended to make their contracts according to such laws as may be prescribed to them—or, what is the same thing, to make the laws a part of their contracts—is equivalent to saying that the parties must be presumed to

have given up all their natural right to make their own contracts; to have acknowledged themselves imbeciles, incompetent to make reasonable contracts, and to have authorized the lawmakers to make their contracts for them; for if the lawmakers can make any part of a man's contract, and presume his consent to it, they can make a whole one, and presume his consent to it.

If the lawmakers can make any part of men's contracts, they can make the whole of them; and can, therefore, buy and sell, borrow and lend, give and receive men's property of all kinds, according to their (the lawmakers') own will, pleasure, or discretion; without the consent of the real owners of the property, and even without their knowledge, until it is too late. In short, they may take any man's property, and give it, or sell it, to whom they please, and on such conditions, and at such prices, as they please; without any regard to the rights of the owner. They may, in fact, at their pleasure, strip any, or every, man of his property, and bestow it upon whom they will; and then justify the act upon the presumption that the owner consented to have his property thus taken from him and given to others.

This absurd, contemptible, and detestable trick has had a long lease of life, and has been used as a cover for some of the greatest of crimes. By means of it, the marriage contract has been perverted into a contract, on the part of the woman, to make herself a legal non-entity, or *non compos mentis*; to give up, to her husband, all her personal property, and the control of all her real estate; and to part with her natural, inherent, inalienable right, as a human being, to direct her own labor, control her own earnings, make her own contracts, and provide for the subsistence of herself and her children.

There would be just as much reason in saying that the lawmakers have a right to make the entire marriage contract; to marry any man and woman against their will; dispose of all their personal and property rights; declare them imbeciles, incapable of making a reasonable marriage contract; then presume the consent of both the parties; and finally treat them as criminals, and their children as outcasts, if they presume to make any contract of their own.

This same trick, of holding that the law is a part of the contract, has been made to protect the private property of stockholders from liability for the debts of the corporations, of which they were members; and to protect the private property of special partners, so-called, or limited partners, from liability for partnership debts.

This same trick has been employed to justify insolvent and bankrupt laws, so-called, whereby a first creditor's right to a first mortgage on the property of his debtor, has been taken from him, and he has been compelled to take his chances with as many subsequent creditors as the debtor may succeed in becoming indebted to

All these absurdities and atrocities have been practiced by the lawmakers of the States, and sustained by the courts, under the pretence that they (the courts) did not know what the natural “obligation of contracts” was; or that, if they did know what it was, the constitution of the United States imposed no restraint upon its unlimited violation by the State lawmakers.

SECTION XX. [↩](#)

But, not content with having always sanctioned the unlimited power of the *State* lawmakers to abolish all men’s natural right to make their own contracts, the Supreme Court of the United States has, within the last twenty years, taken pains to assert that congress also has the arbitrary power to abolish the same right.

1. It has asserted the arbitrary power of congress to abolish all men’s right to make their own contracts, by asserting its power *to alter the meaning of all contracts, after they are made*, so as to make them widely, or wholly, different from what the parties had made them.

Thus the court has said that, after a man has made a contract to pay a certain number of dollars, at a future time,— *meaning such dollars as were current at the time the contract was made*, —congress has power to coin a dollar of less value than the one agreed on, and authorize the debtor to pay his debt with a dollar of less value than the one he had promised.

To cover up this infamous crime, the court asserts, over and over again,—what no one denies,—that congress has power (constitutionally speaking) to alter, at pleasure, the value of its coins. But it then asserts that congress has this additional, and wholly different, power, to wit, the power to declare that this alteration in the value of the coins *shall work a corresponding change in all existing contracts for the payment of money*.

In reality they say that a contract to pay money is not a contract to pay any particular amount, or value, of such money as was known and understood by the parties at the time the contract was made, *but only such, and so much, as congress shall afterwards choose to call by that name, when the debt shall become due*.

They assert that, by simply retaining the name, while altering the thing,— *or by simply giving an old name to a new thing*, —congress has power to utterly abolish the contract which the parties themselves entered into, and substitute for it any such new and different one, as they (congress) may choose to substitute.

Here are their own words:

The contract obligation was not a duty to pay gold or silver, or the kind of money recognized by law at the time when the contract was made, nor was it a duty to pay money of equal intrinsic value in the market. . . . But the obligation of a contract to pay money is to pay that which the law shall recognize as money

when the payment is to be made.—*Legal Tender Cases*, 12 Wallace 548.

[67]

This is saying that the obligation of a contract to pay money is not an obligation to pay what both the law and the parties recognize as money, *at the time when the contract is made*, but only such substitute as congress shall afterwards prescribe, “*when the payment is to be made.*”

This opinion was given by a majority of the court in the year 1870.

In another opinion the court says:

Under the power to coin money, and to regulate its value, congress may issue coins of the same denomination [that is, bearing the same name] as those already current by law, but of less intrinsic value than those, by reason of containing a less weight of the precious metals, *and thereby enable debtors to discharge their debts by the payment of coins of the less real value*. A contract to pay a certain sum of money, without any stipulation as to the kind of money in which it shall be made, may always be satisfied by payment of that sum [that is, that *nominal* amount] *in any currency which is lawful money at the place and time at which payment is to be made.*—*Juilliard vs. Greenman*, 110 U. S. Reports, 449.

This opinion was given by the entire court—save one, Field—at the October term of 1883.

Both these opinions are distinct declarations of the power of congress to alter men’s contracts, *after they are made*, by simply retaining the name, while altering the thing, that is agreed to be paid.

In both these cases, the court means distinctly to say that, *after the parties to a contract have agreed upon the number of dollars to be paid*, congress has power to reduce the value of the dollar, and authorize all debtors to pay the less valuable dollar, instead of the one agreed on.

In other words, the court means to say that, after a contract has been made for the payment of a certain number of dollars, *congress has power to alter the meaning of the word dollar*, and thus authorize the debtor to pay in something different from, and less valuable than, the thing he agreed to pay.

Well, if congress has power to alter men’s contracts, *after they are made*, by altering the meaning of the word dollar, and thus reducing the value of the debt, it has a precisely equal power to *increase* the value of the dollar, and thus compel the debtor to pay *more* than he agreed to pay.

Congress has evidently just as much right to *increase* the value of the dollar, after a contract has been made, as it has to *reduce* its value. It has, therefore, just as much right to cheat debtors, by compelling them to pay *more* than they agreed to pay, as it has to cheat creditors, by compelling them to accept *less* than they agreed to accept.

All this talk of the court is equivalent to asserting that congress has the right to alter men's contracts at pleasure, *after they are made*, and make them over into something, or anything, wholly different from what the parties themselves had made them.

And this is equivalent to denying all men's right to make their own contracts, [68] or to acquire any contract rights, which congress may not *afterward*, at pleasure, alter, or abolish.

It is equivalent to saying that the words of contracts are not to be taken in the sense in which they are used, by the parties themselves, at the time when the contracts are entered into, but only in such different senses as congress may choose to put upon them at any future time.

If this is not asserting the right of congress to abolish altogether men's natural right to make their own contracts, what is it?

Incredible as such audacious villainy may seem to those unsophisticated persons, who imagine that a court of law should be a court of justice, it is nevertheless true, that this court intended to declare the unlimited power of congress to alter, at pleasure, the contracts of parties, *after they have been made*, by altering the kind and amount of money by which the contracts may be fulfilled. That they intended all this, is proved, not only by the extracts already given from their opinions, but also by the whole tenor of their arguments—too long to be repeated here—and more explicitly by these quotations, viz.:

There is no well-founded distinction to be made between the constitutional validity of an act of congress declaring treasury notes a legal tender for the payment of debts contracted after its passage, and that of an act making them a legal tender for the discharge of *all* debts, *as well those incurred before, as those made after, its enactment*.—*Legal Tender Cases*, 12 Wallace 530 (1870).

Every contract for the payment of money, simply, is necessarily subject to the constitutional power of the government over the currency, whatever that power may be, *and the obligation of the parties is, therefore, assumed with reference to that power*. —12 Wallace 549.

Contracts for the payment of money are subject to the authority of congress, *at least so far as relates to the means of payment*. —12 Wallace 549.

The court means here to say that “every contract for the payment of money, simply,” is necessarily made, by the parties, *subject to the power of congress to alter it afterward* —by altering the kind and value of the money with which it may be paid— *into anything, into which they (congress) may choose to alter it.*

And this is equivalent to saying that all such contracts are made, by the parties, *with the implied understanding that the contracts, as written and signed by themselves, do not bind either of the parties to anything*; but that they simply suggest, or initiate, some non-descript or other, which congress may afterward convert into a binding contract, *of such a sort, and only such a sort, as they (congress) may see fit to convert it into.*

Every one of these judges knew that no two men, having common honesty and common sense,—unless first deprived of all power to make their own contracts,—would ever enter into a contract to pay money, with any understanding that the government had any such arbitrary power as the court here ascribes to it, to alter [69] their contract after it should be made. Such an absurd contract would, in reality, be no *legal* contract at all. It would be a mere gambling agreement, having, naturally and really, no *legal* “obligation” at all.

But further. A *solvent* contract to pay money is in reality—in law, and in equity— *a bona fide mortgage upon the debtor’s property*. And this mortgage right is as veritable a right of property, as is any right of property, that is conveyed by a warranty deed. And congress has no more right to invalidate this mortgage, by a single iota, than it has to invalidate a warranty deed of land. And these judges will sometime find out that such is “the obligation of contracts,” if they ever find out what “the obligation of contracts” is.

The justices of that court have had this question—what is “the obligation of contracts”?—before them for seventy years, and more. But they have never agreed among themselves—even by so many as a majority—as to what it is. And this disagreement is very good evidence that *none* of them have known what it is; for if any one of them had known what it is, he would doubtless have been able, long ago, to enlighten the rest.

Considering the vital importance of men’s contracts, it would evidently be more to the credit of these judges, if they would give their attention to this question of “the obligation of contracts,” until they shall have solved it, than it is to be telling fifty millions of people that they have no right to make any contracts at all, except such as congress has power to invalidate after they shall have been made. Such assertions as this, coming from a court that cannot even tell us what “the obligation of contracts” is, are not entitled to any serious consideration. On the contrary, they show us what farces and impostures these judicial opinions—or decisions, as they call them—are. They show that these judicial oracles, as men call them, are no better than some of the other so-called oracles, by whom mankind have been duped.

But these judges certainly never will find out what “the obligation of contracts” is, until they find out that men have the natural right to make their own contracts, and unalterably fix their “obligation”; and that governments can have no power whatever to make, unmake, alter, or invalidate that “obligation.”

Still further. Congress has the same power over weights and measures that it has over coins. And the court has no more right or reason to say that congress has power to alter existing contracts, by altering the value of the coins, than it has to say that, after any or all men have, for value received, entered into contracts to deliver so many bushels of wheat or other grain, so many pounds of beef, pork, butter, cheese, cotton, wool, or iron, so many yards of cloth, or so many feet of lumber, congress has power, by altering these weights and measures, to alter all these existing contracts, so as to convert them into contracts to deliver only half as many, or to deliver twice as many, bushels, pounds, yards, or feet, as the parties agreed upon.

[70]

To add to the farce, as well as to the iniquity, of these judicial opinions, it must be kept in mind, that the court says that, after A has sold valuable property to B, and has taken in payment an honest and sufficient mortgage on B’s property, congress has the power to compel him (A) to give up this mortgage, and to accept, in place of it, not anything of any real value whatever, but only the promissory note of a so-called government; and that government one which—if taxation without consent is robbery—never had an honest dollar in its treasury, with which to pay any of its debts, and is never likely to have one; but relies wholly on its future robberies for its means to pay them; and can give no guaranty, but its own interest at the time, that it will even make the payment out of its future robberies.

If a company of bandits were to seize a man’s property for their own uses, and give him their note, promising to pay him out of their future robberies, the transaction would not be considered a very legitimate one. But it would be intrinsically just as legitimate as is the one which the Supreme Court sanctions on the part of congress.

Banditti have not usually kept supreme courts of their own, to legalize either their robberies, or their promises to pay for past robberies, out of the proceeds of their future ones. Perhaps they may now take a lesson from our Supreme Court, and establish courts of their own, that will hereafter legalize all their contracts of this kind.

SECTION XXI.

To justify its declaration, that congress has power to alter men’s contracts after they are made, the court dwells upon the fact that, at the times when the legal-tender acts were passed, the government was in peril of its life; and asserts that it had therefore a right to do almost

anything for its self-preservation, without much regard to its honesty, or dishonesty, towards private persons. Thus it says:

A civil war was then raging, which seriously threatened the overthrow of the government, and the destruction of the constitution itself. It demanded the equipment and support of large armies and navies, and the employment of money to an extent beyond the capacity of all ordinary sources of supply. Meanwhile the public treasury was nearly empty, and the credit of the government, if not stretched to its utmost tension, had become nearly exhausted. Moneyed institutions had advanced largely of their means, and more could not be expected of them. They had been compelled to suspend specie payments. Taxation was inadequate to pay even the interest on the debt already incurred, and it was impossible to await the income of additional taxes. The necessity was immediate and pressing. The army was unpaid. There was then due to the soldiers in the field nearly a score of millions of dollars. The requisitions from the War and Navy departments for supplies, exceeded fifty millions, and the current expenditure was over one million per day. . . . Foreign credit we had none. We say nothing of the overhanging paralysis of trade, and business generally, which threatened loss of confidence in the ability of the government to maintain its continued existence, and therewith the complete destruction of all remaining national credit.

[71]

It was at such a time, and in such circumstances, that congress was called upon to devise means for maintaining the army and navy, for securing the large supplies of money needed, and indeed for the preservation of the government created by the constitution. It was at such a time, and in such an emergency, that the legal-tender acts were passed.—12 *Wallace* 540-1.

In the same case Bradley said:

Can the poor man's cattle, and horses, and corn be thus taken by the government, when the public exigency requires it, and cannot the rich man's bonds and notes be in like manner taken to reach the same end?— *p.* 561.

He also said:

It is absolutely essential to independent national existence that government should have a firm hold on the two great instrumentalities of the *sword* and the *purse*, and the right to wield them without restriction, on occasions of national peril. In certain emergencies government must have at its command, *not only the personal services—the bodies and lives—of its citizens*, but the lesser, though not less essential, power of absolute control over the resources of the country. Its armies must be filled, and its navies manned, by the citizens in person.— *p.* 563.

Also he said:

The conscription may deprive me of liberty, and destroy my life. . . . All these are fundamental political conditions on which life, property, and money are respectively held and enjoyed under our system of government, nay, under any system of government. There are times when the exigencies of the State rightly absorb all subordinate considerations of private interest, convenience, and feeling.— p. 565.

Such an attempt as this, to justify one crime, by taking for granted the justice of other and greater crimes, is a rather desperate mode of reasoning, for a court of law; to say nothing of a court of justice. The answer to it is, that no government, however good in other respects—any more than any other good institution—has any right to live otherwise than on purely voluntary support. It can have no right to take either “the poor man’s cattle, and horses, and corn,” or “the rich man’s bonds and notes,” or poor men’s “bodies and lives,” without their consent. And when a government resorts to such measures to save its life, we need no further proof that its time to die has come. A good government, no more than a bad one, has any right to live by robbery, murder, or any other crime.

But so think not the Justices of the Supreme Court of the United States. On the contrary, they hold that, in comparison with the preservation of the government, all the rights of the people to property, liberty, and life are worthless things, not to be regarded. So they hold that in such an exigency as they describe, congress had the right to commit any crime against private persons, by which the government could be saved. And among these lawful crimes, the court holds that [72] congress had the right to issue money that should serve as a license to all holders of it, to cheat—or rather openly rob—their creditors.

The court might, with just as much reason, have said that, to preserve the life of the government, congress had the right to issue such money as would authorize all creditors to demand twice the amount of their honest dues from all debtors.

The court might, with just as much reason, have said that, to preserve the life of the government, congress had the right to sell indulgences for all manner of crimes; for theft, robbery, rape, murder, and all other crimes, for which indulgences would bring a price in the market.

Can any one imagine it possible that, if the government had always done nothing but that “equal and exact justice to all men”—which you say it is pledged to do,—but which you must know it has never done,—it could ever have been brought into any such peril of its life, as these judges describe? Could it ever have been necessitated to take either “the poor man’s cattle, and horses, and corn,” or “the rich man’s bonds and notes,” or poor men’s “bodies and lives,” without their consent? Could it ever have been necessitated to “conscript” the poor man—too poor to pay a ransom of three hundred dollars—made thus poor by the tyranny of

the government itself—“deprive him of his liberty, and destroy his life”? Could it ever have been necessitated to sell indulgences for crime to either debtors, or creditors, or anybody else? To preserve “the constitution”—a constitution, I repeat, that authorized nothing but “equal and exact justice to all men”—could it ever have been necessitated to send into the field millions of ignorant young men, to cut the throats of other young men as ignorant as themselves—few of whom, on either side, had ever read the constitution, or had any real knowledge of its legal meaning; and not one of whom had ever signed it, or promised to support it, or was under the least obligation to support it?

It is, I think, perfectly safe to say, that not one in a thousand, probably not one in ten thousand, of these young men, who were sent out to butcher others, and be butchered themselves, had any real knowledge of the constitution they were professedly sent out to support; or any reasonable knowledge of the real character and motives of the congresses and courts that profess to administer the constitution. If they had possessed this knowledge, how many of them would have ever gone to the field?

But further. Is it really true that the right of the government to commit all these atrocities:

Are the fundamental political conditions on which life, property, and money are respectively held and enjoyed under our system of government?

If such is the real character of the constitution, can any further proof be required of the necessity that it be buried out of sight at once and forever?

The truth was that the government was in peril, *solely because it was not fit to [73] exist*. It, and the State governments—all but parts of one and the same system—were rotten with tyranny and crime. And being bound together by no honest tie, and existing for no honest purpose, destruction was the only honest doom to which any of them were entitled. And if we had spent the same money and blood to destroy them, that we did to preserve them, it would have been ten thousand times more creditable to our intelligence and character as a people.

Clearly the court has not strengthened its case at all by this picture of the peril in which the government was placed. It has only shown to what desperate straits a government, founded on usurpation and fraud, and devoted to robbery and oppression, may be brought, by the quarrels that are liable to arise between the different factions—that is, the different bands of robbers—of which it is composed. When such quarrels arise, it is not to be expected that either faction—having never had any regard to human rights, when acting in concert with the other—will hesitate at any new crimes that may be necessary to prolong its existence.

Here was a government that had never had any legitimate existence. It professedly rested all its authority on a certain paper called a constitution; a paper, I repeat, that nobody had ever signed, that few persons had ever read, that the great body of the people had never seen.

This government had been imposed, by a few property holders, upon a people too poor, too scattered, and many of them too ignorant, to resist. It had been carried on, for some seventy years, by a mere cabal of irresponsible men, called lawmakers. In this cabal, the several local bands of robbers—the slaveholders of the South, the iron monopolists, the woollen monopolists, and the money monopolists, of the North—were represented. The whole purpose of its laws was to rob and enslave the many—both North and South—for the benefit of a few. But these robbers and tyrants quarreled—as lesser bands of robbers have done—over the division of their spoils. And hence the war. No such principle as justice to anybody—black or white—was the ruling motive on either side.

In this war, each faction—already steeped in crime—plunged into new, if not greater, crimes. In its desperation, it resolved to destroy men and money, without limit, and without mercy, for the preservation of its existence. The northern faction, having more men, money, and credit than the southern, survived the Kilkenny fight. Neither faction cared anything for human rights then, and neither of them has shown any regard for human rights since. “As a war measure,” the northern faction found it necessary to put an end to the one great crime, from which the southern faction had drawn its wealth. But all other government crimes have been more rampant since the war, than they were before. Neither the conquerors, nor the conquered, have yet learned that no government can have any right to exist for any other purpose than the simple maintenance of justice between man and man.

And now, years after the fiendish butchery is over, and after men would seem [74] to have had time to come to their senses, the Supreme Court of the United States, representing the victorious faction, comes forward with the declaration that one of the crimes—the violation of men’s private contracts—resorted to by its faction, in the heat of conflict, as a means of preserving its power over the other, was not only justifiable and proper at the time, *but that it is also a legitimate and constitutional power, to be exercised forever hereafter in time of peace!*

Mark the knavery of these men. They first say that, because the government was in peril of its life, it had a right to license great crimes against private persons, if by so doing it could raise money for its own preservation. Next they say that, *although the government is no longer in peril of its life*, it may still go on forever licensing the same crimes as it was before necessitated to license!

They thus virtually say that the government may commit the same crimes in time of peace, that it is necessitated to do in time of war; and, that, consequently, it has the same right to “take the poor man’s cattle, and horses, and corn,” and “the rich man’s bonds and notes,” and poor men’s “bodies and lives,” in time of peace, *when no necessity whatever can be alleged*, as in time of war, when the government is in peril of its life.

In short, they virtually say, that this government exists for itself alone; and that all the natural rights of the people, to property, liberty, and life, are mere baubles, to be disposed of, at its pleasure, whether in time of peace, or in war.

SECTION XXII. [↩](#)

As if to place beyond controversy the fact, that the court may forever hereafter be relied on to sanction every usurpation and crime that congress will ever dare to put into the form of a statute, without the slightest color of authority from the constitution, necessity, utility, justice, or reason, it has, on three separate occasions, announced its sanction of the monopoly of money, as finally established by congress in 1866, and continued in force ever since.

This monopoly is established by a prohibitory tax—a tax of ten per cent.—on all notes issued for circulation as money, other than the notes of the United States and the national banks.

This ten per cent. is called a “tax,” but is really a penalty, and is intended as such, and as nothing else. Its whole purpose is— *not to raise revenue* —but solely to establish a monopoly of money, by prohibiting the issue of all notes intended for circulation as money, except those issued, or specially licensed, by the government itself.

This prohibition upon the issue of all notes, except those issued, or specially licensed, by the government, is a prohibition upon all freedom of industry and traffic. It is a prohibition upon the exercise of men’s natural right to lend and hire such money capital as all men need to enable them to create and distribute [75] wealth, and supply their own wants, and provide for their own happiness. Its whole purpose is to reduce, as far as possible, the great body of the people to the condition of servants to a few—a condition but a single grade above that of chattel slavery—in which their labor, and the products of their labor, may be extorted from them at such prices only as the holders of the monopoly may choose to give.

This prohibitory tax—so-called—is therefore really a penalty imposed upon the exercise of men’s natural right to create and distribute wealth, and provide for their own and each other’s wants. And it is imposed solely for the purpose of establishing a practically omnipotent monopoly in the hands of a few.

Calling this penalty a “tax” is one of the dirty tricks, or rather downright lies—that of calling things by false names—to which congress and the courts resort, to hide their usurpations and crimes from the common eye.

Everybody—who believes in the government—says, of course, that congress has power to levy taxes; that it must do so to raise revenue for the support of the government. Therefore this lying congress call this penalty a “tax,” instead of calling it by its true name, a penalty.

It certainly is no tax, because no revenue is raised, or intended to be raised, by it. It is not levied upon property, or persons, as such, but only upon a certain act, or upon persons for doing a certain act; an act that is not only perfectly innocent and lawful in itself, but that is naturally and intrinsically useful, and even indispensable for the prosperity and welfare of the whole people. Its whole object is simply to deter everybody—except those specially licensed—from performing this innocent, useful, and necessary act. And this it has succeeded in doing for the last twenty years; to the destruction of the rights, and the impoverishment and immeasurable injury of all the people, except the few holders of the monopoly.

If congress had passed an act, in this form, to wit:

No person, nor any association of persons, incorporated or unincorporated—*unless specially licensed by congress*—shall issue their promissory notes for circulation as money; and a *penalty* of ten per cent. upon the amount of all such notes shall be imposed upon the persons issuing them,

the act would have been the same, in effect and intention, as is this act, that imposes what it calls a “tax.” The penalty would have been understood by everybody as a punishment for issuing the notes; and would have been applied to, and enforced against, those only who should have issued them. And it is the same with this so-called tax. It will never be collected, except for the same cause, and under the same circumstances, as the penalty would have been. It has no more to do with raising a revenue, than the penalty would have had. And all these lying lawmakers and courts know it.

But if congress had put this prohibition distinctly in the form of a *penalty*, the usurpation would have been so barefaced—so destitute of all color of constitutional [76] authority—that congress dared not risk the consequences. And possibly the court might not have dared to sanction it; if, indeed, there be any crime or usurpation which the court dare not sanction. So these knavish lawmakers called this penalty a “tax”; and the court says that such a “tax” is clearly constitutional. And the monopoly has now been established for twenty years. And substantially all the industrial and financial troubles of that period have been the natural consequences of the monopoly.

If congress had laid a prohibitory tax upon all food—that is, had imposed a penalty upon the production and sale of all food—except such as it should have itself produced, or specially licensed; and should have reduced the amount of food, thus produced or licensed, to one tenth, twentieth, or fiftieth of what was really needed; the motive and the crime would have been the same, in character, if not in degree, as they are in this case, *viz.*, to enable the few holders of the licensed food to extort, from everybody else, by the fear of starvation, all their (the latter’s) earnings and property, in exchange for this small quantity of privileged food.

Such a monopoly of food would have been no clearer violation of men's natural rights, than is the present monopoly of money. And yet this colossal crime—like every other crime that congress chooses to commit—is sanctioned by its servile, rotten, and stinking court.

On what *constitutional* grounds—that is, on what provisions found in the constitution itself—does the court profess to give its sanction to such a crime?

On these three only:

1. On the power of congress to lay and collect taxes, etc.
2. On the power of congress to coin money.
3. On the power of congress to borrow money.

Out of these simple, and apparently harmless provisions, the court manufactures an authority to grant, to a few persons, a monopoly that is practically omnipotent over all the industry and traffic of the country; that is fatal to all other men's natural right to lend and hire capital for any or all their legitimate industries; and fatal absolutely to all their natural right to buy, sell, and exchange any, or all, the products of their labor at their true, just, and natural prices.

Let us look at these constitutional provisions, and see how much authority congress can really draw from them.

1. The constitution says:

The congress shall have power to lay and collect taxes, duties, imposts, and excises, *to pay the debts, and provide for the common defence and general welfare of the United States.*

This provision plainly authorizes no taxation whatever, except for the raising of revenue to pay the debts and legitimate expenses of the government. It no more authorizes taxation for the purpose of establishing monopolies of any kind whatever, than it does for taking openly and boldly all the property of the many, [77] and giving it outright to a few. And none but a congress of usurpers, robbers, and swindlers would ever think of using it for that purpose.

The court says, *in effect*, that this provision gives congress power to establish the present monopoly of money; that the power to tax all other money, is a power to prohibit all other money; and a power to prohibit all other money is a power to give the present money a monopoly.

How much is such an argument worth? Let us show by a parallel case, as follows.

Congress has the same power to tax all other property, that it has to tax money. And if the power to tax money is a power to prohibit money, then it follows that the power of congress to tax all other property than money, is a power to prohibit all other property than money; and a power to prohibit all other property than money, is a power to give monopolies to all such other property as congress may not choose to prohibit; or may choose to specially license.

On such reasoning as this, it would follow that the power of congress to tax money, and all other property, is a power to prohibit all money, and all other property; and thus to establish monopolies in favor of all such money, and all such other property, as it chooses not to prohibit; or chooses to specially license.

Thus, this reasoning would give congress power to establish all the monopolies, it may choose to establish, not only in money, but in agriculture, manufactures, and commerce; and protect these monopolies against infringement, by imposing prohibitory taxes upon all money and other property, except such as it should choose not to prohibit; or should choose to specially license.

Because the constitution says that “congress shall have power to lay and collect taxes,” etc., to raise the revenue necessary for paying the current expenses of the government, the court say that congress have power to levy prohibitory taxes—taxes that shall yield no revenue at all—but shall operate only as a penalty upon all industries and traffic, and upon the use of all the means of industry and traffic, that shall compete with such monopolies as congress shall choose to grant.

This is no more than an unvarnished statement of the argument, by which the court attempts to justify a prohibitory “tax” upon money; for the same reasoning would justify the levying of a prohibitory tax—that is, penalty—upon the use of any and all other means of industry and traffic, by which any other monopolies, granted by congress, might be infringed.

There is plainly no more connection between the “power to lay and collect taxes,” etc., for the necessary expenses of the government, and the power to establish this monopoly of money, than there is between such a power of taxation, and a power to punish, as a crime, any or all industry and traffic whatsoever, except such as the government may specially license.

This whole cheat lies in the use of the word “tax,” to describe what is really a penalty, upon the exercise of any or all men’s natural rights of providing for their subsistence and well-being. And none but corrupt and rotten congresses and courts would ever think of practising such a cheat.

[78]

2. The second provision of the constitution, relied on by the court to justify the monopoly of money, is this:

The congress shall have power to coin money, regulate the value thereof, and of foreign coins.

The only important part of this provision is that which says that “the congress shall have power to coin money, [and] regulate the value thereof.”

That part about regulating the value of foreign coins—if any one can tell how congress can regulate it—is of no appreciable importance to anybody; for the coins will circulate, or not, as men may, or may not, choose to buy and sell them as money, and at such value as they will bear in free and open market,—that is, in competition with all other coins, and all other money. This is their only true and natural market value; and there is no occasion for congress to do anything in regard to them.

The only thing, therefore, that we need to look at, is simply the power of congress “to coin money.”

So far as congress itself is authorized to coin money, this is simply a power to weigh and assay metals,—gold, silver, or any other,—stamp upon them marks indicating their weight and fineness, and then sell them to whomsoever may choose to buy them; and let them go in the market for whatever they may chance to bring, in competition with all other money that may chance to be offered there.

It is no power to impose any restrictions whatever upon any or all other honest money, that may be offered in the market, and bought and sold in competition with the coins weighed and assayed by the government.

The power itself is a frivolous one, of little or no utility; for the weighing and assaying of metals is a thing so easily done, and can be done by so many different persons, that there is certainly no *necessity* for its being done at all by a government. And it would undoubtedly have been far better if all coins—whether coined by governments or individuals—had all been made into pieces bearing simply the names of pounds, ounces, pennyweights, etc., and containing just the amounts of pure metal described by those weights. The coins would then have been regarded as only so much metal; and as having only the same value as the same amount of metal in any other form. Men would then have known exactly how much of certain metals they were buying, selling, and promising to pay. And all the jugglery, cheating, and robbery that governments have practised, and licensed individuals to practise—by coining pieces bearing the same names, but having different amounts of metal—would have been avoided.

And all excuses for establishing monopolies of money, by prohibiting all other money

than the coins, would also have been avoided.

As it is, the constitution imposes no prohibition upon the coining of money by individuals, but only by State governments. Individuals are left perfectly free to [79] coin it, except that they must not “*counterfeit* the securities and current coin of the United States.”

For quite a number of years after the discovery of gold in California—that is, until the establishment of a government mint there—a large part of the gold that was taken out of the earth, was coined by private persons and companies; and this coinage was perfectly legal. And I do not remember to have ever heard any complaint, or accusation, that it was not honest and reliable.

The true and only value, which the coins have as money, is that value which they have as metals, for uses in the arts,—that is, for plate, watches, jewelry, and the like. This value they will retain, whether they circulate as money, or not. At this value, they are so utterly inadequate to serve as *bona fide* equivalents for such other property as is to be bought and sold for money; and, after being minted, are so quickly taken out of circulation, and worked up into articles of use—plate, watches, jewelry, etc.—that they are practically of almost no importance at all as money.

But they can be so easily and cheaply carried from one part of the world to another, that they have substantially the same market value all over the world. They are also, in but a small degree, liable to great or sudden changes in value. For these reasons, they serve well as standards—are perhaps the best standards we can have—by which to measure the value of all other money, as well as other property. But to give them any monopoly as money, is to deny the natural right of all men to make their own contracts, and buy and sell, borrow and lend, give and receive, all such money as the parties to bargains may mutually agree upon; and also to license the few holders of the coins to rob all other men in the prices of the latter’s labor and property.

3. The third provision of the constitution, on which the court relies to justify the monopoly of money, is this:

The congress shall have power to borrow money.

Can any one see any connection between the power of congress “to borrow money,” and its power to establish a monopoly of money?

Certainly no such connection is visible to the legal eye. But it is distinctly visible to the political and financial eye; that is, to that class of men, for whom governments exist, and who own congresses and courts, and set in motion armies and navies, whenever they can promote their own interests by doing so.

To a government, whose usurpations and crimes have brought it to the verge of destruction, these men say:

Make bonds bearing six per cent. interest; sell them to us at half their face value; then give us a monopoly of money based upon these bonds—such a monopoly as will subject the great body of the people to a dependence upon us for the necessities of life, and compel them to sell their labor and property to us at our own prices; then, under pretence of raising [80] revenue to pay the interest and principal of the bonds, impose such a tariff upon imported commodities as will enable us to get fifty per cent. more for our own goods than they are worth; in short, pledge to us all the power of the government to extort for us, in the future, everything that can be extorted from the producers of wealth, and we will lend you all the money you need to maintain your power.

And the government has no alternative but to comply with this infamous proposal, or give up its infamous life.

This is the only real connection there is between the power of congress “to borrow money,” and its power to establish a monopoly of money. It was only by an outright sale of the rights of the whole people, for a long series of years, that the government could raise the money necessary to continue its villainous existence.

Congress had just as much constitutional power “to borrow money,” by the sale of any and all the other natural rights of the people at large, as it had “to borrow money” by the sale of the people’s natural rights to lend and hire money.

When the Supreme Court of the United States—assuming to be an oracle, empowered to define authoritatively the legal rights of every human being in the country—declares that congress has a constitutional power to prohibit the use of all that immense mass of money capital, in the shape of promissory notes, which the real property of the country is capable of supplying and sustaining, and which is sufficient to give to every laboring person, man or woman, the means of independence and wealth—when that court says that congress has power to prohibit the use of all this money capital, and grant to a few men a monopoly of money that shall condemn the great body of wealth-producers to hopeless poverty, dependence, and servitude—and when the court has the audacity to make these declarations on such nakedly false and senseless grounds as those that have now been stated, it is clearly time for the people of this country to inquire what constitutions and governments are good for, and whether they (the people) have any natural right, as human beings, to live for themselves, or only for a few conspirators, swindlers, usurpers, robbers, and tyrants, who employ lawmakers, judges, etc., to do their villainous work upon their fellow-men.

The court gave their sanction to the monopoly of money in these three separate cases, viz.: *Veazie Bank vs. Fenno*, 8 Wallace, 549 (1869). *National Bank vs. United States*, 101 U. S. Reports, 5 and 6 (1879). *Juliard vs. Greenman*, 110 U. S. Reports 445-6 (1884).

SECTION XXIII. [↩](#)

If anything could add to the disgust and detestation which the monstrous falsifications of the constitution, already described, should excite towards the court that resorts to them, it would be the fact that the court, not content with falsifying to the utmost the constitution itself, *goes outside of the constitution, to the tyrannical [81] practices of what it calls the “sovereign” governments of “other civilized nations,”* to justify the same practices by our own.

It asserts, over and over again, the idea that our government is a “sovereign” government; that it has the same rights of “sovereignty,” as the governments of “other civilized nations”; especially those in Europe.

What, then, is a “sovereign” government? It is a government that is “sovereign” over all the natural rights of the people. This is the only “sovereignty” that any government can be said to have. Under it, the people have no *rights*. They are simply “subjects,”—that is, slaves. They have but one law, and one duty, viz., obedience, submission. They are not recognized as having any *rights*. They can claim nothing as their own. They can only accept what the government chooses to give them. The government owns them and their property; and disposes of them and their property, at its pleasure, or discretion; without regard to any consent, or dissent, on their part.

Such was the “sovereignty” claimed and exercised by the governments of those, so-called, “civilized nations of Europe,” that were in power in 1787, 1788, and 1789, when our constitution was framed and adopted, and the government put in operation under it. And the court now says, virtually, that the constitution intended to give to our government the same “sovereignty” over the natural rights of the people, that those governments had then.

But how did the “civilized governments of Europe” become possessed of such “sovereignty”? Had the people ever granted it to them? Not at all. The governments spurned the idea that they were dependent on the will or consent of their people for their political power. On the contrary, they claimed to have derived it from the only source, from which such “sovereignty” could have been derived; that is, from God Himself.

In 1787, 1788, and 1789, all the great governments of Europe, except England, claimed to exist by what was called “Divine Right.” That is, they claimed to have received authority from God Himself, to rule over their people. And they taught, and a servile and corrupt priesthood taught, that it was a religious duty of the people to obey them. And they kept great

standing armies, and hordes of pimps, spies, and ruffians, to keep the people in subjection.

And when, soon afterwards, the revolutionists of France dethroned the king then existing—the Legitimist king, so-called—and asserted the right of the people to choose their own government, these other governments carried on a twenty years' war against her, to reestablish the principle of "sovereignty" by "Divine Right." And in this war, the government of England, although not itself claiming to exist by Divine Right,—but really existing by brute force,—furnished men and money without limit, to reestablish that principle in France, and to maintain it wherever else, in Europe, it was endangered by the idea of popular rights.

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The principle, then, of "Sovereignty by Divine Right"—sustained by brute force—was the principle on which the governments of Europe then rested; and most of them rest on that principle today. And now the Supreme Court of the United States virtually says that our constitution intended to give to our government the same "sovereignty"—the same absolutism—the same supremacy over all the natural rights of the people—as was claimed and exercised by those "Divine Right" governments of Europe, a hundred years ago!

That I may not be suspected of misrepresenting these men, I give some of their own words as follows:

It is not doubted that the power to establish a standard of value, by which all other values may be measured, or, in other words, to determine what shall be lawful money and a legal tender, is in its nature, and of necessity, a governmental power. *It is in all countries exercised by the government.—Hepburn vs. Griswold, 8 Wallace 615.*

The court call a power,

To make treasury notes a legal tender for the payment of *all* debts [private as well as public] *a power confessedly possessed by every independent sovereignty other than the United States.—Legal Tender Cases, 12 Wallace, p. 529.*

Also, in the same case, it speaks of:

That general power over the currency, *which has always been an acknowledged attribute of sovereignty in every other civilized nation than our own.—p. 545.*

In this same case, by way of asserting the power of congress to do any dishonest thing that any so-called "sovereign government" ever did, the court say:

Has any one, in good faith, avowed his belief that even a law debasing the current coin, by increasing the alloy [and then making these debased coins a legal tender in payment of debts previously contracted], would be taking private property? It might be impolitic, and unjust, but could its constitutionality be doubted?— *p. 552.*

In the same case, Bradley said:

As a government, it [the government of the United States] was invested with *all the attributes of sovereignty.*—*p. 555.*

Also he said:

Such being the character of the General Government, it seems to be a self-evident proposition *that it is invested with all those inherent and implied powers, which, at the time of adopting the constitution, were generally considered to belong to every government, as such,* and as being essential to the exercise of its functions.— *p. 556.*

Also he said:

Another proposition equally clear is, *that at the time the constitution was adopted, it was, [83] and for a long time had been, the practice of most, if not all, civilized governments,* to employ the public credit as a means of anticipating the national revenues for the purpose of enabling them to exercise their governmental functions.— *p. 556.*

Also he said:

It is our duty to construe the instrument [the constitution] by its words, *in the light of history, of the general nature of government, and the incidents of sovereignty.*—*p. 55.*

Also he said:

The government simply demands that its credit shall be accepted and received by public and private creditors during the pending exigency. *Every government has a right to demand this, when its existence is at stake.*—*p. 560.*

Also he said:

These views are exhibited . . . for the purpose of showing that it [the power to make its notes a legal tender in payment of private debts] *is one of those vital and essential powers inhering in every national sovereignty,* and necessary to its

self-preservation.— p. 564.

In still another legal tender case, the court said:

The people of the United States, by the constitution, established a national government, *with sovereign powers, legislative, executive, and judicial.*— *Juilliard vs. Greenman*, 110 U. S. Reports, p. 438.

Also it calls the constitution:

A constitution, establishing a form of government, declaring fundamental principles, *and creating a national sovereignty*, intended to endure for ages.— p. 439.

Also the court speaks of the government of the United States:

As a sovereign government.—p. 446.

Also it said:

It appears to us to follow, as a logical and necessary consequence, that congress has the power to issue the obligations of the United States in such form, and to impress upon them such qualities as currency, for the purchase of merchandise and the payment of debts, *as accord with the usage of other sovereign governments*. The power, as incident to the power of borrowing money, and issuing bills or notes of the government for money borrowed, of impressing upon those bills or notes the quality of being a legal tender for the payment of private debts, *was a power universally understood to belong to sovereignty, in Europe and America, at the time of the framing and adoption of the constitution of the United States*. The governments of Europe, acting through the monarch, or the legislature, according to the distribution of powers *under their respective constitutions*, had, and have, as *sovereign* a power of issuing paper money as of stamping coin. This power has been distinctly recognized in an important modern case, ably argued and fully considered, in which the Emperor of Austria, as King of Hungary, obtained from the English Court of Chancery an injunction [84] against the issue, in England, without his license, of notes purporting to be public paper money of Hungary.—p. 447.

Also it speaks of:

Congress, as the legislature of a *sovereign* nation.— p. 449.

Also it said:

The power to make the notes of the government a legal tender in payment of private debts, *being one of the powers belonging to sovereignty in other civilized nations*, . . . we are irresistibly impelled to the conclusion that the impressing upon the treasury notes of the United States the quality of being a legal tender in payment of private debts, is an appropriate means, conducive and plainly adapted to the execution of the undoubted powers of congress, consistent with the letter and spirit of the constitution, etc.— *p. 450.*

On reading these astonishing ideas about “sovereignty”—“sovereignty” over all the natural rights of mankind—“sovereignty,” as it prevailed in Europe “at the time of the framing and adoption of the constitution of the United States”—we are compelled to see that these judges obtained their constitutional law, not from the constitution itself, but from the example of the “Divine Right” governments existing in Europe a hundred years ago. These judges seem never to have heard of the American Revolution, or the French Revolution, or even of the English Revolutions of the seventeenth century—revolutions fought and accomplished to overthrow these very ideas of “sovereignty,” which these judges now proclaim, as the supreme law of this country. They seem never to have heard of the Declaration of Independence, nor of any other declaration of the natural rights of human beings. To their minds, “the sovereignty of governments” is everything; human rights nothing. They apparently cannot conceive of such a thing as a people’s establishing a government as a means of preserving their personal liberty and rights. They can only see what fearful calamities “sovereign governments” would be liable to, if they could not compel their “subjects”—the people—to support them against their will, and at every cost of their property, liberty, and lives. They are utterly blind to the fact, that it is this very assumption of “sovereignty” over all the natural rights of men, that brings governments into all their difficulties, and all their perils. They do not see that it is this very assumption of “sovereignty” over all men’s natural rights, that makes it necessary for the “Divine Right” governments of Europe to maintain not only great standing armies, but also a vile purchased priesthood, that shall impose upon, and help to crush, the ignorant and superstitious people.

These judges talk of “the *constitutions*” of these “sovereign governments” of Europe, as they existed “at the time of the framing and adoption of the constitution of the United States.” They apparently do not know that those governments had no constitutions at all, except the Will of God, their standing armies, and the judges, lawyers, priests, pimps, spies, and ruffians they kept in their service.

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If these judges had lived in Russia, a hundred years ago, and had chanced to be visited with a momentary spasm of manhood—a fact hardly to be supposed of such creatures—and had been sentenced therefor to the knout, a dungeon, or Siberia, would we ever afterward have seen them, as judges of our Supreme Court, declaring that government to be the model

after which ours was formed?

These judges will probably be surprised when I tell them that the constitution of the United States contains no such word as “sovereign,” or “sovereignty”; that it contains no such word as “subjects”; nor any word that implies that the government is “sovereign,” or that the people are “subjects.” At most, it contains only the mistaken idea that a power of making laws—by lawmakers chosen by the people—was consistent with, and necessary to, the maintenance of liberty and justice for the people themselves. This mistaken idea was, in some measure, excusable in that day, when reason and experience had not demonstrated, to their minds, the utter incompatibility of all lawmaking whatsoever with men’s natural rights.

The only other provision of the constitution, that can be interpreted as a declaration of “sovereignty” in the government, is this:

This constitution, and the laws of the United States *which shall be made in pursuance thereof*, and all treaties made, or which shall be made, under the authority of the United States, *shall be the supreme law of the land*, and the judges in every State shall be bound thereby, *anything in the constitution or laws of any State to the contrary notwithstanding*.—Art. VI.

This provision I interpret to mean simply that the constitution, laws, and treaties of the United States, shall be “the supreme law of the land”— *not anything in the natural rights of the people to liberty and justice, to the contrary notwithstanding* —but only that they shall be “the supreme law of the land,” “*anything in the constitution or laws of any State to the contrary notwithstanding*,”—that is, whenever the two may chance to conflict with each other.

If this is its true interpretation, the provision contains no declaration of “sovereignty” over the natural rights of the people.

Justice is “the supreme law” of this, and all other lands; anything in the constitutions or laws of any nation to the contrary notwithstanding. And if the constitution of the United States intended to assert the contrary, it was simply an audacious lie—a lie as foolish as it was audacious—that should have covered with infamy every man who helped to frame the constitution, or afterward sanctioned it, or that should ever attempt to administer it.

Inasmuch as the constitution declares itself to have been “ordained and established” by

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity,

everybody who attempts to administer it, is bound to give it such an interpretation, and only such an interpretation, as is consistent with, and promotive of, those objects, if its language will admit of such an interpretation.

To suppose that “the people of the United States” intended to declare that the constitution and laws of the United States should be “the supreme law of the land,” *anything in their own natural rights, or in the natural rights of the rest of mankind, to the contrary notwithstanding*, would be to suppose that they intended, not only to authorize every injustice, and arouse universal violence, among themselves, but that they intended also to avow themselves the open enemies of the rights of all the rest of mankind. Certainly no such folly, madness, or criminality as this can be attributed to them by any rational man—always excepting the justices of the Supreme Court of the United States, the lawmakers, and the believers in the “Divine Right” of the cunning and the strong, to establish governments that shall deceive, plunder, enslave, and murder the ignorant and the weak.

Many men, still living, can well remember how, some fifty years ago, those famous champions of “sovereignty,” of arbitrary power, Webster and Calhoun, debated the question, whether, in this country, “sovereignty” resided in the general or State governments. But they never settled the question, for the very good reason that no such thing as “sovereignty” resided in either.

And the question was never settled, until it was settled at the cost of a million of lives, and some ten thousand millions of money. And then it was settled only as the same question had so often been settled before, to wit, that “the heaviest battalions” are “sovereign” over the lighter.

The only real “sovereignty,” or right of “sovereignty,” in this or any other country, is that right of sovereignty which each and every human being has over his or her own person and property, so long as he or she obeys the one law of justice towards the person and property of every other human being. This is the only *natural* right of sovereignty, that was ever known among men. All other so-called rights of sovereignty are simply the usurpations of impostors, conspirators, robbers, tyrants, and murderers.

It is not strange that we are in such high favor with the tyrants of Europe, when our Supreme Court tells them that our government, although a little different in form, stands on the same essential basis as theirs of a hundred years ago; that it is as absolute and irresponsible as theirs were then; that it will spend more money, and shed more blood, to maintain its power, than they have ever been able to do; that the people have no more rights here than there; and that the government is doing all it can to keep the producing classes as poor here as they are there.

SECTION XXIV. 

John Marshall has the reputation of having been the greatest jurist the country has ever had. And he unquestionably would have been a great jurist, if the two fundamental propositions, on which all his legal, political, and constitutional ideas were based, had been true.

These propositions were, first, that government has all power; and, secondly, that the people have no rights.

These two propositions were, with him, cardinal principles, from which, I think, he never departed.

For these reasons he was the oracle of all the rapacious classes, in whose interest the government was administered. And from them he got all his fame.

I think his record does not furnish a single instance, in which he ever vindicated men's natural rights, in opposition to the arbitrary legislation of congress.

He was chief justice thirty-four years: from 1801 to 1835. In all that time, so far as I have known, he never declared a single act of congress unconstitutional; and probably never would have done so, if he had lived to this time.

And, so far as I know, he never declared a single State law unconstitutional, on account of its injustice, or its violation of men's natural rights; but only on account of its conflict with the constitution, laws, or treaties of the United States.

He was considered very profound on questions of "sovereignty." In fact, he never said much in regard to anything else. He held that, in this country, "sovereignty" was divided: that the national government was "sovereign" over certain things; and that the State governments were "sovereign" over all other things. He had apparently never heard of any natural, individual, human rights, that had never been delegated to either the general or State governments.

As a practical matter, he seemed to hold that the general government had "sovereignty" enough to destroy as many of the natural rights of the people as it should please to destroy; and that the State governments had "sovereignty" enough to destroy what should be left, if there should be any such. He evidently considered that, to the national government, had been delegated the part of the lion, with the right to devour as much of his prey as his appetite should crave; and that the State governments were jackals, with power to devour what the lion should leave.

In his efforts to establish the absolutism of our governments, he made himself an adept in the use of all those false definitions, and false assumptions, to which courts are driven, who hold that constitutions and statute books are supreme over all natural principles of justice, and over all the natural rights of mankind.

Here is his definition of law. He professes to have borrowed it from some one,—he does not say whom,—but he accepts it as his own.

Law has been defined by a writer, whose definitions especially have been the theme of *almost* universal panegyric, “*To be a rule of civil conduct prescribed by the supreme power [88] in a State.*” In our system, the legislature of a State is the supreme power, in all cases where its action is not restrained by the constitution of the United States.— *Ogden vs. Saunders*, 12 *Wheaton* 347.

This definition is an utterly false one. It denies all the natural rights of the people; and is resorted to only by usurpers and tyrants, to justify their crimes.

The true definition of law is, that it is a fixed, immutable, natural principle; and not anything that man ever made, or can make, unmake, or alter. Thus we speak of the laws of matter, and the laws of mind; of the law of gravitation, the laws of light, heat, and electricity, the laws of chemistry, geology, botany; of physiological laws, of astronomical and atmospherical laws, etc., etc.

All these are natural laws, that man never made, nor can ever unmake, or alter.

The law of justice is just as supreme and universal in the moral world, as these others are in the mental or physical world; and is as unalterable as are these by any human power. And it is just as false and absurd to talk of anybody’s having the power to abolish the law of justice, and set up their own will in its stead, as it would be to talk of their having the power to abolish the law of gravitation, or any of the other natural laws of the universe, and set up their own will in the place of them.

Yet Marshall holds that this natural law of justice is no law at all, in comparison with some “rule of civil conduct prescribed by [what he calls] the supreme power in a State.”

And he gives this miserable definition, which he picked up somewhere—out of the legal filth in which he wallowed—as his sufficient authority for striking down all the natural obligation of men’s contracts, and all men’s natural rights to make their own contracts; and for upholding the State governments in prohibiting all such contracts as they, in their avarice and tyranny, may choose to prohibit. He does it too, directly in the face of that very constitution, which he professes to uphold, and which declares that “No State shall pass any law impairing the [natural] obligation of contracts.”

By the same rule, or on the same definition of law, he would strike down any and all the other natural rights of mankind.

That such a definition of law should suit the purposes of men like Marshall, who believe that governments should have all power, and men no rights, accounts for the fact that, in this country, men have had no “*rights*”—but only such permits as lawmakers have seen fit to allow them—since the State and United States governments were established,—or at least for the last eighty years.

Marshall also said:

The right [of government] to regulate contracts, to prescribe the rules by which they may be evidenced, *to prohibit such as may be deemed mischievous, is unquestionable*, and has been universally exercised.— *Ogden vs. Saunders*, 12 Wheaton 347.

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He here asserts that “the supreme power in a State”—that is, the legislature of a State—has “the *right*” to “*deem it mischievous*” to allow men to exercise their natural right to make their own contracts! Contracts that have a natural obligation! And that, if a State legislature thinks it “mischievous” to allow men to make contracts that are naturally obligatory, “*its right to prohibit them is unquestionable.*”

Is not this equivalent to saying that governments have all power, and the people no rights?

On the same principle, and under the same definition of law, the lawmakers of a State may, of course, hold it “mischievous” to allow men to exercise any of their other natural rights, as well as their right to make their own contracts; and may therefore prohibit the exercise of any, or all, of them.

And this is equivalent to saying that governments have all power, and the people no rights.

If a government can forbid the free exercise of a single one of man’s natural rights, it may, for the same reason, forbid the exercise of any and all of them; and thus establish, practically and absolutely, Marshall’s principle, that the government has all power, and the people no rights.

In the same case, of Ogden vs. Saunders, Marshall’s principle was agreed to by all the other justices, and all the lawyers!

Thus Thompson, one of the justices, said:

Would it not be within the legitimate powers of a State legislature to declare *prospectively* that no one should be made responsible, upon contracts entered into before arriving at the age of *twenty-five* years? This, I presume, cannot be doubted.— *p.* 300.

On the same principle, he might say that a State legislature may declare that no person, under fifty, or seventy, or a hundred, years of age, shall exercise his natural right of making any contract that is naturally obligatory.

In the same case, Trimble, another of the justices, said:

If the positive law [that is, the statute law] of the State declares the contract shall have no obligation, *it can have no obligation, whatever may be the principles of natural law in regard to such a contract. This doctrine has been held and maintained by all States and nations. The power of controlling, modifying, and even taking away, all obligation from such contracts as, independently of positive enactments to the contrary, would have been obligatory, has been exercised by all independent sovereigns.*—*p.* 320.

Yes; and why has this power been exercised by “all States and nations,” and “all independent sovereigns”? Solely because these governments have all—or at least so many of them as Trimble had in his mind—been despotic and tyrannical; and have claimed for themselves all power, and denied to the people all rights.

Thus it seems that Trimble, like all the rest of them, got his constitutional law, not from any natural principles of justice, not from men’s natural rights, not from the constitution of the United States, nor even from any constitution affirming [90] men’s natural rights, but from “the doctrine [that] has been held and maintained by all [those] States and nations,” and “all [those] independent sovereigns,” who have usurped all power, and denied all the natural rights of mankind.

Marshall gives another of his false definitions, when, speaking for the whole court, in regard to the power of congress “to regulate commerce with foreign nations, and among the several States,” he asserts the right of congress to an arbitrary, absolute dominion over all men’s natural rights to carry on such commerce. Thus he says:

What is this power? It is the power to regulate: *that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed by the constitution.* These are expressed in plain terms, and do not affect the questions which arise in this case, or which have been discussed at the bar. If, as has always been understood, the sovereignty of congress, though limited to specific objects, is plenary as to those objects, the power over commerce with foreign nations, and

among the several States, is vested in congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the constitution of the United States. *The wisdom and the discretion of congress, their identity with the people, and the influence which their constituents possess at elections, are, in this, as in many other instances, as that, for example, of declaring war, the sole restraints on which they [the people] have relied, to secure them from its abuse. They are the restraints on which the people must often rely SOLELY, in all representative governments.*—*Gibbons vs. Ogden*, 9 Wheaton 196.

This is a general declaration of absolutism over all “commerce with foreign nations and among the several States,” with certain exceptions mentioned in the constitution; such as that “all duties, imposts, and excises shall be uniform throughout the United States,” and “no tax or duty shall be laid on articles exported from any State,” and “no preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another; nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.”

According to this opinion of the court, congress has—subject to the exceptions referred to—absolute, irresponsible dominion over “all commerce with foreign nations, and among the several States”; and all men’s natural rights to trade with each other, among the several States, and all over the world, are prostrate under the feet of a contemptible, detestable, and irresponsible cabal of lawmakers; and the people have no protection or redress for any tyranny or robbery that may be practised upon them, except “*the wisdom and the discretion of congress, their identity with the people, and the influence which their constituents possess at elections*” !

It will be noticed that the court say that “*all the other powers, vested in congress, are complete in themselves, and may be exercised to their utmost extent, and acknowledge no limitations, other than those prescribed by the constitution.*”

They say that among “all the other [practically unlimited] powers, vested in [91] congress,” is the power “of declaring war”; and, of course, of carrying on war; that congress has power to carry on war, for any reason, to any extent, and against any people, it pleases.

Thus they say, virtually, that *the natural rights of mankind* impose no constitutional restraints whatever upon congress, in the exercise of their lawmaking powers.

Is not this asserting that governments have all power, and the people no rights?

But what is to be particularly noticed, is the fact that Marshall gives to congress all this practically unlimited power over all “commerce with foreign nations, and among the several States,” *solely on the strength of a false definition of the verb “to regulate.”* He says that “the power to regulate commerce” is the power “*to prescribe the rule by which commerce is to be*

governed.”

This definition is an utterly false, absurd, and atrocious one. It would give congress power arbitrarily to control, obstruct, impede, derange, prohibit, and destroy commerce.

The verb “to regulate” does not, as Marshall asserts, imply the exercise of any arbitrary control whatever over the thing regulated; nor any power “to prescribe [arbitrarily] the rule, by which” the thing regulated “is to be governed.” On the contrary, it comes from the Latin word, *regula*, a rule; *and implies the pre-existence of a rule, to which the thing regulated is made to conform.*

To regulate one’s diet, for example, is not, on the one hand, to starve one’s self to emaciation, nor, on the other, to gorge one’s self with all sorts of indigestible and hurtful substances, in disregard of the natural laws of health. But it supposes the pre-existence of the *natural laws of health*, to which the diet is made to conform.

A clock is not “regulated,” when it is made to go, to stop, to go forwards, to go backwards, to go fast, to go slow, at the mere will or caprice of the person who may have it in hand. It is “regulated” only when it is made to conform to, to mark truly, the diurnal revolutions of the earth. These revolutions of the earth constitute the pre-existing rule, by which alone a clock can be regulated.

A mariner’s compass is not “regulated,” when the needle is made to move this way and that, at the will of an operator, without reference to the north pole. But it is regulated when it is freed from all disturbing influences, and suffered to point constantly to the north, as it is its nature to do.

A locomotive is not “regulated,” when it is made to go, to stop, to go forwards, to go backwards, to go fast, to go slow, at the mere will and caprice of the engineer, and without regard to economy, utility, or safety. But it is regulated, when its motions are made to conform to a pre-existing rule, that is made up of economy, utility, and safety combined. What this rule is, in the case of a locomotive, may not be known with such scientific precision, as is the rule in the case of a clock, or a mariner’s compass; but it may be approximated with sufficient accuracy for practical purposes.

The pre-existing rule, by which alone commerce can be “regulated,” is a matter of science; and is already known, so far as the natural principle of justice, in relation to contracts, is known. The natural right of all men to make all contracts whatsoever, that are naturally and intrinsically just and lawful, furnishes the pre-existing rule, by which *alone* commerce can be regulated. And it is the only rule, to which congress have any constitutional power to make commerce conform.

When all commerce, that is intrinsically just and lawful, is secured and protected, and all [92] commerce that is intrinsically unjust and unlawful, is prohibited, then commerce is regulated, and not before. [4]

This false definition of the verb “*to regulate*” has been used, time out of mind, by knavish lawmakers and their courts, to hide their violations of men’s natural right to do their own businesses in all such ways—that are naturally and intrinsically just and lawful—as they may choose to do them in. These lawmakers and courts dare not always deny, utterly and plainly, men’s right to do their own businesses in their own ways; but they will assume “*to regulate*” them; and in pretending simply “to regulate” them, they contrive “to regulate” men out of all their natural rights to do their own businesses in their own ways.

How much have we all heard (we who are old enough), within the last fifty years, of the power of congress, or of the States, “*to regulate the currency.*” And “to regulate the currency” has always meant to fix the kind, *and limit the amount*, of currency, that men may be permitted to buy and sell, lend and borrow, give and receive, in their dealings with each other. It has also meant to say *who shall have the control of the licensed money*; instead of making it mean the suppression only of false and dishonest money, and then leaving all men free to exercise their natural right of buying and selling, borrowing and lending, giving and receiving, all such, and so much, honest and true money, or currency, as the parties to any or all contracts may mutually agree upon.

Marshall’s false *assumptions* are numerous and tyrannical. They all have the same end in view as his false definitions; that is, to establish the principle that governments have all power, and the people no rights. They are so numerous that it would be tedious, if not impossible, to describe them all separately. Many, or most, of them are embraced in the following, *viz.:*

1. The assumption that, by a certain paper, called the constitution of the United States—a paper (I repeat and reiterate) which nobody ever signed, which but few persons ever read, and which the great body of the people never saw—and also by some forty subsidiary papers, called State constitutions, which also nobody ever signed, which but few persons ever read, and which the great body of the people never saw—all making a perfect system of the merest nothingness—the assumption, I say, that, by these papers, the people have all consented to the abolition of justice itself, the highest moral law of the Universe; and that all their own natural, inherent, inalienable rights to the benefits of that law, shall be annulled; and that they themselves, and everything that is theirs, shall be given over into the irresponsible custody of some forty little cabals of blockheads and villains called lawmakers—blockheads, who imagine themselves wiser than justice itself, and villains, who care nothing for either wisdom or justice, but only for the [93] gratification of their own avarice and ambitions; and that these cabals shall be invested with the right to dispose of the property, liberty, and lives of all the rest of the people, at their pleasure or discretion; or, as Marshall says, “their wisdom and discretion!”

If such an assumption as that does not embrace nearly, or quite, all the other false assumptions that usurpers and tyrants can ever need, to justify themselves in robbing, enslaving, and murdering all the rest of mankind, it is less comprehensive than it appears to me to be.

2. In the following paragraph may be found another batch of Marshall's false assumptions.

The right to contract is the attribute of a free agent, and he may rightfully coerce performance from another free agent, who violates his faith. Contracts have consequently an intrinsic obligation. [*But*] *When men come into society, they can no longer exercise this original natural right of coercion. It would be incompatible with general peace, and is therefore surrendered.* Society prohibits the use of private individual coercion, *and gives in its place a more safe and more certain remedy.* But the right to contract is not surrendered with the right to coerce performance.— *Ogden vs. Saunders*, 12 Wheaton 350.

In this extract, taken in connection with the rest of his opinion in the same case, Marshall convicts himself of the grossest falsehood. He acknowledges that men have a natural right to make their own contracts; that their contracts have an “intrinsic obligation”; and that they have an “original and natural right” to coerce performance of them. And yet he assumes, and virtually asserts, that men *voluntarily* “*come into society*,” and “*surrender*” to “*society*” their natural right to coerce the fulfilment of their contracts. He assumes, and virtually asserts, that they do this, *upon the ground, and for the reason, that “society gives in its place a more safe and more certain remedy”*; that is, “a more safe and more certain” enforcement of all men's contracts that have “an intrinsic obligation.”

In thus saying that “men come into society,” and “surrender” to society, their “original and natural right” of coercing the fulfilment of contracts, and that “*society gives in its place a more safe and certain remedy*,” he virtually says, and means to say, that, *in consideration of such “surrender” of their “original and natural right of coercion,” “society” pledges itself to them that it will give them this “more safe and more certain remedy”*; that is, that it will more safely and more certainly enforce their contracts than they can do it themselves.

And yet, in the same opinion—only two and three pages preceding this extract—he declares emphatically that “the right” of government—or of what he calls “society”—“*to prohibit such contracts as may be deemed mischievous, is unquestionable.*”—p. 347.

And as an illustration of the exercise of this right of “society” to prohibit such contracts “as may be deemed mischievous,” he cites the usury laws, thus:

The acts against usury declare the contract to be void in the beginning. They deny that [94] the instrument ever became a contract. They deny it all original obligation; and cannot impair that which never came into existence.— *p.* 348.

All this is as much as to say that, when a man has voluntarily “come into society,” and has “surrendered” to society “his original and natural right of coercing” the fulfilment of his contracts, and when he has done this in the confidence that society will fulfil its pledge to “give him a more safe and more certain coercion” than he was capable of himself, “society” may then turn around to him, and say:

We acknowledge that you have a natural right to make your own contracts. We acknowledge that your contracts have “an intrinsic obligation.” We acknowledge that you had “an original and natural right” to coerce the fulfilment of them. We acknowledge that it was solely in consideration of our pledge to you, that we would give you a more safe and more certain coercion than you were capable of yourself, that you “surrendered” to us your right to coerce a fulfilment of them. And we acknowledge that, *according to our pledge*, you have now a right to require of us that we coerce a fulfilment of them. But after you had “surrendered” to us your own right of coercion, we took a different view of the pledge we had given you; and concluded that it would be “mischievous” to allow you to make such contracts. We therefore “prohibited” your making them. And having prohibited the making of them, we cannot now admit that they have any “obligation.” We must therefore decline to enforce the fulfilment of them. And we warn you that, if you attempt to enforce them, by virtue of your own “original and natural right of coercion,” we shall be obliged to consider your act a breach of “the general peace,” and punish you accordingly. We are sorry that you have lost your property, but “society” must judge as to what contracts are, and what are not, “mischievous.” We can therefore give you no redress. Nor can we suffer you to enforce your own rights, or redress your own wrongs.

Such is Marshall’s theory of the way in which “society” got possession of all men’s “original and natural right” to make their own contracts, and enforce the fulfilment of them; and of the way in which “society” now justifies itself in prohibiting all contracts, though “intrinsically obligatory,” which it may choose to consider “mischievous.” And he asserts that, in this way, “society” has acquired “*an unquestionable right*” to cheat men out of all their “original and natural right” to make their own contracts, and enforce the fulfilment of them.

A man’s “original and natural right” to make all contracts that are “intrinsically obligatory,” and to coerce the fulfilment of them, is one of the most valuable and indispensable of all human possessions. But Marshall assumes that a man may “surrender” this right to “society,” under a pledge from “society,” that it will secure to him “a more safe and certain” fulfilment of his contracts, than he is capable of himself; and that “society,” having thus obtained from him this “surrender,” may then turn around to him, and not only

refuse to fulfil its pledge to him, but may also prohibit his own exercise of his own “original and natural right,” which he has “surrendered” to “society!”

This is as much as to say that, if A can but induce B to intrust his (B’s) property [95] with him (A), for safekeeping, under a pledge that he (A) will keep it more safely and certainly than B can do it himself, *A thereby acquires an “unquestionable right” to keep the property forever, and let B whistle for it!*

This is the kind of assumption on which Marshall based all his ideas of the constitutional law of this country; that *constitutional* law, which he was so famous for expounding. It is the kind of assumption, by which he expounded the people out of all their “original and natural rights.”

He had just as much right to assume, and practically did assume, that the people had voluntarily “come into society,” and had voluntarily “surrendered” to their governments *all their other natural rights*, as well as their “original and natural right” to make and enforce their own contracts.

He virtually said to all the people of this country:

You have voluntarily “come into society,” and have voluntarily “surrendered” to your governments all your natural rights, of every name and nature whatsoever, *for safe keeping*; and now that these governments have, *by your own consent*, got possession of all your natural rights, they have an “*unquestionable right*” to withhold them from you forever.

If it were not melancholy to see mankind thus cheated, robbed, enslaved, and murdered, on the authority of such naked impostures as these, it would be, to the last degree, ludicrous, to see a man like Marshall—reputed to be one of the first intellects the country has ever had—solemnly expounding the “constitutional powers,” as he called them, by which the general and State governments were authorized to rob the people of all their natural rights as human beings.

And yet this same Marshall has done more than any other one man—certainly more than any other man within the last eighty-five years—to make our governments, State and national, what they are. He has, for more than sixty years, been esteemed an oracle, not only by his associates and successors on the bench of the Supreme Court of the United States, but by all the other judges, State and national, by all the ignorant, as well as knavish, lawmakers in the country, and by all the sixty to a hundred thousand lawyers, upon whom the people have been, and are, obliged to depend for the security of their rights.

This system of false definitions, false assumptions, and fraud and usurpation generally, runs through all the operations of our governments, State and national. There is nothing genuine, nothing real, nothing true, nothing honest, to be found in any of them. They all proceed upon the principle, that governments have all power, and the people no rights.

SECTION XXV. [↩](#)

But perhaps the most absolute proof that our national lawmakers and judges are as regardless of all constitutional, as they are of all natural, law, and that their [96] statutes and decisions are as destitute of all constitutional, as they are of all natural, authority, is to be found in the fact that these lawmakers and judges have trampled upon, and utterly ignored, certain amendments to the constitution, which had been adopted, and (constitutionally speaking) become authoritative, as early as 1791; only two years after the government went into operation.

If these amendments had been obeyed, they would have compelled all congresses and courts to understand that, if the government had any constitutional powers at all, they were simply powers to protect men's natural rights, and not to destroy any of them.

These amendments have actually forbidden any lawmaking whatever in violation of men's natural rights. And this is equivalent to a prohibition of any lawmaking at all. And if lawmakers and courts had been as desirous of preserving men's natural rights, as they have been of violating them, they would long ago have found out that, since these amendments, the constitution authorized no lawmaking at all.

These amendments were ten in number. They were recommended by the first congress, at its first session, in 1789; two-thirds of both houses concurring. And in 1791, they had been ratified by all the States: and from that time they imposed the restrictions mentioned upon all the powers of congress.

These amendments were proposed, by the first congress, for the reason that, although the constitution, as originally framed, had been adopted, its adoption had been procured only with great difficulty, and in spite of great objections. *These objections were that, as originally framed and adopted, the constitution contained no adequate security for the private rights of the people.*

These objections were admitted, by very many, if not all, the friends of the constitution themselves, to be very weighty; and such as ought to be immediately removed by amendments. And it was only because these friends of the constitution pledged themselves to use their influence to secure these amendments, that the adoption of the constitution itself was secured. And it was in fulfilment of these pledges, and to remove these objections, that the amendments were proposed and adopted.

The first eight amendments specified particularly various prohibitions upon the power of congress; such, for example, as those securing to the people the free exercise of religion, the freedom of speech and the press, the right to keep and bear arms, etc., etc. Then followed the ninth amendment, in these words:

The enumeration in the constitution, of certain rights, [retained by the people] shall not be construed to deny or disparage others retained by the people.

Here is an authoritative declaration, that “the people” have “*other rights*” than those specially “enumerated in the constitution”; and that these “*other rights*” were “*retained by the people*”; that is, *that congress should have no power to infringe them.*

[97]

What, then, were these “other rights,” that had not been “enumerated”; but which were nevertheless “retained by the people”?

Plainly they were men’s natural “rights”; for these are the only “rights” that “the people” ever had, or, consequently, that they could “retain.”

And as no attempt is made to enumerate *all* these “other rights,” or any considerable number of them, and as it would be obviously impossible to enumerate all, or any considerable number, of them; and as no exceptions are made of any of them, the necessary, the legal, the inevitable inference is, that they were *all* “retained”; and that congress should have no power to violate any of them.

Now, if congress and the courts had attempted to obey this amendment, as they were constitutionally bound to do, they would soon have found that they had really no lawmaking power whatever left to them; because they would have found that they could make no law at all, *of their own invention*, that would *not* violate men’s natural rights.

All men’s natural rights are co-extensive with natural law, the law of justice; or justice as a science. This law is the exact measure, and the only measure, of any and every man’s natural rights. No one of these natural rights can be taken from any man, without doing him an injustice; and no more than these rights can be given to any one, unless by taking from the natural rights of one or more others.

In short, every man’s natural rights are, first, the right to do, with himself and his property, everything that he pleases to do, and that justice towards others does not forbid him to do; and, secondly, to be free from all compulsion, by others, to do anything whatever, except what justice to others requires him to do.

Such, then, has been the constitutional law of this country since 1791; admitting, for the sake of the argument—what I do not really admit to be a fact—that the constitution, so called, has ever been a law at all.

This amendment, from the remarkable circumstances under which it was proposed and adopted, must have made an impression upon the minds of all the public men of the time; although they may not have fully comprehended, and doubtless did not fully comprehend, its sweeping effects upon all the supposed powers of the government.

But whatever impression it may have made upon the public men of that time, its authority and power were wholly lost upon their successors; and probably, for at least eighty years, it has never been heard of, either in congress or the courts.

John Marshall was perfectly familiar with all the circumstances, under which this, and the other nine amendments, were proposed and adopted. He was thirty-two years old (lacking seven days) when the constitution, as originally framed, was published (September 17, 1787); and he was a member of the Virginia convention that ratified it. He knew perfectly the objections that were raised to it, in that convention, on the ground of its inadequate guaranty of men's natural rights. He knew with what force these objections were urged by some of the ablest members [98] of the convention. And he knew that, to obviate these objections, the convention, as a body, without a dissenting voice, so far as appears, recommended that very stringent amendments, for securing men's natural rights, be made to the constitution. And he knew further, that, but for these amendments being recommended, the constitution would not have been adopted by the convention.[5]

The amendments proposed were too numerous to be repeated here, although they would be very instructive, as showing how jealous the people were, lest their natural rights should be invaded by laws made by congress. And that the convention might do everything in its power to secure the adoption of these amendments, it resolved as follows:

And the convention do, in the name and behalf of the people of this commonwealth, enjoin it upon their representatives in congress to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the foregoing alterations and provisions, in the manner provided by the 5th article of the said Constitution; and, in all congressional laws to be passed in the meantime, to conform to the spirit of these amendments, as far as the said Constitution will admit.— *Elliot's Debates*, Vol. 3, p. 661.

In seven other State conventions, to wit, in those of Massachusetts, New Hampshire, Rhode Island, New York, Maryland, North Carolina, and South Carolina, the inadequate security for men's natural rights, and the necessity for amendments, were admitted, and insisted upon, in very similar terms to those in Virginia.

In Massachusetts, the convention proposed nine amendments to the constitution; and resolved as follows:

And the convention do, in the name and in the behalf of the people of this commonwealth, enjoin it upon their representatives in Congress, at all times, until the alterations and provisions aforesaid have been considered, agreeably to the 5th article of the said Constitution, to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article.— *Elliot's Debates*, Vol. 2, p. 178.

The New Hampshire convention, that ratified the constitution, proposed twelve amendments, and added:

And the Convention do, in the name and behalf of the people of this State, enjoin it upon their representatives in congress, at all times, until the alterations and provisions aforesaid have been considered agreeably to the fifth article of the said Constitution, to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the said alterations and provisions, in such manner as is provided in the article.— *Elliot's Debates*, Vol. 1, p. 326.

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The Rhode Island convention, in ratifying the constitution, put forth a declaration of rights, in eighteen articles, and also proposed twenty-one amendments to the constitution; and prescribed as follows:

And the Convention do, in the name and behalf of the people of the State of Rhode Island and Providence Plantations, enjoin it upon their senators and representative or representatives, which may be elected to represent this State in congress, to exert all their influence, and use all reasonable means, to obtain a ratification of the following amendments to the said Constitution, in the manner prescribed therein; and in all laws to be passed by the congress in the mean time, to conform to the spirit of the said amendments, as far as the Constitution will admit.— *Elliot's Debates*, Vol. 1, p. 335.

The New York convention, that ratified the constitution, proposed a great many amendments, and added:

And the Convention do, in the name and behalf of the people of the State of New York, enjoin it upon their representatives in congress, to exert all their influence, and use all reasonable means, to obtain a ratification of the following amendments to the said Constitution, in the manner prescribed therein; and in all laws to be passed by the congress, in the mean time, to conform to the spirit of the said amendments as far as the Constitution will admit.— *Elliot's Debates*,

The New York convention also addressed a “CIRCULAR LETTER” to the governors of all the other States, the first two paragraphs of which are as follows:

THE CIRCULAR LETTER, From the Convention of the State of New York to the Governors of the several States in the Union.

POUGHKEEPSIE, JULY 28, 1788.

Sir, We, the members of the Convention of this State, have deliberately and maturely considered the Constitution proposed for the United States. Several articles in it appear so exceptionable to a majority of us, that nothing but the fullest confidence of obtaining a revision of them by a general convention, and an invincible reluctance to separating from our sister States, could have prevailed upon a sufficient number to ratify it, without stipulating for previous amendments. We all unite in opinion, that such a revision will be necessary to recommend it to the approbation and support of a numerous body of our constituents.

We observe that amendments have been proposed, and are anxiously desired, by several of the States, as well as by this; and we think it of great importance that effectual measures be immediately taken for calling a convention, to meet at a period not far remote; for we are convinced that the apprehensions and discontents, which those articles occasion, cannot be removed or allayed, unless an act to provide for it be among the first that shall be passed by the new congress.— *Elliot's Debates*, Vol. 2, p. 413.

In the Maryland convention, numerous amendments were proposed, and thirteen were agreed to; “most of them by a unanimous vote, and all by a great majority.” Fifteen others were proposed, but there was so much disagreement in regard to them, that none at all were formally recommended to congress. But, says Elliot:

[100]

All the members, who voted for the ratification [of the constitution], declared that they would engage themselves, under every tie of honor, to support the amendments they had agreed to, both in their public and private characters, until they should become a part of the general government.— *Elliot's Debates*, Vol. 2, pp. 550, 552-3.

The first North Carolina convention refused to ratify the constitution, and

Resolved, That a declaration of rights, asserting and securing from encroachments the great principles of civil and religious liberty, and the inalienable rights of the people, together with amendments to the most

ambiguous and exceptionable parts of the said constitution of government, ought to be laid before congress, and the convention of States that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid, on the part of the State of North Carolina.— *Elliot's Debates*, Vol. 1, p. 332.

The South Carolina convention, that ratified the constitution, proposed certain amendments, and

Resolved, That it be a standing instruction to all such delegates as may hereafter be elected to represent this State in the General Government, to exert their utmost abilities and influence to effect an alteration of the Constitution, conformably to the foregoing resolutions.— *Elliot's Debates*, Vol. 1. p. 325.

In the Pennsylvania convention, numerous objections were made to the constitution, but it does not appear that the convention, as a convention, recommended any specific amendments. But a strong movement, outside of the convention, was afterwards made in favor of such amendments. (“*Elliot's Debates*,” Vol. 2, p. 542.)

Of the debates in the Connecticut convention, Elliot gives only what he calls “*A Fragment*.”

Of the debates in the conventions of New Jersey, Delaware, and Georgia, Elliot gives no accounts at all.

I therefore cannot state the grounds, on which the adoption of the constitution was opposed. They were doubtless very similar to those in the other States. This is rendered morally certain by the fact, that the amendments, soon afterwards proposed by congress, were immediately ratified by all the States. Also by the further fact, that these States, by reason of the smallness of their representation in the popular branch of congress, would naturally be even more jealous of their rights, than the people of the larger States.

It is especially worthy of notice that, in some, if not in all, the conventions that ratified the constitution, although the ratification was accompanied by such urgent recommendations of amendments, and by an almost absolute assurance that they would be made, it was nevertheless secured only by very small majorities.

Thus in Virginia, the vote was only 89 ayes to 79 nays. (Elliot, Vol. 3, p. 654.)

In Massachusetts, the ratification was secured only by a vote of 187 yeas to 168 nays. (Elliot, Vol. 2, p. 181.)

In New York, the vote was only 30 yeas to 27 nays. (Elliot, Vol. 2, p. 413.)

In New Hampshire and Rhode Island, neither the yeas nor nays are given. (Elliot, Vol. 1, pp. 327-335.)

In Connecticut, the yeas were 128; *nays not given*. (Elliot, Vol. 1, p. 321-2.)

In New Jersey, the yeas were 38; *nays not given*. (Elliot, Vol. 1, p. 321.)

In Pennsylvania, the yeas were 46; *the nays not given*. (Elliot, Vol. 1, p. 320.)

In Delaware, the yeas were 30; *nays not given*. (Elliot, Vol. 1, p. 319.)

In Maryland, the vote was 57 yeas; *nays not given*. (Elliot, Vol. 1, p. 325.)

In North Carolina, neither the yeas nor nays are given. (Elliot, Vol. 1, p. 333.)

In South Carolina, neither the yeas nor nays are given. (Elliot, Vol. 1, p. 325.)

In Georgia, the yeas were 26; *nays not given*. (Elliot, Vol. 1, p. 324.)

We can thus see by what meagre votes the constitution was adopted. We can also see that, but for the prospect that important amendments would be made, specially for securing the natural rights of the people, the constitution would have been spurned with contempt, as it deserved to be.

And yet now, owing to the usurpations of lawmakers and courts, the original constitution—with the worst possible construction put upon it—has been carried into effect; and the amendments have been simply cast into the waste baskets.

Marshall was thirty-six years old, when these amendments became a part of the constitution in 1791. Ten years after, in 1801, he became Chief Justice. It then became his sworn constitutional duty to scrutinize severely every act of congress, and to condemn, as unconstitutional, all that should violate any of these natural rights. Yet he appears never to have thought of the matter afterwards. Or, rather, this ninth amendment, the most important of all, seems to have been so utterly antagonistic to all his ideas of government, that he chose to ignore it altogether, and, as far as he could, to bury it out of sight.

Instead of recognizing it as an absolute guaranty of all the natural rights of the people, he chose to assume—for it was all a mere assumption, a mere making a constitution out of his own head, to suit himself—that the people had all voluntarily “come into society,” and had voluntarily “surrendered” to “society” all their natural rights, of every name and nature—trusting that they would be secured; and that now, “society,” having thus got possession of all these natural rights of the people, had the “unquestionable right” to dispose of them, at the pleasure—or, as he would say, according to the “wisdom and discretion”—of a few

contemptible, detestable, and irresponsible lawmakers, whom the constitution (thus amended) had forbidden to dispose of any one of them.

If, now, Marshall did not see, in this amendment, any legal force or authority, what becomes of his reputation as a constitutional lawyer? If he did see this force and authority, but chose to trample them under his feet, he was a perjured tyrant and traitor.

What, also, are we to think of all the judges,—forty in all,—his associates and [102] successors, who, for eighty years, have been telling the people that the government has all power, and the people no rights? Have they all been mere blockheads, who never read this amendment, or knew nothing of its meaning? Or have they, too, been perjured tyrants and traitors?

What, too, becomes of those great constitutional lawyers, as we have called them, who have been supposed to have won such immortal honors, as “expounders of the constitution,” but who seem never to have discovered in it any security for men’s natural rights? Is their apparent ignorance, on this point, to be accounted for by the fact, that that portion of the people, who, by authority of the government, are systematically robbed of all their earnings, beyond a bare subsistence, are not able to pay such fees as are the robbers who are authorized to plunder them?

If any one will now look back to the records of congress and the courts, for the last eighty years, I do not think he will find a single mention of this amendment. And why has this been so? Solely because the amendment—if its authority had been recognized—would have stood as an insuperable barrier against all the ambition and rapacity—all the arbitrary power, all the plunder, and all the tyranny—which the ambitious and rapacious classes have determined to accomplish through the agency of the government.

The fact that these classes have been so successful in perverting the constitution (thus amended) from an instrument avowedly securing all men’s natural rights, into an authority for utterly destroying them, is a sufficient proof that no lawmaking power can be safely intrusted to any body, for any purpose whatever.

And that this perversion of the constitution should have been sanctioned by all the judicial tribunals of the country, is also a proof, not only of the servility, audacity, and villainy of the judges, but also of the utter rottenness of our judicial system. It is a sufficient proof that judges, who are dependent upon lawmakers for their offices and salaries, and are responsible to them by impeachment, cannot be relied on to put the least restraint upon the acts of their masters, the lawmakers.

Such, then, would have been the effect of the ninth amendment, if it had been permitted to have its legitimate authority.

The tenth amendment is in these words:

The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, *or to the people*.

This amendment, equally with the ninth, secures to “the people” all their natural rights. And why?

Because, in truth, no powers at all, neither legislative, judicial, nor executive, had been “delegated to the United States by the constitution.”

But it will be said that the amendment itself implies that certain lawmaking “powers” had been “delegated to the United States by the constitution.”

No. It only implies that those who adopted the amendment *believed* that such lawmaking “powers” had been “delegated to the United States by the constitution.”

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But in this belief, they were entirely mistaken. And why?

1. Because it is a natural impossibility that any lawmaking “powers” whatever can be delegated by any one man, or any number of men, to any other man, or any number of other men.

Men’s natural rights are all inherent and inalienable; and therefore cannot be parted with, or delegated, by one person to another. And all contracts whatsoever, for such a purpose, are necessarily absurd and void contracts.

For example. I cannot delegate to another man any right to *make* laws—that is, laws of his own invention—and compel me to obey them.

Such a contract, on my part, would be a contract to part with my natural liberty; to give myself, or sell myself, to him as a slave. Such a contract would be an absurd and void contract, utterly destitute of all legal or moral obligation.

2. I cannot delegate to another any right to make laws—that is, laws of his own invention—and compel a third person to obey them.

For example. I cannot delegate to A any right to make laws—that is, laws of his own invention—and compel Z to obey them.

I cannot delegate any such right to A, because I have no such right myself; and I cannot delegate to another what I do not myself possess.

For these reasons no lawmaking powers ever could be—and therefore no law-making powers ever were—“delegated to the United States by the constitution”; no matter what the people of that day—any or all of them—may have attempted to do, or may have believed they had power to do, in the way of delegating such powers.

But not only were no lawmaking powers “delegated to the United States by the constitution,” but neither were any *judicial* powers so delegated. And why? Because it is a natural impossibility that one man can delegate his judicial powers to another.

Every man has, by nature, certain judicial powers, or rights. That is to say, he has, by nature, the right to judge of, and enforce his own rights, and judge of, and redress his own wrongs. But, in so doing, he must act only in accordance with his own judgment and conscience, *and subject to his own personal responsibility, if, through either ignorance or design, he commits any error injurious to another.*

Now, inasmuch as no man can delegate, or impart, his own judgment or conscience to another, it is naturally impossible that he can delegate to another his judicial rights or powers.

So, too, every man has, by nature, a right to judge of, and enforce, the rights, [104] and judge of, and redress the wrongs, of any and all other men. This right is included in his natural right to maintain justice between man and man, and to protect the injured party against the wrongdoer. But, in doing this, he must act only in accordance with his own judgment and conscience, and subject to his own personal responsibility for any error he may commit, either through ignorance or design.

But, inasmuch as, in this case, as in the preceding one, he can neither delegate nor impart his own judgment or conscience to another, he cannot delegate his judicial power or right to another.

But not only were no lawmaking or judicial powers “delegated to the United States by the constitution,” neither were any executive powers so delegated. And why? Because, in a case of justice or injustice, it is naturally impossible that any one man can delegate his executive right or power to another.

Every man has, by nature, the right to maintain justice for himself, and for all other persons, by the use of so much force as may be reasonably necessary for that purpose. But he can use the force only in accordance with his own judgment and conscience, and on his own personal responsibility, if, through ignorance or design, he commits any wrong to another.

But inasmuch as he cannot delegate, or impart, his own judgment or conscience to another, he cannot delegate his executive power or right to another.

The result is, that, in all judicial and executive proceedings, for the maintenance of justice, every man must act only in accordance with his own judgment and conscience, and on his own personal responsibility for any wrong he may commit; whether such wrong be committed through either ignorance or design.

The effect of this principle of personal responsibility, in all judicial and executive proceedings, would be—or at least ought to be—that no one would give any judicial opinions, or do any executive acts, except such as his own judgment and conscience should approve, *and such as he would be willing to be held personally responsible for.*

No one could justify, or excuse, his wrong act, by saying that a power, or authority, to do it had been delegated to him, by any other men, however numerous.

For the reasons that have now been given, neither any legislative, judicial, nor executive powers ever were, or ever could have been, “delegated to the United States by the constitution”; no matter how honestly or innocently the people of that day may have believed, or attempted, the contrary.

And what is true, in this matter, in regard to the national government, is, for the same reasons, equally true in regard to all the State governments.

But this principle of personal responsibility, each for his own judicial or executive acts, does not stand in the way of men’s associating, at pleasure, for the maintenance of justice; and selecting such persons as they think most suitable, for judicial and executive duties; and *requesting* them to perform those duties; and [105] then paying them for their labor. But the persons, thus selected, must still perform their duties according to their own judgments and consciences alone, and subject to their own personal responsibility for any errors of either ignorance or design.

To make it safe and proper for persons to perform judicial duties, subject to their personal responsibility for any errors of either ignorance or design, two things would seem to be important, if not indispensable, viz.:

1. That, as far as is reasonably practicable, all judicial proceedings should be in writing; that is, that all testimony, and all judicial opinions, even to quite minute details, should be in writing, and be preserved; so that judges may always have it in their power to show fully what their acts, and their reasons for their acts, have been; and also that anybody, and everybody, interested, may forever after have the means of knowing fully the reasons on which everything has been done; and that any errors, ever afterwards discovered, may be corrected.

2. That all judicial tribunals should consist of so many judges—within any reasonable number—as either party may desire; or as may be necessary to prevent any wrong doing, by any one or more of the judges, either through ignorance or design.

Such tribunals, consisting of judges, numerous enough, and perfectly competent to settle justly probably ninety-nine one-hundredths of all the controversies that arise among men, could be obtained in every village. They could give their immediate attention to every case; and thus avoid most of the delay, and most of the expense, now attendant on judicial proceedings.

To make these tribunals satisfactory to all reasonable and honest persons, it is important, and probably indispensable, that all judicial proceedings should be had, *in the first instance*, at the expense of the association, or associations, to which the parties to the suit belong.

An association for the maintenance of justice should be a purely voluntary one; and should be formed upon the same principle as a mutual fire or marine insurance company; that is, each member should pay his just proportion of the expense necessary for protecting all.

A single individual could not reasonably be expected to delay, or forego, the exercise of his natural right to enforce his own rights, and redress his own wrongs, except upon the condition that there is an association that will do it promptly, and without expense to him. But having paid his proper proportion of the expense necessary for the protection of all, he has then a right to demand prompt and complete protection for himself.

Inasmuch as it cannot be known which party is in the wrong, until the trial has been had, the expense of both parties must, *in the first instance*, be paid by the association, or associations, to which they belong. But after the trial has been had, and it has been ascertained which party was in the wrong, and (if such should be [106] the case) so clearly in the wrong as to have had no justification for putting the association to the expense of a trial, he then may properly be compelled to pay the cost of all the proceedings.

If the parties to a suit should belong to different associations, it would be right that the judges should be taken from both associations; or from a third association, with which neither party was connected.

If, with all these safeguards against injustice and expense, a party, accused of a wrong, should refuse to appear for trial, he might rightfully be proceeded against, in his absence, if the evidence produced against him should be sufficient to justify it.

It is probably not necessary to go into any further details here, to show how easy and natural a thing it would be, to form as many voluntary and mutually protective judicial associations, as might be either necessary or convenient, in order to bring justice home to every man's door; and to give to every honest and dishonest man, all reasonable assurance

that he should have justice, and nothing else, done for him, or to him.

SECTION XXVII.

Of course we can have no courts of justice, under such systems of lawmaking, and supreme court decisions, as now prevail.

We have a population of fifty to sixty millions; *and not a single court of justice, State or national!*

But we have everywhere courts of injustice—open and avowed injustice—claiming sole jurisdiction of all cases affecting men's rights of both person and property; and having at their beck brute force enough to compel absolute submission to their decrees, whether just or unjust.

Can a more decisive or infallible condemnation of our governments be conceived of, than the absence of all courts of justice, and the absolute power of their courts of injustice?

Yes, they lie under still another condemnation, to wit, that their courts are not only courts of injustice, but they are also secret tribunals; adjudicating all causes according to the secret instructions of their masters, the lawmakers, and their authorized interpreters, their supreme courts.

I say *secret tribunals*, and *secret instructions*, because, to the great body of the people, whose rights are at stake, they are secret to all practical intents and purposes. They are secret, because their reasons for their decrees are to be found only in great volumes of statutes and supreme court reports, which the mass of the people have neither money to buy, nor time to read; and would not understand, if they were to read them.

These statutes and reports are so far out of reach of the people at large, that the only knowledge a man can ordinarily get of them, when he is summoned before [107] one of the tribunals appointed to execute them, is to be obtained by employing an expert—or so-called lawyer—to enlighten him.

This expert in injustice is one who buys these great volumes of statutes and reports, and spends his life in studying them, and trying to keep himself informed of their contents. But even he can give a client very little information in regard to them; for the statutes and decisions are so voluminous, and are so constantly being made and unmade, and are so destitute of all conformity to those natural principles of justice which men readily and intuitively comprehend; and are moreover capable of so many different interpretations, that he is usually in as great doubt—perhaps in even greater doubt—than his client, as to what will be the result of a suit.

The most he can usually say to his client, is this:

Every civil suit must finally be given to one of two persons, the plaintiff or defendant. Whether, therefore, your cause is a just, or an unjust, one, you have at least one chance in two, of gaining it. But no matter how just your cause may be, you need have no hope that the tribunal that tries it, will be governed by any such consideration, if the statute book, or the past decisions of the supreme court, are against you. So, also, no matter how unjust your cause may be, you may nevertheless expect to gain it, if the statutes and past decisions are in your favor. If, therefore, you have money to spend in such a lottery as this, I will do my best to gain your cause for you, whether it be a just, or an unjust, one.

If the charge is a criminal one, this expert says to his client:

You must either be found guilty, or acquitted. Whether, therefore, you are really innocent or guilty, you have at least one chance in two, of an acquittal. But no matter how innocent you may be of any real crime, you need have no hope of an acquittal, if the statute book, or the past decisions of the supreme court, are against you. If, on the other hand, you have committed a real wrong to another, there may be many laws on the statute book, many precedents, and technicalities, and whimsicalities, through which you may hope to escape. But your reputation, your liberty, or perhaps your life, is at stake. To save these you can afford to risk your money, even though the result is so uncertain. Therefore you had best give me your money, and I will do my best to save you, whether you are innocent or guilty.

But for the great body of the people,—those who have no money that they can afford to risk in a lawsuit,—no matter what may be their rights in either a civil or criminal suit,—their cases are hopeless. They may have been taxed, directly and indirectly, to their last dollars, for the support of the government; they may even have been compelled to risk their lives, and to lose their limbs, in its defence; yet when they want its protection,—that protection for which their taxes and military services were professedly extorted from them,—they are coolly told that the government offers no justice, nor even any chance or semblance of justice, except to those who have more money than they.

But the point now to be specially noticed is, that in the case of either the civil [108] or criminal suit, the client, whether rich or poor, is nearly or quite as much in the dark as to his fate, and as to the grounds on which his fate will be determined, as though he were to be tried by an English Star Chamber court, or one of the secret tribunals of Russia, or even the Spanish Inquisition.

Thus in the supreme exigencies of a man's life, whether in civil or criminal cases, where his property, his reputation, his liberty, or his life is at stake, he is really to be tried by what is, *to him*, at least, *a secret tribunal*; a tribunal that is governed by what are, *to him*, *the secret*

instructions of lawmakers, and supreme courts; neither of whom care anything for his rights of property in a civil suit, or for his guilt or innocence in a criminal one; but only for their own authority as lawmakers and judges.

The bystanders, at these trials, look on amazed, but powerless to defend the right, or prevent the wrong. Human nature has no rights, in the presence of these infernal tribunals.

Is it any wonder that all men live in constant terror of such a government as that? Is it any wonder that so many give up all attempts to preserve their natural rights of person and property, in opposition to tribunals, to whom justice and injustice are indifferent, and whose ways are, to common minds, hidden mysteries, and impenetrable secrets.

But even this is not all. The mode of trial, if not as infamous as the trial itself, is at least so utterly false and absurd, as to add a new element of uncertainty to the result of all judicial proceedings.

A trial in one of these courts of injustice is a trial by battle, almost, if not quite, as really as was a trial by battle, five hundred or a thousand years ago.

Now, as then, the adverse parties choose their champions, to fight their battles for them.

These champions, trained to such contests, and armed, not only with all the weapons their own skill, cunning, and power can supply, but also with all the iniquitous laws, precedents, and technicalities that lawmakers and supreme courts can give them, for defeating justice, and accomplishing injustice, can—if not always, yet none but themselves know how often—offer their clients such chances of victory—independently of the justice of their causes—as to induce the dishonest to go into court to evade justice, or accomplish injustice, not less often perhaps than the honest go there in the hope to get justice, or avoid injustice.

We have now, I think, some sixty thousand of these champions, who make it the business of their lives to equip themselves for these conflicts, and sell their services for a price.

Is there any one of these men, who studies justice as a science, and regards that alone in all his professional exertions? If there are any such, why do we so seldom, or never, hear of them? Why have they not told us, hundreds of years ago, what are men's natural rights of person and property? And why have they not [109] told us how false, absurd, and tyrannical are all these lawmaking governments? Why have they not told us what impostors and tyrants all these so-called lawmakers, judges, etc., etc., are? Why are so many of them so ambitious to become lawmakers and judges themselves?

Is it too much to hope for mankind, that they may sometime have courts of justice, instead of such courts of injustice as these?

If we ever should have courts of justice, it is easy to see what will become of statute books, supreme courts, trial by battle, and all the other machinery of fraud and tyranny, by which the world is now ruled.

If the people of this country knew what crimes are constantly committed by these courts of injustice, they would squelch them, without mercy, as unceremoniously as they would squelch so many gangs of bandits or pirates. In fact, bandits and pirates are highly respectable and honorable villains, compared with the judges of these courts of injustice. Bandits and pirates do not—like these judges—attempt to cheat us out of our common sense, in order to cheat us out of our property, liberty, or life. They do not profess to be anything but such villains as they really are. They do not claim to have received any “Divine” authority for robbing, enslaving, or murdering us at their pleasure. They do not claim immunity for their crimes, upon the ground that they are duly authorized agents of any such invisible, intangible, irresponsible, unimaginable thing as “society,” or “the State.” They do not insult us by telling us that they are only exercising that authority to rob, enslave, and murder us, which we ourselves have delegated to them. They do not claim that they are robbing, enslaving, and murdering us, solely to secure our happiness and prosperity, and not from any selfish motives of their own. They do not claim a wisdom so superior to that of the producers of wealth, as to know, better than they, how their wealth should be disposed of. They do not tell us that we are the freest and happiest people on earth, inasmuch as each of our male adults is allowed one voice in ten millions in the choice of the men, who are to rob, enslave, and murder us. They do not tell us that all liberty and order would be destroyed, that society itself would go to pieces, and man go back to barbarism, if it were not for the care, and supervision, and protection, they lavish upon us. They do not tell us of the almshouses, hospitals, schools, churches, etc., which, out of the purest charity and benevolence, they maintain for our benefit, out of the money they take from us. They do not carry their heads high, above all other men, and demand our reverence and admiration, as statesmen, patriots, and benefactors. They do not claim that we have voluntarily “come into their society,” and “surrendered” to them all our natural rights of person and property; nor all our “original and natural right” of defending our own rights, and redressing our own wrongs. They do not tell us that they have established infallible supreme courts, to whom they refer all questions as to the legality of their acts, and that they do nothing that is not sanctioned by these courts. They do not attempt [110] to deceive us, or mislead us, or reconcile us to their doings, by any such pretences, impostures, or insults as these. *There is not a single John Marshall among them.* On the contrary, they acknowledge themselves robbers, murderers, and villains, pure and simple. When they have once taken our money, they have the decency to get out of our sight as soon as possible; they do not persist in following us, and robbing us, again and again, so long as we produce anything that they can take from us. In short, they acknowledge themselves *hostes humani generis: enemies of the human race*. They acknowledge it to be our unquestioned right and duty to kill them, if we can; that they expect nothing else, than that we will kill them, if we can; and that we are only fools and cowards, if we do not kill

them, by any and every means in our power. They neither ask, nor expect, any mercy, if they should ever fall into the hands of honest men.

For all these reasons, they are not only modest and sensible, but really frank, honest, and honorable villains, contrasted with these courts of injustice, and the lawmakers by whom these courts are established.

Such, Mr. Cleveland, is the real character of the government, of which you are the nominal head. Such are, and have been, its lawmakers. Such are, and have been, its judges. Such have been its executives. Such is its present executive. Have you anything to say for any of them?

Yours frankly,

LYSANDER SPOONER.

BOSTON, MAY 15, 1886.

THE END.

Endnotes

[1a] Under a somewhat different title, to wit, "A Letter to Grover Cleveland, on his False, Absurd, Self-contradictory, and Ridiculous Inaugural Address," this letter was first published, in instalments, in "LIBERTY" (a paper published in Boston); the instalments commencing June 20, 1885, and continuing to May 22, 1886: notice being given, in each paper, of the reservation of copyright.

[1] The irresponsibility of the senators and representatives is guaranteed to them in this wise:

For any speech or debate [or vote] in either house, they [the senators and representatives] shall not be questioned [held to any legal responsibility] in any other place.— *Constitution, Art. 1, Sec. 6.*

The judicial and executive officers are all equally guaranteed against all responsibility *to the people*. They are made responsible only to the senators and representatives, whose laws they are to administer and execute. So long as they sanction and execute all these laws, to the satisfaction of the lawmakers, they are safe against all responsibility. *In no case can the people, whose rights they are continually denying and trampling upon, hold them to any accountability whatever.*

Thus it will be seen that all departments of the government, legislative, judicial, and executive, are placed entirely beyond any responsibility *to the people*, whose agents they profess to be, and whose rights they assume to dispose of at pleasure.

Was a more absolute, irresponsible government than that ever invented?

[2] In the Senate they stood thirty to thirty-six, in the house ninety to one hundred and forty-seven, in the two branches united one hundred and twenty to one hundred and eighty-three, relatively to the non-slaveholding members.

From the foundation of the government—without a single interval, I think—the lawmakers from the slaveholding States had been, *relatively*, as strong, or stronger, than in 1860.

[3] It may have very weighty moral obligation; but it can have no legal obligation.

[4] The above extracts are from a pamphlet published by me in 1864, entitled "*Considerations for Bankers*," etc., pp. 55, 56, 57.

[5] For the amendments recommended by the Virginia convention, see “Elliot’s Debates,” Vol. 3, pp. 657 to 663. For the debates upon these amendments, see pages 444 to 452, and 460 to 462, and 466 to 471, and 579 to 652.