

A
DISCOURSE

UPON

WAR,

AND

Capital Punishments;

FROM GEN. IX. 6.

IN WHICH IT IS PROVED,

THAT A DEFENSIVE WAR IS JUST,

AND

*THE PUNISHMENT OF THE MURDERER BY
DEATH IS LAWFUL.*

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GEN. ix. 6.

Whoso sheddeth man's blood, by man shall his blood be shed ; for in the image of God made he man.

CONSIDERING the plainness of this text, and the clear proof contained in it, in favour of the punishment of murder by death, and the lawfulness of a defensive war, it is matter of no little surprise, that any man, or set of men, professing the christian name, should dispute the lawfulness of either ; but however unreasonable such a thing may be, and with what surprise soever it may strike our minds, it is an undoubted fact, that many in our day, do not only dispute the justness of war, but also, the equity of punishing the murderer by death ; and are striving also, to effect such a change in our civil codes, as to abolish all those laws which inflict death upon the wilful murderer ; and to substitute in the room thereof, a disciplinary punishment, which is allowed to continue till the offender gives manifest tokens of reformation. It is hard to account for this strange revolution in sentiment, unless we attribute it to the sudden increase of infidelity, the prevalence of ignorance, together, with an almost unbounded degree of self conceit, which hath wrought up the minds of the inhabitants of our land to an opinion, that the literary world in former times, knew little of the principles of religion and morality, in comparison with what they do themselves.

Our design is making choice of these words, as a subject of discussion is, to oppose the above mentioned opinions,

and in particular, to prove from scripture and reason, that defensive war is just, and that it is the indispensable duty of our state governments, to make and enforce laws, to punish the murderer by death.

Our first business is to inquire into the sense of the text. And first, we assert, that the command of God, contained in the words, is moral, and therefore, can neither belong to the ceremonial or judicial laws. It does not belong to the judicial law, because the reason annexed to it is of a moral nature, for in the image of God made he man ; and because the judicial law did not commence, for many centuries after this command was given.

2d. It could not belong to the ceremonial law, because, the shedding of man's blood could not be a fit type to represent the shedding of Christ's blood, for the remission of sins.

3dly. It would have been a very unnatural type, to represent Christ's death by the death of the sinner, for whom Christ died.

4th. It would suppose the death of the murderer, was a complete sacrifice, and it is well known, that human sacrifices were absolutely prohibited by the divine law.

The words of our text, with the context, plainly hold forth the duty of punishing the murderer by death ; but in such terms, as equally prove the lawfulness of a defensive war.

For no good reason can be assigned, why it may be lawful, to punish an individual murderer by death, and not to punish an army of murderers in the same way.

Therefore, as the text contains a fundamental principle, to prove the lawfulness of a defensive war, as well as, the justness of punishing the murderer by death, and as the two subjects cannot well be separated, we shall try to discuss them both in connection, beginning with the subject of war. And,

1st. We shall prove, that war in some cases, is not repugnant to the law of nature, but is consistent with it, either, as that law is known by the mere light of nature, or by the superior light of divine revelation. By the law of nature we are, to understand the will of God, as a rule of duty, either as that will is known by the mere light of nature, or more fully known by a written Revelation. It is called the law of nature, because first, it had a natural obligation upon man in his creation.

2dly. It was written upon man's heart before the fall, and though greatly effaced was not totally eradicated by the fall.

3dly. It is called the law of nature, because, it requires only such duties, as are in their nature good and fit to be done.

So, that there is a natural fitness in such things, to be done through whatever way our knowledge of such fitness comes, yet this natural law, or law of nature, is the law of God, because, God is the Author of all existence, with all their comparative fitness, with regard to one another. So, that when in consequence of their moral relations, we perceive a moral fitness in a thing to be done, we are to take it as a notification of the will of God, that such a thing should be done. 2dly. When we perceive such a moral relation between that thing to be done, and ourselves, as to render it reasonable, or just, that we should do it, we are to consider it as the very will of God made known to us, requiring of us the performance of that duty. The law of nature is, strictly speaking, nothing, but God himself willing, or making his will known to his creatures, either by his works of creation and providence, or by a written Revelation.

And in this sense the law of nature is as perfect in itself, without a written Revelation, as with it ; but there is no comparison, in point of perspicuity, between these two modes of revealing this perfect law.

The works of creation and providence have underwent, so great a change in consequence of man's fall, that the perfect fitness of things, to be done, cannot always be discovered by the light of nature, because the general face of nature is in a fallen state, as well as man. But Divine Revelation answers two valuable ends, one is, to give to man a distinct and perfect discovery of God's will, as an external rule of duty, the other is, that it is made effectual for the conversion of sinners, by the gospel which is contained in it.

This law is called the law of nature, to distinguish it from positive precepts, which derive all their fitness from the positive will of God revealed, and could not be known by any supposed natural or moral fitness in things ; in particular, it is distinguished, from that positive precept respecting the tree of knowledge of good and evil, and from the precepts of the ceremonial and judicial laws.

The matter of every positive precept, is in its nature quite indifferent, neither good nor evil, when viewed abstract from the positive will of God, but the matter of every moral precept hath a natural fitness and suitableness in it, abstract from any revelation concerning it, and this fitness is derived from the nature of God. The other is derived from a sovereign act of his will.

Suppose God to create a rational creature as a subject of law, it would be essential to his being, to give that creature a

law exactly agreeable to his own necessary perfections, and, the moral fitness of things in creation ; but it could not be essential to his being, to enjoin upon that creature positive precepts.

In agreeableness to this view of the law of nature, we proceed to establish the first position which respects defensive war.

Arg. 1. There are certain rights which man may possess, as the right of enjoying life, health, liberty and property. God is the giver of these benefits, with a right to retain them in possession, independent of all others who may possess the same rights, and though men have a right to afford mutual protection to one another, to guard and secure them, yet no man has a right to deprive his neighbour of any of them, where, the possessor has never forfeited his right by some crime. A moral right derived from God to hold or retain a thing, is nothing different from the will of God, as a rule of duty, that we should retain that thing, therefore, it is the will of God that we should retain our natural rights. This will must be either his secret or his revealed will, his secret will it cannot be, because these rights are founded upon the natural fitness of things, and we have before shewn, that such a natural fitness of things, presented to the understanding, is itself a discovery of the will of God, as a law binding us to our duty.

The conclusion, from the above premises is, that all who possess those natural rights, and have never forfeited them, to either the laws of God or man, are bound by the law of God to retain them in opposition to any unjust demands made by man ; therefore, if any man, or set of men attempt, in a hostile manner, to take away our natural rights, it becomes present duty, to endeavour to retain them, because, they are given to us by God, to retain in our possession.

Then the question to be determined, is, whether, it is a greater duty to retain our rights by force and power, that we may obey the will of God, or to relinquish those rights, by complying with the unlawful demands of an invader, when, the very act of submission, at a time when we have power to defend them, is a violation of God's law, a gratification of a covetous disposition and a countenancing a most horrid act of injustice. Surely resistance, in such a case, is bearing a faithful testimony against sin, a vindicating the law of God, and a defending our natural rights.

Arg. 2. Self preservation is a principle implanted in our nature, and it is lawful for us to try in the use of proper means, to preserve of our own lives, together with the lives of those whom we are bound to protect.

2dly, It will be granted by all, that it is lawful to defend ourselves against any irrational creature, when it threatens our destruction. Now whether, it is more reasonable to resist sin in our own defence, though our resistance should prove death to the offender, than to resist a sinless offender, to the destruction of life, appears a question easy to be determined. The irrational creature in assaulting us, is chargeable with no sin ; but the rational creature, in assaulting us, is in the direct act of sinning against God, of injustice to his neighbour ; surely no good reason can be assigned, why, the attachment of sin, to an hostile attack, should exculpate the assailant from punishment rather than, where sin is not attached to such an assault. To render this argument still more conclusive, we may inquire, whether, the civil law ought to punish an offender upon account of the mere physical evil attached to the offence, or whether with the physical evil, attached to the offence, it takes into view the moral turpitude of the action.

If the mere physical hurt attached to the offence, is the formal reason why the civil law punishes the offender, then the civil law punishes men upon the same principle upon which men punish brutes, and this at least will go to prove, that we have the same reason to wage a defensive war against men, which we have against brutes, but certain it is, that the civil law, upon all occasions, takes principally into view the moral turpitude of the crime, as the ground of punishment. A wilful offence exposes the offender to some punishment, and a premeditated offence, being more heinous, exposes him to greater punishment.

Therefore, if it is lawful to wage war in a case of self-defence against a creature, merely, on account of a physical evil which it threatens, without the consideration of moral turpitude, it must undoubtedly be our duty, to wage war in self-defence, where, to the physical evil threatened, there is added moral turpitude.

Arg. 3. The end and design of the magistrate's office, is to punish sin, and to preserve life and property. The magistrate beareth not the sword in vain, but is the minister of God to thee for good, for the punishment of evil doers, and for the praise of them that do well. Now, if it is our duty, to resist evil, through the agency of the civil magistrate, that life and property may be preserved, shall we then in case of an attack upon our lives, by either a foreign or domestick enemy, try to preserve the best life or the most useless ? Surely the life of every assassin must be the most worthless. Shall, then, a worthy member of society, coolly give up his life to death and

destruction, and let the community be deprived of one of its useful members, rather than cut off, in self defence, one of the most useless of all lives, and not only so, but one which is a nuisance to society.

Arg. 4. It may be inquired, whether war is considered to be unlawful upon account of any intrinsick evil in the nature of resistance, or upon account of some intrinsick wickedness in taking away the life of the offender, that is, either of one man, or body of men, who might attempt to take our life, or threaten destruction to the inhabitants of our land. It cannot upon account of any intrinsick evil in the nature of resistance, because if there was any thing sinful in the nature of resistance, there would be something sinful in apprehending a criminal, by a civil officer, which cannot be done without resistance, and also in punishing crimes of every description, in any form or degree which can be conceived of. The moral evil of war then must originate from some intrinsick wickedness in taking away the life of an offender. If this be so, the next business is to find out what law is transgressed in taking away the life of an offender. If it is a wickedness, it must be a sin against God; if it is a sin against God, it must be either a breach of some positive precept known, or some moral precept. It cannot be a sin against any positive precept, because none such can be found, and a positive precept is one that is not founded on any thing in itself, either good or evil, but the morality of it depends wholly upon the sovereign will of God in enjoining it. But if a defensive war, and the taking away the life of a murderer, are acts in themselves, neither good nor evil, but as they stand in relation to a positive precept, then the consequence will be, that it can be neither good nor evil, to take away the life of a murderer, or to wage war in self defence, where that positive precept is unknown. 2d. It cannot be founded upon a moral precept, because the words of our text authorises us, to shed the blood of the murderer, which will equally apply to an army of that description. And further, it appears, to strike the mind, at first view, that if we are at all, to resist force by force, in any case, it ought to be not only by the most effectual means, but also in a way as nearly proportioned to the danger threatened, or damage sustained, as possible, and such as will have the most direct tendency, to promote the peace and safety of society. Lastly, the universal practice of all nations, in all ages, proves, that there can be no intrinsick wickedness in waging war in self defence, for it could not be that all nations should be led to believe, that a de-
fence

sive war is just, if there was not a natural and moral fitness in it.

Objection. From the justness of inflicting death upon a murderer, for a crime already committed, we cannot infer the justness of war against an enemy, although marching against us, when they perhaps have not yet taken a life, nor seized upon any property. Ans. No man is in a capacity to engage in a defensive war, who suffers himself first to be killed. If we must always suffer ourselves first to be killed before we go to war, we will never go to war, and if this ought to be our uniform mode of proceeding, we might at once give up the dispute. But the objection will be found to have no force, if we inquire into the formal ground in law, why a murderer is to be punished. It is not simply because a person has suffered the physical evil of death, but because of the moral turpitude that is in the act of murder, that is, the evil intent or design,—and if such an intent or design is sufficiently evident to be in the enemy, whether he hath actually accomplished his end or not, his crime is sufficiently great to render him worthy of death, especially if he persist in his attempt to destroy us.

Arg. 5. If war is in all cases unlawful, then is the magistrate's office both useless and unlawful. If it is unlawful to resist a large number with force of arms, it is unlawful to resist a small number, and if war is unlawful upon the principle of resisting force by force, then it is equally unlawful for a civil magistrate, to issue a warrant to apprehend an offender, because it implies resistance, and if the offender should refuse to be taken, and threaten death and destruction to all who might approach him, what steps would be most rational to adopt in order that the officer might do his duty? It is granted, that all lenient measures might be tried first, but if none of these measures were to succeed what then?—

The offender must either pass with impunity, or be subdued by force of arms; but this is war.

Suppose a number of such desperadoes combined into a small army, to the number of fifty, were to begin to spread destruction within the bowels of a country, the same civil authority which hath a right to apprehend one criminal, hath a right to apprehend the fifty, but this could not be effected without a considerable armed force, and is nothing but war upon a larger scale. For, *majus et minus non speciem variant*.

It is most probable, that our opponents will agree to the above premises, but deny the conclusion, that is, deny that such measures would be war. But suppose the conclusion

should be denied to be fair and just, it is certainly incumbent upon them to give us a just definition of war, and at the same time to tell us what number of enemies collected together for the purpose of committing rapine and murder, will be sufficient to negative the duty of resistance and self-defence.

Arg. 6. The same principle upon which a defensive war is condemned, will equally condemn all corporal punishments. For example, the correction of children would be unlawful. If it be unlawful to resist force by force, either in a case of war, or inflicting of capital punishments upon persons arrived to years of discretion, it must be much more so to inflict corporal punishment upon children, that have not arrived to the years of discretion, because the offence in the former case is greater than in the latter.

Arg. 7. From the absolute necessity of apprehending a criminal, may be argued the lawfulness of war. It may be inquired, how a civil officer is to apprehend a robber or a murderer, who is already well armed, and threatens death to the first man who may approach him? Is he to take arms of defence with him or not? If he is to take no arms with him, how is he to defend himself or do his duty? If he is allowed to take arms, is he allowed to use them, provided, he meets with resistance? If he is allowed to use them either in his own defence, or to subdue the criminal, as an enemy to the peace of society, it will, without all doubt, recognise the lawfulness of war, as much as, if there were ten thousand on a side. But if, on the contrary, he is allowed to carry arms, but by no means to use them in his own defence, the end and design must be, to lead the enemy to believe, that he means to use them, and that is first an attempt to make him believe a lie. 2dly. If war is in all cases unlawful, it can, by no means, be consistent, with a faithful testimony against it, to give an enemy an outward signal of our approbation of it. It will be useless to say, that the above difficulty might be remedied by appointing a sufficient number, to assist a civil officer, to do his duty. For what number destitute of every weapon of defence, would be sufficient to take one desperate enemy, who is perfectly resolved to shoot down the first man, that attempts to lay hands on him?

Again, suppose, by some means, a multitude of criminals are apprehended without the use of arms, tried and sentenced, to be confined to hard labour for a term of time.—The same arguments are applicable to the case of those prisoners, when in a house of correction. Suppose the prisoners to have no arms, but the guards are allowed the use of

arms, to prevent a rebellion on the part of the prisoners : This will still recognize the lawfulness of war. If the guard are allowed no arms, then, the consequence would be, that the guards must be at least, as numerous as the prisoners, and the publick expenses of both would be too great for the community to bear. If it should be objected to this reasoning that a very small number might keep a large number in subjection, and compel them to labour, by withholding the supports of life from them, in case of a mutiny. We answer, that such a measure would be commendable and just, but it would recognise the lawfulness of war, for starving an enemy is resisting force by force, and is one branch of military art often used against an enemy to obtain a conquest.

Lastly, suppose the guard and prisoners to consist of equal numbers, and both to be destitute of every weapon of defence, except those with which nature has furnished them, and the prisoners universally rebel, and make a uniform attack upon their guards, it must, beyond all doubt, be the duty of the guards, to resist with the same kind of weapons with which they are attacked, but this again is war, and might terminate in a conflict, not only bloody, but might prove mortal to many.

Arg. 8. Upon the same principle, that a defensive war is condemned, it would be equally unlawful, for a woman to use any forcible measures, to withstand a violent attempt upon her chastity.

To the above arguments we shall now add some from the Holy Scriptures.

1st. God did by his priest Melchisedec approve of that war in which Abraham, with his confederates, were engaged against the four kings, who came to plunder Sodom, yea Melchisedec blessed God for that victory, saying, " Blessed be the most high God, who hath delivered thine enemies into thine hand." Gen. xiv. 20.

And yet, Abraham had no special command to engage in that war, but was excited to it merely by principles of moral equity.

To the same purpose was that war made by Moses and Joshua against the Amalekites, who had forcibly opposed them on their way to Canaan, which war, though not authorised by any special command, yet being done, was approved of by God. Gen. xviii.

Also God prescribed rules of war suited to the case of the seven nations of Canaan, which wars belonged to the Jewish economy, and other rules of war suited to other nations, which were not of those seven, all which hold forth this truth,

that a defensive war is justifiable upon the authority of the moral law.

To these authorities we may add the testimony of all nations, concerning that force by which we are to defend our lives. Cicero declares this by giving us the testimony of nature itself. *Est hæc non scripta sed nata lex.*

This saith he is not a written law, but a law that is born with us, That if our lives are endangered, either through force or treachery, all means of safety become honest and just.—

And again, this the learned are taught by reason ; the unlearned by necessity ; the nations by custom ; and the very beasts themselves by natural instinct.

Josephus also saith, that, “ To preserve life is a law, that nature herself hath imprinted in all living creatures.”

We are now to prove by a few arguments taken from the New Testament, that a defensive war is lawful.

The first is taken from the words of John the Baptist, who being demanded of by the soldiers, what they should do, did not command them presently to lay down their arms, and desert their calling, though they then fought under the Romans, but allowing their calling, he only laboured to reform the abuses of it, exhorting them to refrain from acts of unlawful violence, and from false accusing, and to rest content with their wages. Luke iii. 13. The second argument is drawn from Cornelius the Centurion, who was made partaker of the Holy Ghost, and was baptised of Peter, yet do we no where read, that he laid down his commission, or that he was admonished of Peter so to do.

The third argument is taken from our Lord's command to his disciples, previous to his apprehension, to provide themselves with swords, as weapons of defence. This is a plain proof, that there is no moral evil in men's providing themselves with weapons of defence in case of an unlawful attack. His saying, that two swords were enough, renders it quite evident, that his design was not that they should be actually used, because had that been his design, two were not sufficient for the twelve, and our Lord had a secret knowledge, whether they would certainly meet with that kind of attack, which would render it reasonable and just, to use the sword in their own defence ; therefore, his design must have been, to give an open testimony, in favour of the use of arms, in a case of self defence against a lawless attack. The force of this reasoning will appear by an inquiry into the nature of the attack by the party, which came to apprehend our Lord in the garden, whether, it was a mere lawless attack, or whether, the

common steps of law were observed. Had they come upon him without any authority from the chief priests and rulers of the people, we have every reason to believe, that our Lord might have allowed his disciples to use the sword :

But there could not be the same reason for the use of the sword, supposing the party to be invested with legal authority.

Now, that they came upon him invested with legal authority appears from Matthew xxvi. 47.

However base their purposes were, the ostensible part of their conduct, in apprehending him, had the sanction of law, and surely, an example of resistance, in this case, might justly have had the influence of a law to his followers, to resist human laws, in all cases, wherein they might feel in themselves a consciousness of innocence.

But as our Lord's business upon earth, was to fulfil all righteousness, so in the case now under consideration he paid a respect to the law in complying with the summons, and gave a check to Peter for his rash use of the sword. Peter ought to have waited for orders from his Lord and master, but his rash use of it without a legal reason and without orders, was called, a taking the sword.

The fourth argument is taken from Sarjeus Paulus, of whom after his conversion, there is not the least account of his renouncing his Prætorship, or of any admonition from Paul so to do.

A fifth argument is taken from the conduct of the Apostle Paul, who understanding that the Jews had laid wait for him, to kill him, acquainted the chief captain therewith, who sent him a strong guard of soldiers, to secure his person, which Paul did not refuse, neither did he show to the chief captain, or the soldiers, that it was not agreeable to the will of God to resist force by force, which he would have done, had he believed it to have been unlawful.

A sixth argument is taken from Romans, xiii. Chapter, where Christians are directed to pay tribute for conscience sake. Every thing, which is honest and just, its end and tendency must be honest and just.

Now, the proper end and tendency of paying tribute, is to maintain the power of the sword, whereby, the innocent are protected, and the guilty punished. But that we render to civil rulers, their tribute due, is a precept of the New Testament, and bindeth the conscience, as Paul testifies, as in the verses 6 and 7, therefore, it is clear from the precepts of the New-Testament, that the power of the sword, in the hand of the civil magistrate, is honest and just. Very pertinent, to this

purpose, is that saying of Tacitus, " There can be no peace among nations without arms, nor arms without pay, nor pay without tribute," so says Augustine, " For this cause pay we tribute, that soldiers may have their necessaries." Therefore, we conclude this part of our subject, by observing, that if the foregoing arguments are just, war in some cases is lawful, and also the ground upon which a defensive war, by some men, is condemned, will go to condemn those principles, which are the foundation and support of civil society, and unhinge the whole system of jurisprudence, which is essential to the being and comfort of mankind.

Our next business is to prove, that the punishment of murder, by death, is authorised by the moral law, and is indispensibly necessary for the peace and safety of society.

Such, as are disposed to have the punishment of murder by death done away, plead for a disciplinary punishment, consisting in imprisonment and hard labour, to be continued for a longer or shorter time, according, as the criminal gives more or less evidence of reformation. But in opposition to this mode of punishing, and in support of those laws which inflict death upon the wilful murderer, we offer the following arguments.

The first is taken from the heinous nature of the crime.

The crime of murder consists in wilfully taking away the life of an innocent person.

The greatness of the sin of murder, consists first, in a wicked attack upon the being of God, because it is a destroying his image, for in the image of God made he man. 2d. It is the highest degree of injustice done to the sufferer, for there is nothing so precious to a man, as his life.

As an offence done to man, the crime of murder exceeds all others, it consists in the highest degree of robbery.

Robbery consists in forcibly taking away a man's property: the sin of the act of robbery consists not in the enjoyment of that which he has taken from his neighbour, for it is better, that it should be enjoyed, than lost, but the sin of the act of robbery consists in depriving a person of that which he hath a right to possess and enjoy. Finding, then, that the sin of robbery consists in a violent prevention of a man from the possession and enjoyment of his property. We will find, that murder implies the sin of robbery in all possible kinds and degrees, because the sin of robbery is the same, whether you forcibly take a man's property from him, so as to deprive him of his right of possessing and enjoying it, or whether you take a man from his property. The loss is the same to the

owner in both cases, and we have before shewn that the sin of robbery consists not in the enjoyment of another man's property, but in preventing the legal owner from enjoying it.

But the murderer takes away the unhappy sufferer from all his possessions and enjoyments, not from lands and moveable property only, but the enjoyment of society, with his nearest friends and neighbours, so that it comprehends the aggregate sin of robbery in all its possible kinds and degrees of aggravation. But the worst of all is a taking away the life itself, for all that a man hath will he give for his life. But this sin is aggravated, still more, from two other considerations.

The first, is that it is apt to be committed with deliberate malice. The second, is that it is apt to hurry a soul unprepared into an eternal world, so that eternal misery may, and in many instances, is the consequence of such untimely deaths, which might not have been, but for the murderer.

Now, if the man that forcibly deprives his neighbour of his horse and money, must be sentenced to fifteen or twenty years confinement, and also to make restitution for the loss sustained. What shall we say of that law which will punish the man, who is guilty of robbing his neighbour of all his possessions and enjoyments in this world, and of life itself, which is still more valuable than all the rest, with no more than confinement and hard labour, for which he obtains sufficient wages, and at the same time it is an offence for which no restitution can be made?

Arg. 2. Except the punishment of murder, bears some proportion to the nature and aggravation of the crime, it will not be a sufficient retribution to the offender, neither can it have influence to prevent his repetition of the crime, or be a warning to others to avoid the same kind of offences. But imprisonment for any length of time, even at hard labour bears no proportion to the loss of life, therefore, it cannot be a punishment adequate to the crime of murder. 2d. It cannot sufficiently deter others from the like offence, because the fear of it cannot affect the mind of man equal to the fear of death. That no kind of confinement with hard labour, can affect the mind of man, equal to death, is evident from the almost universal consent of mankind, and from fact.

What can be the reason, that so many thousands of the human race are, and continue in a state of most abject slavery, much worse than any thing of the kind to be found in our state prisons, and yet but a small number of this description commit suicide. No reason can be assigned for this, but because man, for the most part, prefers this life, with all its miseries, to death.

We do not plead, that the punishment of the murderer should bear a full proportion to the crime of murder, but that it should be as nearly proportioned to the nature and aggravation of the crime, as man's right of punishing will admit, appears reasonable. Man's right of punishing is confined to this life, and the manner, and circumstances of it, must be regulated by the Divine law, which although, it allows man to shed the blood of the murderer, yet gives no countenance to connect therewith circumstances of cruelty. The end of this punishment is not to make his state worse in the world to come.

Whereas, the crime of murder has a tendency to affect the future state of the sufferer by hurrying him unprepared into an eternal world. But it is quite consistent with the nature and end of the punishment for which we plead, for the civil authority to try to promote the welfare of the criminal in a future world by allowing him a suitable length of time, to prepare for it. Under this view of the subject, the punishment of the murderer by death, is attended with some happy circumstances. 1st, It is an execution of Divine Justice as far as God has authorised man to be his executioners. 2d. It is an execution of that justice which the civil authority has a right, to demand for its injured rights. 3dly. It hath a tendency to promote the eternal welfare of the offender himself, because it prevents him from repeating the crime, so as to increase his guilt, and hath a tendency to excite him to repentance, where in view of certain death, he has some suitable length of time to prepare for eternity.

3dly. To make a law to spare the life of the murderer, is an encouragement to the same person to repeat his crime, and to others to do it without fear, and the consequence would be that some innocent persons might suffer death for want of a punishment adequate to the crime of murder, and those who will suffer the innocent to perish for sake of the guilty, are as chargeable with the murder of the innocent, as the direct perpetrator of the crime, and by these means the nation itself becomes involved in the guilt of murder. Num. 35 chap. 33 v. Ye shall not pollute the land, wherein ye are, for blood it defileth the land, and the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it.

4thly. To substitute imprisonment in the room of death, for the crime of murder, is to take a satisfaction for the life of the murderer. To take a satisfaction for the life of a murderer, is to take some security that he will not do the like again, and perhaps to pay a certain sum of money, as a compensation for his crime. But in the case of confinement and hard

labour, as a substitute in the room of death, the civil authority enters security for the offender by committing him to a state prison, and putting him under the guardianship of some subaltern officers to take care of him, while they afford him comfortable lodging, meat, drink and clothing, the expenses of which are to be deducted out of his wages, but the overplus he has to himself. This may well be called a taking a satisfaction for the life of a murderer, as it is to answer instead of his life, but it is no reparation to the injured law, nor no perfect security to the lives of the citizens. The law which substitutes such a satisfaction in the room of death, is directly contrary to the divine law, Num. xxxv. 30. Whosoever killeth any person, the murderer shall be put to death by the mouth of witnesses: but one witness shall not testify against any person, to cause him to die—Moreover, you shall take no satisfaction for the life of a murderer who is guilty of death, but he shall surely be put to death. A fifth argument is taken from Paul's speech—Acts xxv. 11. If I have done any thing worthy of death, I refuse not to die. So also, in chap. xxviii. They found no cause of death in me. Upon which Justin Martyr gives the following gloss. "If there be any amongst us that live not conformable to these precepts, being only in name christians, that such should be punished, and that by you, is our desire, as well as yours."

But if it was unlawful to put any man to death, under the christian dispensation, it would be a piece of wickedness for any man to be willing to die by the hands of man for any crime, and gross presumption for any one to say he refuses not to die. All the apostle's reasoning in his own defence, was in substance a refusing to die, because he believed it to be unjust and cruel to put him to death without a just cause. Every true martyr for the truth will refuse to die, in relation to an unjust law, though he will be ready to die, and to suffer the execution of an unjust sentence, when it stands in competition with the sin of apostacy from the truths of the gospel.—The apostle's reasoning in the above citations, plainly shews that he believed that there were some crimes which ought to be punished with death.

Arg. 6. If war is lawful in case of self-defence, the punishment of murder by death must be also lawful. But we have proved that war in a case of self defence is lawful, therefore, it is lawful to punish the murderer by death.

If it is lawful to shed the blood of an enemy that is only attempting robbery and murder, it must be beyond a doubt lawful to shed the blood of one who hath already murdered and perhaps robbed.

2dly. If it be lawful to shed the blood of a foreign enemy in self defence, we may without any hesitation shed the blood of a domestick enemy, who has turned traitor to the state, by committing murder and perhaps robbery.

Objection. It is unlawful to put to death a captive taken in war, and a murderer taken once into custody is no more than another captive, and therefore ought not to die.

Ans. 1. The cases are quite different. Though the captive taken in war, may have violated the common rules of humanity, or the moral law as it respects mankind in general, yet may he never have broken the laws of the land wherein he is a captive, because he may never have been a member of that community, in whose hands he is a captive.

2dly. But every free citizen, in any free government, is bound by his own allegiance, and federally bound by his own representatives, to keep and preserve the peace and safety of the whole community, and every individual in it. But the sin of murder, by such an one, is a violation of his federal relation to the body politick, and every individual in it, and is a cruel act of injustice to one of his brethren, as a member of the same community. Therefore, as his crime is much more aggravated than that of the captive taken in war, his punishment ought to be accordingly.

3dly. Though the captive taken in war, may never in any sense, have been subject to the laws of that nation where he is a captive, and therefore cannot be tried and condemned by the peculiar laws of that nation, yet many such captives taken in war deserve death upon account of the atrociousness of their crimes committed against the laws of nations, and the common rules of humanity. But though many such captives taken in war, may have merited death by their crimes against the established laws of nations, and common rules of justice, yet it may not be either prudent or lawful to inflict death upon them, because it might occasion the death of many innocent persons, by retaliation on the enemy's part.

4thly. Every war is apt to be just upon one side, and unjust upon the other. But it is possible for both sides to be more or less unjust, yet frequently it happens, that one side in the quarrel may be just, and the other unjust. Suppose the captive taken in war, to have been engaged on the unjust side, yet the sin of military men is liable to be more or less, as the cause on which they may have been employed, is more or less unjust.

2dly. The sin of such men, may be more or less alleviated by the ways in which they may have been brought to engage

~~in an~~ unjust cause. Some are compelled to it, others are led into it in the simplicity of their hearts. Upon account of the first reasons laid down, and those various circumstances of alleviation, with reference to captives, which we have last mentioned, we may with safety conclude, that generally speaking, it would be both rash and improper, to put to death captives taken in war. But this concession can in no respect, operate against the validity of our arguments, in favour of the execution of strict justice upon the murderer, who cannot be exempted from death, by any of the above reasons, relating to captives taken in war.

One important question to be determined, for the clearer investigation of this subject is—What is the proper reason, in a law point of view, why a criminal ought to suffer punishment?

Some affirm the reason and end of the punishment of a criminal, is to promote his good or reformation, consequently his punishment is wholly disciplinary. And it may be granted, that though the punishment of a murderer by death, has some tendency to promote his good, where time is allowed him to prepare for death, yet it is not very consistent with such an end, to make that the primary reason for inflicting death upon him. But if the benefit of the criminal, is the primary end of punishment, then the infliction of punishment upon the offender, is a great blessing conferred upon him.—And if it be, it becomes a subject of important inquiry, what it is that entitles a murderer to such a blessing in consequence of his crime? And first, it cannot be the crime of murder itself, that will ever merit a blessing at the hand of either God or man.

2dly. A right to inherit such a blessing, cannot be derived from any relative obligation upon the civil magistrate, to confer benefits upon the subjects, for although the civil authority is bound to confer the benefit of protection upon all its peaceable subjects, yet it is not bound to give protection to such as dissolve this relation by turning traitor to the state, in taking away the lives of peaceable members of the community, therefore, the criminal can derive no right to the benefit of a disciplinary punishment from any relative obligation upon the civil magistrate to do it.

No civil magistrate can be bound, by virtue of his office, to confer benefits upon such of his subjects as fly in the face of his authority, by destroying the lives of other peaceable subjects. Therefore, it may be justly denied, that the primary end of punishment, as it is inflicted by the civil author-

ity, is intended for the good of the offender, but the immediate and primary end of punishment, is twofold, the first and chief end is that the offender may experience a retribution for his offence, and that that retribution may be a manifestation of the justice of God, or in other words, God's law demands the infliction of the punishment upon the offender, as a manifestation of his displeasure at the crime.

But the reason why God hath appointed men to be executioners of his justice, in the punishment of crimes in this world, is—

1st. That men may be instrumental in declaring the glory of his justice.

2dly. That as man brought sin and death into the world, he will have them to retain an awful impression of the evil of sin in their minds, by being executioners of that vengeance, which is a just retribution to the sinner.

3dly. Another reason why God hath committed the administration of his justice to men, to execute in the punishment of crimes in this world, is, that society may receive benefit thereby, that is, as the scripture expresses it, that others may hear and fear. But, the benefit of society, is not God's chief end in committing the administration of his justice to men, but his declarative glory is his chief end, that is, though one end is, that the conduct and behaviour of men may be rectified, yet the chief and highest end to be attained is, the declarative glory of God, that is, that men by discovering the severity of God's justice, in the infliction of capital punishments, may stand in awe to sin, and be warned to live in more agreeableness to his law. Thus, the reason why a parent is bound to correct a disobedient child, is not because the child's disobedience hath merited correction, as a blessing, neither is it on account of a debt which a parent owes to a child, for the child may never have merited any thing at the hand of the parent, neither can the child have any claim in point of merit upon God for the benefit of correction, because it hath never merited any thing at his hands, therefore, the reason why a parent is bound to correct a disobedient child, is not on account of any debt which he owes to the child, but his right and duty to do it is wholly derived from God, through the natural relation in which he stands to his child; he, by this natural relation, may perceive a moral fitness in exercising authority over it; which moral fitness is a manifestation of God's will, which is more clearly revealed in the scriptures of truth; therefore, his right is by virtue of a dispensation from God, wherein as God's minis-

1st, he is bound to execute the justice of his law upon the disobedient child, in order that God's justice may be manifested, and that the child may have early impressions of the evil of sin, by experiencing something of the severity of God's justice; and that it may be excited thereby, in connexion with moral and religious instructions to glorify God. Every act of disobedience in a child towards his parents, is first, a sin against God, who hath commanded children to obey their parents; but the same sin is an offence against the parent, to whom the child owes all due reverence and respect as God's deputy, whom he hath appointed, in his name, to administer preceptive lessons of instruction, and the penal sanction of his law in its proper time, that God may be glorified and the child learn to obey.

Considering then, the parent to officiate in the name of God, in punishing a disobedient child, the punishment itself must be of a vindicating nature; because the first thing as the immediate consequence of the punishment, is the manifestation of the evil of sin committed.

2dly. The second thing made manifest, is the parent's right and power to demand obedience, and to punish in case of disobedience. And the effect, which is intended to be produced, is the child's amendment. So, that with respect to the injury done to God's law, and the dishonour done to the parent, as God's deputy, the punishment is vindictive, but in regard to the tendency it hath to promote the child's benefit in subordination to the glory of God, it is disciplinary.

So, that the immediate ground, and primary reason why any creature, which is at all a subject of moral government, is to be punished, is the law's demand of it to itself, as a satisfaction. Every sin is first committed against God; therefore, the punishment of sin is a debt, which the sinner owes first to God, and the honour of his justice, is the first necessary consequence of punishment; but the good of the sufferer, is not a necessary consequence, because it may follow punishment, or may not.

Considering then, that sin committed against God's law, is the reason of the infliction of punishment, and that punishment is a debt, which the offender owes to divine justice, because of his sin, it may readily be granted, that punishment is deserved in proportion to the aggravation of the offence, and if it is deserved, it ought to be executed, and by no means to be dispensed with. Suppose then, the sin to be of such a kind and degree of aggravation, as to require a

punishment incompatible with the proper nature of a discipline for the creature's benefit, yet it must be executed because the law demands the first satisfaction, come what will of the criminal's benefit. Lastly, the nature of a crime has a great influence, to render the punishment more or less vindictive, or disciplinary. Thus some offences in children, that have not fully arrived to years of discretion, so as to be competent judges of right and wrong, expose them to punishment, but their punishment, so far as they are incapable of judging correctly of right and wrong, is disciplinary, that is, it is in that respect to rectify their future conduct, which is the very reason why irrational creatures are punished, but their punishment is altogether disciplinary.

2dly. Some offences in children, may not imply an immediate act of dishonour to the parent, or so flagrant a dishonour to the name and authority of God, as some other offences, and the punishment in such cases, may be more of a disciplinary nature, than the punishment of some other offences, which may be committed more immediately against the name and authority of God, or the person and authority of the parent.

To apply this to the main question. Some crimes are more immediately against the being and glory of God, and the good of society, than some others, and such crimes have a great influence to render the punishments attached to them vindictive. But, the crime of murder, above all others, seems to be against the being and glory of God and the good of society. It appears, that the act of taking the life of an innocent person is one of the most daring attacks upon the divine character, which man in this world can make. What can we do more towards dishonouring a character, which we cannot actually destroy, than to destroy his image? But murder is a destroying the image of God, for in the image of God made he man, and as we have before shewn, it is the greatest hurt, which we can possibly do to man, therefore, the punishment of murder is in the strictest sense altogether vindictive. But the execution of that punishment, which is wholly vindictive in its nature, is allowed to have a disciplinary influence upon society.

So, the punishment of hell is to the subjects of it, wholly vindictive, yet a knowledge of its justness and certainty is allowed to have a disciplinary influence upon the inhabitants of the world, that they may not live, so as to go to that place of torment.

That all civil punishments are in their nature, and fundamental ground vindictive, we shall now prove.

1st. All civil punishments are in their nature a just retribution to the offender, as a vindication of the justness of the divine law, which the offender has broken. The reason is obvious, because all civil punishments are inflicted upon account of sin already committed. No equitable law will require punishment for an offence not yet committed, but so soon as we drop the idea of past sin, as the moral ground of punishment, just so soon, we must give up all pretensions to a right in civil society to punish, or else maintain that society hath a right to inflict punishment for sin before it is committed. The subject punished, must be either punished for sins past, or for sins future, or for nothing at all; but no one will plead for the punishment of sin before it is committed, neither will any plead for infliction of punishment for nothing; therefore, if it is at all lawful to inflict punishment, it must be for past sin, but if the moral ground of punishment is past sin, the punishment must be vindictive, that is, a formal retribution, in a law point of view, to the offender for past offences.

The first and immediate end of civil punishment, is to satisfy justice, by rendering a retributive punishment to the offender, but a secondary end is the good of society. The first and original dispenser of justice is God, but he hath committed the administration of it to man, so far as man, thereby, may manifest the glory of God, the perfection of his law and promote the good of society. But for the more perfect administration of justice upon offenders, that right of executing justice upon offenders, which God hath committed to all men, is made by the consent of the people, to centre in the civil magistrate, who, as he is the representing organ to the people of civil power, so he is the minister of God in whose name he is to distribute justice in behalf of the people.

Again, as the execution of justice is originally in the hand of God, but by commission in the hand of the civil magistrate, so civil punishments have a primary relation to God, as a satisfaction to his justice, and a secondary relation to man, who upon account of his injured rights demands punishment from offenders, as a satisfaction of his justice in subserviency to the glory of God, and this twofold relation, which civil punishments bear first to the justice of God.

2dly. To the justice of man belongs properly such sins, as are punishable by the civil magistrate, but punishments which can only admit of the first of these relations, appear to belong only to God to execute.

But if all punishments are of a disciplinary nature, and not vindictive, that is, not as a retribution for past sin, but to prevent the like offences from being committed ; then we must punish criminals on the same principle upon which we are allowed to punish brutes, that is, that it may rectify their future conduct.

No wise man, upon due deliberation, will punish a brute, as a retribution for its past offences, for, that would be to treat it, as if it were a proper subject of law, but a prudent man may chastise a brute to prevent it from trespassing in time to come.

We are not, in duty bound, to kill serpents, because serpents have bit, but we are, in duty bound, to kill serpents, because serpents may bite, but such as treat criminals upon the same principle, treat them as if they were brutes, but not as accountable creatures. To say we are to punish murderers, not because they have murdered, but that murder may not be committed, is comprehensive of some most horrid absurdities.

1st. It amounts to a denial, that the civil magistrate is God's minister, to execute wrath upon him, that doeth evil.

2d. It would represent a civil ruler, to be a cruel tyrant, in punishing his subjects for no crimes, but to prevent them from committing crimes.

3dly. It is treating mankind, as if they were brutes.

4th. It is treating sin, as if it had no moral turpitude in it more than the irregularities of brutes.

There is but one way of pretending to evade the charge of the above absurdities, that is, by alledging, that though the punishment of the criminal, is not a vindictive retribution for his crime, yet the crime is the cause or reason of the punishment, inasmuch, as damage hath been sustained. (Answer) so say we is the case of administering chastisement to a beast, the mischief sustained in the cause or reason of its chastisement but not a moral ground of its punishment. But secondly, it is erroneous to alledge, that the damage sustained is the moral cause of the punishment of a criminal, because all courts and juries look more to the intent and design, than to the mischief sustained. It is well known that premeditated murder is counted in all courts of justice the worst of all.— In the infliction of punishment, the extrinsick act of punishing, is properly, an execution of distributive justice upon the offender, but every such offender, who comes to believe in the justice satisfying righteousness of Christ, the vindictive nature of his punishment is taken away, that is, the sting and

curse of it is taken away, while the material part continues, In this respect while the matter of the punishment serves as a vindication of the excellency of God's law, in the view of spectators, his own conscience is relieved from the sting and curse of the law through faith in Christ.

Query. If a person in a justified state before God, whose sins are already pardoned, should fall into the sin of murder, and suffer death for his crime, would his punishment be disciplinary or vindictive?

Answer. 1st. The law has still the same demand against him, as to the matter of punishment, that it hath against an unbeliever, but the believer meets its demands by a faith's dependence upon the justice satisfying righteousness of Christ, to relieve his conscience from the curse of the law in the sight of God; that is, by faith he grants to the law Christ's surety righteousness, which affords relief to his mind and conscience, while, the matter of the punishment proves to him a fatherly chastisement.

2dly. Though God's justice, as such, is satisfied in the above case, yet the civil authority's justice cannot be satisfied, but by the death of the offender. The dispensation of grace through faith in Christ, was never designed to infringe upon the rights of man, or to stop the regular administration of civil justice.

From these premises, which we have now laid down and proved at length, we may with safety conclude, that the punishment of criminals, is in point of justice, a proper retribution to the offender for his sin, and if this is so, then without any ground of doubt all punishments ought to bear as near a proportion to the crime, as man's right to punish will admit, but if all punishments ought to be inflicted according to the aggravation of the crime, then the murderer ought to be punished by death.

3dly. The propriety of capital punishments, or that of punishing notorious offenders by death, may be argued from the pernicious consequences of adopting a disciplinary punishment in the room it. As first, in the case of high treason, or any bold attempt to overturn the government, the principal aggressors, being for the most part in such cases persons of high rank and large fortunes, would be apt to escape with impunity. Because first, the crime of rebellion against a state or a nation, is as much worse, than a single act of murder, as the number of lives endangered by such an attempt are to one. Even though the attempt should fail, the mind of every such traitor, is prepared for all the proba-

ble consequences of his design, and we have before shown, that the moral turpitude of the action is the formal ground of punishment not the physical hurt, either sustained or prevented. Therefore if such characters were even imprisoned for life, they would still escape with impunity, because such a punishment would not be adequate to the crime.

2dly. Suppose such characters were convicted and sentenced to confinement and hard labour, for a term of years, or for life, yet are there ten chances to one, that they will soon get rid of their confinement, either first from some of the various ways by which prisons may be broken, or secondly by the power of bribery, although we have reason to believe, that jail keepers are as apt to be as honest, as other members of the community, and as likely to resist the temptation of a bribe ; Yet, we know that many men, whose characters have appeared fair, in the eyes of the world, have been, at length, corrupted by a bribe, and many persons, now living who might resist the influence of 3 or 400 dollars, might readily be overcome by 10 or 20,000, which would be but a small diminution of some men's fortunes ; besides the united influence and wealth of a whole party might do much more, so that without all doubt, such offenders would soon effect their emancipation. Under such a perverse law we could never expect to have justice executed upon state prisoners, of the above description, and the consequence must be, that we will have nothing to prevent the very worst schemes of treachery, to overturn our political system, except, the mere impossibility of doing it, and whether that can always be a barrier, in the way of such attempts, we may readily judge from what has been.

3dly. Punishment by confinement for the crime of murder, not being adequate to the offence, will be so far from affording satisfaction to the justly incensed friends of the unhappy victim of the assassin's malice, that together, with an utter despair of ever obtaining it by law, they will take that satisfaction, with their own hands, which is the proper province of the law to give ; they will destroy the murderer without waiting for a kind legal of process, which though it should succeed, to the conviction of the offender, will not, in the execution of the sentence, be a satisfaction to justice.

4th. When the laws of the land will not execute justice on the murderer, so as, to afford satisfaction to surviving relatives, for the cruel murder of a beloved father, mother, brother, sister, son, or daughter, &c. such friends and relatives, if possessed with a true magnanimous spirit, will feel

conscious, that it becomes their indispensable right, to execute justice with their own hands, because, the right of making laws and executing them, is first in the hands of the people, and is only committed to the civil magistrate, as a representative of the people, and their organ to execute justice, but if civil rulers fail in answering these important ends, the right of executing justice is still in the hands of the people, as the proper constituents of all civil power. And should any one under these impressions, shoot down like a wolf or tiger the wretch, that hath imbrued his hands in the innocent blood of a beloved friend, be convicted for it, and sentenced to a state of confinement and hard labour for a term of years, the consolation that he will feel, in revolving in his mind the idea, of his having obtained justice upon the murderer, that his confinement and labour will, like Jacob's seven years servitude, be but like a few days. It is true, that his lot will be something worse in one respect than that of a real murderer, who may obtain his emancipation by repentance, whereas the ground of his conviction will not admit of repentance. But this grievance, peculiar to his case will be sufficiently counterbalanced by a good conscience, which tells him that he is suffering persecution for righteousness sake.

For a further illustration of this subject, we shall try to give a more particular account of Divine Justice. 1. as it exists in God. 2. Of man's right to execute justice upon criminals. 3. Offer some thoughts upon the duty of forgiveness.

1st. By Divine justice we are to understand, that perfection of God's nature, whereby, he will require all that is due to himself, and render to his creatures all that is due to them. And in case of sin, God requires to himself a vindication of his honour and glory, in inflicting a retributive punishment upon the sinner. Sin is, that conduct in a rational creature, whereby it disobeys the command of God and doth not choose him, as its chief good. God, then in point of justice, withholds the light of his countenance, which is life and comfort, and by the operation of his power makes the sinner to experience a sense of misery, as a just recompense for his sin. By sin, the sinner dishonours God, but in the execution of justice, God, in rendering a recompense to the sinner, obtains a restitution to his injured honour. This is called commutative justice. So much of the execution of commutative justice, as God in infinite wisdom sees will be necessary for the good government of the world, he hath committed to men, who under strict limitations, are authorised to punish some offences committed against God and

man. So, that every man hath a right to defend the honour of God, and the interests of himself and neighbour, and under proper limitations is authorised to punish some offences committed against God and man. This is called the execution of vengeance, and hath an immediate and primary respect to God, as the execution of his justice, and in a second point of view, as a respect to man, as the execution of his justice in subordination to the justice of God. If this account of justice will be admitted, it appears that the following sentiments might also be admitted, as first principles.

1st. That, every man hath a right to resist some dishonours done to God, and some injuries which may be done to himself.

2dly. That such resistance ought to be done with a design to repair the damage done, or injury sustained, either by God or man, so far as, that end can be attained.

3dly. That, the manner of resistance ought to bear some relation to the nature of the offence, and the degree of it some proportion to the aggravation of the crime.

If these principles are granted, it will appear but just that at least such a punishment ought to be demanded of a thief, as will be a satisfaction to the injured law, and that it demand, also, a reparation of the damage sustained, if that can be obtained. And in the case of murder, that life should go for life, to repair the dishonour done to the law of God, and though the damage sustained by the person murdered, cannot be repaired in restoring life, nor the community for the loss of one or more of its members, yet the peace and safety of society may be better secured by the death of the murderer.

The very impossibility of repairing the damage, by restoring life, in the case of murder, is one of the greatest reasons of the exceeding aggravation of the crime, and one of the greatest reasons, why, the murderer ought to die, in order, that justice may be satisfied, and that his death may deter others from committing a crime, so irreparable in its effects.

If no political system of government was to exist in a nation, or in the world, every man would have a right to execute justice upon offenders, so far, as it might tend to promote the glory of God, and vindicate his own rights. According to this view of the subject, every man is by nature a minister of God for good, to execute wrath upon him that doeth evil. If there is a power, in the hand of the civil authority, to execute wrath upon him that doeth evil, that power must be first in the hands of the people, as the constituents

of that civil authority ; therefore, the right of executing justice, is first committed by God to men, as individuals. But, considering the many inconveniences, and fatal consequences, which would accompany and follow the private and personal administration of justice, infinite wisdom hath appointed civil government, as the great organ of civil society to execute that justice, which is first in the hands of all men as individuals.

The civil magistrate is by delegation the executor of justice, in the name of the people, whose representative he is. But, as the primary right of executing justice, is in the hand of God, and man's right is only by commission and derivation, he is called God's minister, to execute wrath upon him that doeth evil. As the immediate end of his office, is to execute the justice of God, upon him that doeth evil, he is the immediate minister of God. But, as he doeth this in the character of a representing organ to the people, he is the minister of the people.

The end or design of executing justice upon offenders is, 1st, that it may be a retribution to the offender, for his crime, and that his punishment may manifest the justice of God. 2dly. To promote the fear of God in the land, prevent atrocious crimes, and protect men in their natural rights both civil and religious.

These fundamental principles of justice are incapable of any alteration, by any change of circumstances, in this world, because, they are derived from God and established upon the unalterable law of nature.

But, though God hath appointed men to be the executioners of justice, for his own glory and the good of society, yet hath he not given to man an exclusive right to execute justice, but hath reserved, in his own hand, the exclusive right of executing the final sentence of condemnation upon ungodly men in the world to come. Neither, hath he given to man an absolute right to execute justice in this life, without any reserve, but may at his own pleasure, by a positive precept, appoint the suspension of the stroke of justice, as he did in Cain's case, Gen. iv. 15. And the Lord said unto him, therefore whosoever slayeth Cain, vengeance shall be taken on him sevenfold. In this case God forgave Cain, as to his punishment in this life, that is, he acquitted him from that punishment, which men had a right to exact from him, but which God had a prior right to suspend, or have executed according to his own pleasure.

2dly. There are some things, which in point of justice,

men may, at their own pleasure demand, or not demand, and over which they possess a kind of sovereignty. Those things, to which men have a kind of sovereign right, and may give to another, or not give, or demand, or not demand from another, are matters which respect their own property, worldly interests, or happiness ; such as, the right of giving alms to the poor, or not giving : but this right of giving or not giving, is only an absolute right in relation to men ; but in relation to God, the duty of giving alms to the poor, when our circumstances will admit of it, is a debt of obedience to God : because by his law he hath enjoined it upon us as a duty. He that giveth to the poor, lendeth to the Lord, but giving alms to the poor cannot be a debt which we owe to the poor, upon account of any merit on the side of the poor. If any merit or price is the moral reason or ground, upon which we give, our giving becomes a just debt, and cannot be an act of charity. Such is the right of forgiving injuries. There are some injuries, which affect only our personal interest or pleasure, which we may forgive, when our forgiving such injuries, will have no tendency to dishonour God, or injure the rights of society, but, which will have a tendency to do more good, than the rigorous exaction of justice : but in matters of a contrary nature and tendency, we have no right to forgive.

As the advocates for a disciplinary punishment, are for exploding vengeance in every sense, as any just requisition of man, and plead for the doctrine of forgiveness, as an argument of principal weight, in support of their new theory, we shall try, to open up the nature of those two principles.

First of vengeance. Vengeance means the return of an injury ; but there are two acceptations of the word. The first is, when it is used to express the return of an injury, for the laudable purpose of vindicating the honour of God, or the rights of men. The second is, when it is used to express a malicious disposition, to exact an unjust satisfaction from another, or if even just, to seek it as a gratification of a wish for, and a delight in the misery of another, for its own sake.

According to the first definition of vengeance, the justice of God, and the justice of the laws of the land, the good of society, with a regard to our own personal safety, are the ruling motives in the mind of the person seeking revenge : but according to the second definition ; a delight in the misery of another, often joined with an unjust requisition of punishment, is the ruling motive in the mind of the person seeking revenge. The last of them, the scripture condemns ; but the former it authorises.

OF FORGIVENESS.

TO forgive is to pardon or remit an offence, debt or penalty, that is to remit a person from deserved punishment, or from the payment of a just debt or fine. Forgiveness is a duty enjoined by the moral law, and under proper limitation, was always binding upon mankind, in all ages of the world, and in particular, was equally as binding upon the church of God under the Old Testament dispensation; as under the New, as we shall now show by the following citations. Prov. xx. 22. Say not thou, I will recompense evil; but wait on the Lord, and he shall save thee. 1 Peter iii. 8 and 9. Finally, brethren be ye all of one mind, having compassion one to another: love as brethren, be pitiful, be courteous. Not rendering evil for evil, or railing for railing; but contrariwise blessing; knowing that ye are thereunto called, that ye should inherit the blessing.

Deut. xxxii. 35. To me belongs vengeance and a recompense; their foot shall slide in due time, for the day of their calamity is at hand. Rom. xii. 19. Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, vengeance is mine; I will repay, saith the Lord.

Prov. xxiv. 28 and 29. Be not witness against thy neighbour without a cause; and deceive not with thy lips.—Say not, I will do to him, as he has done to me; I will render to the man according to his works. Eph. iv. 32. And be kind one to another, tender hearted, forgiving one another, even as God, for Christ's sake, hath forgiven you, Prov. xii. 20. Deceit is in the heart of them that imagine evil; but to the counsellors of peace there is joy. Matt. v. 9. Blessed are the peace makers; for they shall be called the children of God. Zech. vii. 10. Let none of you imagine evil against his brother in his heart. 1 Cor. xiii 5, 6. Exo. xxii. 4 and 5. If thou meetest thine enemy's ox, or his ass going astray, thou shalt surely bring it back to him again. If thou seest the ass of him that hateth thee lying under his burden, and wouldst forbear to help him; thou shalt surely help with him. Gal. vi. 10. As we have therefore opportunity, let us do good unto all men, especially unto them, who are of the household of faith.

From the above citations, from the Old Testament, compared with parallel places in the New, it appears, that the doctrine of forgiveness is taught with equal clearness in both, and that no preference, in point of perspicuity, in favour of forgiveness, is to be attributed to the New Testament, is evi-

dent, because all the above citations from the New Testament are either plain citations from the Old Testament, or bear a plain allusion to Old Testament maxims. Therefore, nothing can be concluded, from any supposed difference in the spirit of religion, in the New Testament from the Old, that will at all go to refute the foregoing arguments, in favour of a defensive war or capital punishments.

But as our opponents put great dependence upon the duty of forgiveness, to support their cause, we shall try to be a little more particular, in examining into the nature and reasonableness of the duty, and inquire whether it will in any respect militate against the punishment of murder by death, or the lawfulness of a defensive war. It is asserted, by some late writers, that if we are bound to forgive a small injury, we must be equally bound to forgive the greatest injury; therefore, we are bound to forgive the injury of murder; and if we are bound to forgive one injury, we are equally bound to forgive all injuries. Therefore, we are bound to forgive the injury of murder; and if an individual is bound to forgive all injuries, a community, which is only a number of individuals, is bound to forgive all injuries. Therefore, the duty of every nation is, to forgive all national offences, and not to go to war.

In answer to the above reasoning, we offer the following things, 1st. In all cases, wherein we are called to the duty of forgiving injuries, we must have God's law to sanction it, and in that case, it is a duty which we owe to God; but in all cases, wherein we are bound by the law of God to forgive, we must have a perfect right, in relation to the offender, not to forgive him, because if we are under an obligation, to the offender, to remit his punishment, debt or fine, it is not forgiveness, it is a just debt which we owe to him. Therefore in all cases, wherein forgiveness is either possible, or can in any respect be a duty, we must have a perfect right, in relation to such a person, either to forgive him, or not forgive him.

But injuries, which we are not to forgive, are such as, we have no right, either in relation to God or man to forgive, but are such things, as God hath reserved in his own hand, and which he only has a right to forgive, or not to forgive; and amongst such offences, which God hath only a right to forgive, none appears to have a better title to a place, than that of murder. It appears highly reasonable, that when God gives us a kind of sovereign right to dispose of things, which are in subserviency to us, he should reserve to himself sovereign right of property in our persons, so, that though a man

may have a right, derived from God, over his moveable property, to dispose of it at pleasure, and over his own feelings and disposition towards his enemies, in matters which he may forgive, without injuring either the rights of God or man, yet hath he no right over his own life, to retain it or relinquish it at pleasure. No more hath he a right over the lives of others, to dispose of them at pleasure, but is firmly bound by the law of God to preserve the life of the innocent, and to take away the life of the guilty. Therefore, it is not in the power of any man to forgive the crime of murder; that is, to acquit him from the punishment of death, without incurring guilt upon himself. That civil magistrate who saves the wilful murderer from death, is not acting the part of God's minister, but is arrogating to himself the peculiar prerogative of God. According to these views of justice and forgiveness, it is quite consistent with the temper of a christian to retaliate injuries, when that retaliation is a seasonable administration of justice to God or to man.

And when we behold justice executed in due time and season upon a murderer we ought to possess a mind well pleased, that there is then rendering to Divine Justice a satisfaction in the death of the murderer: a satisfaction adequate to his crime.

2dly. Well pleased, that in the death of the criminal the community is obtaining a satisfaction for the injury it hath sustained.

3dly. Well pleased, that there is now administering to the community a most wholesome discipline, that others may hear and fear. Such impressions we may feel without malice at the criminal, or a disposition to rejoice at his calamity, for its own sake. We may rejoice in his punishment, as a satisfaction to justice, and as a correction to the manners of the age, while we deplore the weakness and depravity of human nature.

We have already proved, that forgiveness can only be in a case, wherein the person forgiving hath an equal right, either to forgive, or not to forgive; and we may now add, that to forgive a debt or penalty, always supposes the debt or penalty to be perfectly just; in this case forgiveness is possible; but if the debt or penalty be unjust, it is impossible to forgive it, it would be sinful to demand it, and the law of God precludes us from demanding it. So, forgiveness in God, is a gracious act of acquitting a sinner from punishment, whom he hath a sovereign right to condemn; that is, he hath a sovereign right not to forgive him. In

like manner, forgiveness amongst men is an acquittance of a person from an obligation to suffer some punishment, or pay some debt or fine, which they have a legal right to demand.

A man may have an absolute right, and it may be his indispensable duty before God to forgive a person, and be under no obligation, in relation to that person, to forgive him. Men, strictly speaking, can be under no obligation to each other, to forgive one another their offences. Merit is the alone foundation of obligation amongst men, in relation to one another, but merit is not the foundation of forgiveness in one man towards another; but that which makes it our indispensable duty to forgive one another is the obligation of God's law upon us; and in this respect it is a debt of obedience which we owe to God's law, but not a debt due to the offender upon his account; so that God's law must be always our rule in forgiving offences. The case is quite obvious, because every time we remit a person from a penalty or debt, we are doing either right or wrong; if we are doing right, we are doing something which God's law authorises; if we are doing wrong, we are remitting a person from a penalty or debt which God's law forbids us to do. The same reasoning is applicable to the case of giving alms to the poor; hence is that form of entreaty used by almost all persons seeking alms "*for the Lord's sake*," that is, not upon account of any obligation you are under to me, but from the obligation of God's law upon you to help the necessitous. "*Help me.*"

Therefore, men can be under no obligation, from the nature of forgiveness, to remit the murderer from the punishment of death.

Our next business is to inquire, whether God's law has made it our indispensable duty to forgive all offences without exception, and the offence of murder amongst the rest. And,

1st. If God's law has made it our duty, without exception, to forgive all offences, that is, to acquit all persons, who have offended us, from all legal obligation to suffer, or to make restitution for any damage we may have sustained, then we must be equally bound, by God's law, to forgive all pecuniary obligations also, for if it is our duty, by virtue of God's law, to forgive all injuries committed upon our persons, characters or estates, we must be surely bound also to forgive all pecuniary debts, when we have sustained no injury in either person, name or estate, because no good reason can be given, why a sinful attack upon our persons,

name or estate, should render forgiveness more of a duty on our part, than in a case where there is no such wicked attack. But if we are to forgive all men their pecuniary debts, how shall we discharge our own?

But as none will plead for the duty of forgiving all pecuniary debts, then we may conclude, that God's law does not require universal forgiveness, but only binds to forgive pecuniary debts, as far as is consistent with our duty to God, to ourselves, and to one another.

2dly. If we are not to forgive all debts, which have not sin, as the ground of obligation, we cannot be bound to forgive all debts, which have sin, as the ground of their obligation. Sin can never be the ground of an obligation to duty, except we can make a merit of it. Neither can it be our duty to forgive all men their trespasses, without exception : as when a thief takes away our property or money, so as to prevent us from discharging our just debts, or supporting a family, or going on in the discharge of some important trust. No action can be good, which necessarily contradicts, or obliges us to contradict, any precept of the moral law ; therefore, when we voluntarily forgive an injury, when that act of forgiveness disables us from doing our duty to God or man, we are not acting then in agreeableness to his law. Therefore, it cannot be our duty in all cases, to remit a thief from his obligation to make restitution for the damages we may have sustained. But as no one will plead for a discharge of a thief in the above case from his obligation to make restitution, we have then another exception against universal forgiveness.

3dly. If one wantonly slanders our character, and makes an attempt to take our lives, supposing the attempt should be connected with the most flagrant circumstances, is it our indispensable duty, in a case of this sort, where there may be no pecuniary loss sustained, to forgive him, and in all cases of a similar nature to remit such persons from all obligations to punishment ?

If this question should be answered in the negative, it supposes another exception to the general rule ; that is, it is granted that we are not bound by the law of God to forgive all men all their trespasses without exception. But suppose the question should be answered in the affirmative, that is, that we should remit such a person from all punishment, seeing that we have sustained no worldly loss. Then the consequence must be, that it is not our duty before God to demand punishment for any offences which are not the

casion of any worldly loss to us. Or in other words, we are solemnly bound by the law of God, to desist from it.

2dly. If it would be sinful in a law point of view, to demand a punishment for such offences, it must be sinful for the civil authority to institute a law, and sanction it with a threatened punishment to authorise a person to demand a satisfaction. That law must be wicked in itself, that authorises a wicked action. Then the consequence must be, that the civil law ought never to hinder a man to do any injury that he pleases to his neighbour, while he meddles not with his property. Therefore, we may conclude with all safety, that taking in all these consequences, none will answer the question in the affirmative, or say that we should acquit such persons from all punishment, but will try to evade the force of the argument by alledging, that though we are bound in point of duty to have such offences punished, yet we are only bound to punish such persons for their own benefit not by way of retaliation.

Ans. If we are bound in duty to punish such offenders for their own good, then there is no place for forgiveness; but forgiveness, which is an acquittance from punishment, would be a piece of great cruelty and wickedness, so that, if we are to punish offenders for their own good, but not as a vindictive retribution for past offences, as such we have no place for the duty of forgiveness. If we are bound to punish one offender for the offenders good, then we are bound to punish all offenders for their good, and if this is so we cannot forgive any offences upon this earth, but at the expense of injustice done to the offender, and an evident violation of the law of God.

2dly. The doctrine of disciplinary punishments, plead for to the exclusion of retributive punishments, would annihilate the very being of forgiveness. Because, first, disciplinary punishments are in all cases benefits conferred upon the offender.

3dly. If the doctrine itself is true, the conferring of it is a duty which we are bound by the law of God to do, and withholding it in its due proportion and proper time, would be a manifest expression of hatred. Says Solomon, "He that spareth the rod, hateth his child." Therefore, according to the doctrine of disciplinary punishments, there is no place left for forgiveness.

It appears to be a fair deduction from these premises, that as the word of God must be our rule of forgiveness, so our forgiveness must be limited.

We shall now lay down some rules from the word of God, by which forgiveness must be limited. The first rule is, that we are not to attempt to forgive for God, that is, to remit that punishment which is God's prerogative alone to do.

2dly. We are not to remit an offender from punishment, whom God hath commanded us to punish, as in the case of murder, whoso sheddeth man's blood, by man shall his blood be shed.

3dly. We are not to remit an offender from punishment, when the glory of God's justice, the absolute safety of our own persons, families or estates, and the peace and happiness of society call for punishment; because forgiveness in such cases, would be in express contradiction to all those precepts in the divine word, which enjoin in the strongest terms the duties of honouring God and doing good to ourselves and our neighbours.

4thly, As the right of executing justice is primarily in God's own hand, and all the right which men have of executing justice upon the guilty, is by virtue of a sovereign dispensation from him, he hath not made it our duty to execute every penalty of the law in all its most rigorous extent; but he hath made it our duty to pass by many offences, without seeking any punishment; that is, to forgive one another our offences in cases wherein we may have a perfect right in relation to one another to demand a satisfaction.

The rule to be observed in forgiving an injury, is to attend to such precepts of God's word as enjoin the duty of forgiveness, and compare them with our own case in relation to the injury we may have under consideration; and if we can remit the offender from punishment in a way consistent with other duties which we owe to God, to ourselves or to our neighbours, by all means let us remit it.

The reason why God hath ever commissioned men to execute any part of his vengeance upon offenders, is that men may be instrumental in promoting the glory of his justice, and that the peace and safety of society may be secured. But when we find that forgiveness will be more conducive to promote these ends, we ought then to forgive. For example: If the offence is of that kind which we are capable of forgiving, and which we have a right, in relation to the offender, either to forgive or not to forgive, then we may with safety forgive.

2dly. If the offence is private.

3dly. If the offender is heartily sorry for his fault.

4thly. If the injury sustained should be of small importance.

5thly. If we find that forgiving the offence will not occasion the violation of any moral precept, either by ourselves or others, or hurt the worldly or spiritual interests of others, we ought to forgive; and we will find that the most of common offences in a neighbourhood may be passed in this way. But on the contrary, if the offence is of such a kind as we are incapable of forgiving without presumptuous wickedness, as in the case of murder, or, 2dly, if the offence is either done publickly, or though done in private, its effects are liable to do a publick injury; we are not to forgive, because no one has a right to forgive for God, or for the community.— 3dly. If the offender gives no evidence of sorrow for his offence, but is ready to repeat it again, we have no authority to forgive. 4thly. There are many small offences and improprieties in men's conduct and behaviour which we are neither required to prosecute nor forgive, but to pass by; this is called forbearance. But in all cases wherein we are allowed to prosecute offences in order that we may obtain justice, we ought to try to obtain it in a way consistent with charity and moderation. Let your moderation be known to all men; the *Lord is at hand.*

Lastly. It will be found that punishment consisting in confinement for a term of years, is immoral in its nature.

Every law which counteracts the moral obligation of another good law, is in itself bad. But that law which condemns a married man to ten, fifteen or twenty years confinement, in a state of entire separation from his wife, counteracts the moral obligation of marriage; therefore it is a bad law.

2dly. Every kind of punishment which in its consequences is equally hurtful to the innocent as to the guilty, must be unlawful; but the imprisonment of a married man for a number of years, will be found to be as heavy and much more so upon upon his wife than upon himself: Therefore, it is unlawful.

The major is self-evident, the minor is proved thus:—

The man who is confined to ten, fifteen or twenty years imprisonment, has a comfortable house to lodge in, he has a regular supply of provisions, both victualling and clothing, he has his daily wages, and is not subject to be flogged at any time; whereas his wife is left in a widowed state, without the right of marriage to another, and is exposed to manifold temptations. The whole charge of providing for herself and family lies upon her; which in most cases will be found to be a greater burden to her than her husband's confine-

ment is to him. But the evils now specified might in a great measure be prevented by administering stripes to such as deserve them, and death to those who are guilty of capital crimes.

What we shall further add, for clearing up this subject, will be comprehended in answers to objections.

The first objection goes to deny, that the civil law has any right to administer vengeance, as such, but its end is only to keep men from doing harm; and it may be granted, that if the end of the law, is only to keep men from injuring their neighbours, that it may not be absolutely necessary to put the murderer to death.

Obj. 2. The administration of punishment is in no respect the end of the civil law; for the law, strictly speaking, has no penalty, but the use and end of it is to put disorderly persons in a situation in which they can do no harm to society, but the sense of punishment, which is apt to attend confinement, is an accidental circumstance, which arises from the criminal's aversion to such a restraint. Therefore, confinement will supersede the necessity of death in the case of capital crimes.

Ans. 1. If the civil law hath no penalty, so as to make the state of the offender absolutely worse, upon account of his crimes, then his state, in relation to the law, is equally good with what it was before he committed the crime. But according to this method of dealing with offenders, unprincipled men have a reason of much greater force, to induce them to live in the habit of vice, than in the habit of virtue; because, if the law makes a man's case no worse upon account of his crime, then his state in relation to the law is equally good with what it was before: and if his state in relation to the law, is made no worse upon account of his crimes, then such men have all the profits and pleasures, which may arise from any kind of criminal conduct, as motives to excite them to practise such vices, and there are many kinds of vices, which might afford much profit and pleasure but for the penalty of the law. Take away that penalty, and all the profits and advantages are on the side of vice.

Ans. 2. A civil law without a penalty is as great a paradox as a square circle. Take away the penalty from a law, and nothing remains but a moral advice, expressed in the imperative mood. But a moral advice expressed in the imperative mood, without a penalty, is nothing short of impertinence.

3. If the civil law hath no penalty, forgiveness can have no being. Forgiveness is a discharging a person from an obligation to suffer some just penalty; but if the law hath no penalty, we can have nothing to forgive.

The above opinion of the civil law, if carried into effect, would at once unhinge and destroy the very being of civil government, and open a door for universal licentiousness. Should we once be brought to have a law without penalties, we must shortly have penalties without law.

Obj. 3. If the penalty of the civil law is an execution of vindictive justice, and if crimes are to be punished according to the aggravation of the offence, then the consequences will be, that teachers of heresy must be put to death, because such destroy the souls and bodies of men to all eternity.— But the crime of murder only affects our well being in time.

Ans. 1. If we are to estimate the turpitude or criminality of the sin of teaching errors, by the consequences which may follow it, viz. the damnation of souls, the argument contained in the objection will prove too much; it will not only be a pretext for the infliction of death, but, in order that the punishment may bear some proportion to the offence, it will require all kinds and degrees of torture which the invention of man can contrive.

But if, on the contrary, we are to estimate the criminality of the offence of teaching errors, by the intent and design (which only in any case can lawfully subject a person to civil punishment) it will be found that the crime of murder is much worse.

2. Positive proof is absolutely necessary to the conviction of an offender of any description. But who can prove, that the teacher of heresy, is wilfully and designedly doing it to answer some base purpose. And if this cannot be done, we are to take it for granted, that he is deceived himself, and thinks he is doing God's service. Under this consideration, his sin bears no proportion to the crime of murder, which cannot be committed without doing violence to both judgement and conscience.

3. It cannot be proved, that the evil effects of teaching errors, are as hurtful as the effects of the crime of murder, because

1. All consequences are not effects. 2. All consequences and effects, which help to make crimes cognizable by the civil law, must be capable of positive proof. But who can prove any thing concerning man's condition after this life. Therefore, in comparing the evil effects of the crime of

teaching heresy, with the effects of the crime of murder, we must confine ourselves to such effects and consequences, as belong to this life ; and we assert that the effects of the crime of murder are more hurtful than the effects of teaching heresy, because

1. The teaching of heresy produces no compulsory effects, but whatever evil a person may sustain by it is by his own consent.

2. A dead man is worse than a living heretick, that is, the state of a dead man, as to this world, is worse, than the state of that man who hath imbibed heresy, through the influence of an erroneous teacher. Because, 1. The man who is dead, is cut off from answering the great end of his creation, that is, from glorifying God, by doing good in this world, in preparation for the world to come. But the living heretick is in the land of the living, and place of repentance, and hath an opportunity of receiving sound instruction, and may yet live and die in the fear of God. But the murdered man is cut off from all good in time, and from doing any good for eternity. Says Solomon, "A living dog is better than a dead lion," for the living know that they shall die, but the dead know not any thing, neither have they any more a reward of their labour.

A third objection against the foregoing arguments, is taken from Matth. v. 38, 39. You have heard it said, an eye for an eye, and a tooth for a tooth : but I say, resist not evil : but whosoever shall smite you on the right cheek, turn to him the other also.

Ans. Our Lord in this place reproves the Jews for their misapplication of that part of the scripture, which is a citation from Ex. xxi. 25. Lev. xxiv. 20. Deut. xix. 26. and applying a part of scripture which was given as a rule for the strict execution of publick justice upon offenders, as the just demerit of their crimes, to justify private revenge for personal offences, in cases wherein forbearance or forgiveness would answer a much better purpose. Our Lord in this place lays down a rule for their better behaviour, in case of suffering injuries. As first he does not address his discourse to magistrates as such, but to persons who, may be injured. 2. Neither doth he speak of every injury, but of such slight ones, as a box on the cheek, or the like. His design was not, that we should literally submit to this rule, but to let this be to us a general rule of forgiveness, in all private offences of so trifling a nature. And this sense is further illustrated, by the following words. If any man will sue thee at law and take away thy

coat, let him have thy cloak also. This is to shew, that if in a suit at law, we suffer unjustly ; we should not, either wish for, or threaten revenge, but on the contrary, be rather willing to give more, for sake of peace, for a coat or a cloak is no great loss. That it was private revenge which our Lord meant to reprove, is evident from the supposed loss of the coat, being in consequence of a suit at law ; because after a dispute is decided at law, so as no further redress can be obtained in that way, the party losing can have no opportunity of revenge, except he takes it with his own hand. Therefore our Lord was speaking of private revenge, in matters of small importance.

But it would be a very rash conclusion, from this place, to say, that because an extortioner has unjustly taken away the one half of a man's estate, in a suit at law, that he must give him the other half also.

And again if any man shall compel thee to go with him a mile, go with him twain. The word here translated, compel, is *aggaxeuei*, which means to press and is well known to be derived from *aggaxoi*, Messengers of King's, The expression is taken from those officers, who were commissioned by the Persian Emperors as publick messengers or posts, who had authority to press the inhabitants, as they passed along to help them on their way. This custom took its rise, when ~~India~~ was a province of the Persian Empire, but among the Jews the disciples of their wise men, were exempted from such services ; but our Lord advises his disciples, not to insist upon that exemption. Then the meaning of his words amounts to this : If any man, by pretext of publick authority, presses thee to go with him a mile, go with him twain. That is, rather go with him two, than disturb the peace, by a forcible opposition. But this is no reason, why we should gratify a wicked and capricious demand of one who, without any authority, but his own will, attempts to press us, to go with him a mile, that we should go with him not one only, but two, or, that if he ask us to go with him one hundred miles, that we must go with him two hundred.

Another objection is taken from Isa. ii. 4. And it shall come to pass, that the people shall break their swords into plough shears, and their spears into pruning hooks, and nation shall not rise against nation, neither shall they learn the art of war any more.

Ans. This place contains a propheticall account of a state of great peace and quietness to be in the world, at some future period, but cannot be applied to the general state of the na-

tions, since the christian era commenced, therefore, it must be applied, to the general state of the nations of the world in the time of the latter day glory.

The words are a prophecy, of such an happy time, as there will be no wars, either offensive or defensive, but contain no prohibition of either war or capital punishments.

Another objection is taken from Matt. v. 43. ye have heard, that it hath been said, thou shalt love thy neighbour, and hate thine enemy : but I say unto you, love your enemies, bless them that curse you, and pray for them, that despitefully use you, and persecute you.

Some suppose that this place is directly opposed to war and capital punishments ; but this objection will vanish, when we consider that the words here cited, are a part of the law of Moses, Exod. xxiii. 4. 5. and yet notwithstanding, this command to do good to their enemies, civil Magistrates were commanded to inflict capital punishments upon murderers, and other notorious offenders, that these precepts of the law of Moses, which enjoined the duty of love to their enemies, had a respect to their heathen neighbours, as well as to their own nation, is evident from a variety of parallel places, where many plain, moral precepts are enjoined upon them, to be kind and benevolent to strangers and sojourners among them, and, in particular, to the Egyptians, because they had been strangers in their land.

2. Though, these precepts enjoined upon them the duty of love to enemies, whether Jews or Gentiles, yet consistent therewith, they were allowed to make war in defence of their civil and religious rights, against these very nations, and also against enemies within their own nation, as appears from Judges xxi. with many other instances of a similar kind.

3. The love here pointed out by our Lord, is a love of benevolence, which means a will to do good to enemies, that we may overcome evil thereby, and a disposition to pray for their spiritual and eternal welfare, and that whereas they are enemies, going on, in a course of injustice, they may be brought to see the evil of their way : but we are only called to wish them well, and do them good, so far as their good and prosperity may be consistent with the glory of God, and the good of others, for whose benefit we are also to pray. But it would be a piece of unaccountable folly and wickedness, to pray for the prosperity of an enemy, in a course of injustice against God, his church, or the rights of man. Therefore, the words referred to, afford no authority, to

plead for the remission of all punishments. Says Seneca, "It is as great a cruelty to pardon all as to pardon none." "Tum omnibus ignocere crudeliatis quam nulli." And Chrysostom, speaking of such human punishments as are inflicted upon malefactors saith, "They proceed not from cruelty, but from goodness." That is, they proceed from a disposition to do good, in promoting the glory of God, and the peace and happiness of society.

Moses was highly celebrated for meekness and gentleness and yet he punished malefactors with death, and Christ himself, the most perfect pattern of meekness and patience, upon account of the obstinacy of the Jews, is said in a parable to send forth his armies to destroy those murderers and to burn up their city.

Another objection is taken from Rom. xii. 19. Dearly beloved avenge not yourselves, but rather give place unto wrath: for it is written, vengeance is mine; I will repay, saith the Lord.

To this objection the same answer may be given, which was given to the former, for at the same time, when God appropriated vengeance to himself, saying vengeance is mine, even then, were malefactors to be put to death, and defensive wars were lawful, and yet consistent with the execution of justice upon such offenders, the Jews were commanded to do good to their enemies, Exod. xxiii. 4, 5. Levit. xix. 18. Prov. xix. 11. xxv. 21. If thine enemy be hungry, give him bread to eat; and if he be thirsty, give him water to drink. Yet none of these precepts diminished the right of making a defensive war, nor that of taking the life of a murderer.

The following chapter begins with an illustration of this sense of the place. Let every soul be subject to the higher powers; for there is no power but of God: the powers that be are ordained of God. Whosoever, therefore, resisteth the power, resisteth the ordinance of God; and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good and thou shalt have praise of the same: For he is the minister of God to thee for good. But if thou do that which is evil, be afraid, for he beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath upon him that doeth evil.

The clearness of this illustration will appear the more striking, when we consider that the division of the scrip-

ture into chapters is a modern invention, and that in this place there is no natural division of the subject, which the apostle was prosecuting in the former chapter. In this dissertation the apostle says expressly, that the higher powers are constituted God's ministers, and the executioners of his wrath upon them that do evil. Thereby clearly distinguishing between that vengeance, which the civil magistrate, as the minister of God is to execute, for the glory of God and the publick good, and that which a private person may be disposed to take upon his enemy, merely to gratify his own passion, which the apostle had a little before condemned.

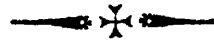
It is also asserted by some late writers, that crimes increase in any nation, in proportion to the severity of civil punishments. Examples to prove this assertion, are pretended to be taken from those countries where capital punishments are most sanguinary and cruel.

In the first place we make bold to say, that the assertion itself, upon an impartial inquiry, will be found to have no foundation. And whatever colour of truth it may have from examples taken from some barbarous nations, it will be found that the whole argument is perfectly sophistical; because, 1st, Barbarous constitutions and laws are most generally to be found in those nations which are sunk in ignorance, and where barbarous wickedness abound amongst all ranks to a great degree, and where there are no sound systems of religion and morality taught; so that it is the abounding ignorance and wickedness of those nations where such sanguinary laws exist, that is the cause of the multiplicity of crimes and capital punishments, rather than the severity of punishments. Let a nation have either no system of moral instruction, or an erroneous one, and crimes in such a nation must increase; but without the deficiency in point of moral instruction, is in some measure counterbalanced by severe laws, crimes must increase, more than they would be likely to do without such laws; yet we cannot expect that the terror of punishment itself, will have the same good effect, to restrain or prevent crimes, as when it is accompanied with a due proportion of moral and religious instruction.

2d. The above objection will go to ~~defend~~ all punishments of every kind and degree; for if it is true that crimes increase in proportion to the severity of punishments, then by the same inverse ratio, crimes would decrease in proportion to the slightness of punishment; so that no punishment would have a much happier tendency to prevent crimes and promote the good of society, than punishments of any

kind or degree, so that that civil authority which sanctions laws with punishments, must be a perfect nuisance to society. But examples can be produced to prove the assertion false. It is well known that Peter the Great, Emperor of Russia, did suppress robberies and murders in his empire, by the severity of his laws. This is asserted by Montesquieu in his *Spirit of Laws*, though he appears to be no friend to sanguinary laws.*

Lastly. Our own land affords us a melancholy example to refute the above assertion. It is a common thing to find at least five hundred convicts in the penitentiary house at once, which will be found to be more than the whole amount that have been brought to the pillory since Pennsylvania was a state. No reason can be imagined for this great disproportion, but that men dread the pillory more than the penitentiary. As to executions it will be granted that there are fewer since the late changes in the penal laws of Pennsylvania, but we cannot infer from that, that the number of murders is lessened. The paucity of murders is not the cause of the paucity of executions, but the true reason is the want of law to punish murderers. And we will find by comparing the number of violent deaths, which would have been called murder in former times, with such in the same length of time since the late changes, that the proportion in the latter, will be to the former, as two to one.



CONCLUSION.

FROM the principles which we have laid down, and tried to support in favour of a defensive war, may be seen the futility of all those arguments in opposition to war, which are taken from natural principles. We have proved by the law of nations, in eight different arguments, that a defensive war

* As both religion and the civil laws ought to have a peculiar tendency to render men good citizens, it is evident that when one of those deviates from this end, the tendency of the other ought to be strengthened. The less severity there is in religion, the more there ought to be in the civil laws.

Thus the reigning religion of Japan, having few doctrines, and proposing neither future rewards nor punishments, the laws to supply those defects, have been made with the spirit of severity, and are executed with an extraordinary punctuality. Book 24. Chap. xiv. Vol. 2d.

is just; and it is hoped that the impartial reader will examine those arguments with care, and allow them all that force to convince the understanding, which they merit. Even though they should go to combat his own preconceived opinions, and let him remember, that every point of a moral nature which will admit of being supported by good argument is true, and cannot be false. But if he feels a disposition notwithstanding all that hath been said, to reject our general conclusion, in order to exculpate himself from the charge of prejudice, two things are necessary to be done. The first is, to take our arguments one by one, and overthrow them in a way satisfactory to his own judgement. 2d. After he hath demolished our system, let him build another in its room, we mean one which hath not only first principles for its foundation, but which is consistent in its parts. 3d. From the arguments which we have taken from the scriptures in defence of war, it appears that it is perfectly agreeable to the Old and New Testament, for a nation to defend itself against an hostile attack by an enemy, by shedding the blood of that enemy. 4th. And that all objections to the lawfulness of a defensive war taken from scripture maxims, are found to be of no weight.

In answering objections, we have only taken up such as appeared to be most specious, because if a defensive war can be proved by solid arguments to be just, no objections against it can have weight.

One reason why we have undertaken to plead for the justness of a defensive war, is from a conviction that the civil and political interests of our nation may eventually be endangered by the opposite opinion. It is well known that there are several numerous religious societies in the United States, whose principles are opposed to war, both offensive and defensive. And it is certain also, that other sectaries are from time to time rising, whose principles are equally inimical to war. While others do not acknowledge the government itself to be lawful, and take no part in the political affairs of the nation, except to enjoy its protection. In proportion as those sectaries increase in number, and draw deluded followers after them, the number of fighting men to defend the rights of the nation is diminished, and considering the great indifference which a great part of the inhabitants of our land shew about the right and privilege of suffrage, and the trifling worldly loss which others may sustain by declining to take an active part in the defence of our civil rights, compared with the fatigues and dangers to which men's per-

sons are exposed who are employed in military service, we may with safety say, that the balance of influence from the consideration of worldly ease is rapidly increasing in favour of those principles which we have been opposing, and in direct opposition to the future safety of the nation; so that in a short time the number of fighting men may be too small to defend our civil and religious rights. Though it should be objected to the above reasoning, that the opinions we have been opposing, have never been adopted by so many in any age of the world, as sensibly to affect the political interest of a nation. Granted, but it ought to be remembered, that such opinions have never in any age or nation had the same opportunity of increasing as in our own. It appears that under present circumstances, no better method can be adopted to prevent the danger threatened, than to expose to view the absurdities of such opinions, and to establish the opposite doctrine by clear and persuasive arguments.

In connexion with the subject of war, we have attempted to prove, that it is the indispensable duty of our state governments to inflict death upon the murderer; and it appears from what hath been advanced, that those two subjects must stand or fall together; because the arguments which go to prove the one, establish the other, and such arguments as are used by some to overthrow them, equally tend to overthrow the other.

But whether our arguments in favour of capital punishments, be calculated to lead our opponents to conviction or not, the cause itself must be either just or unjust. If it is unjust to punish capital crimes by death, then not only the writer of these sheets has been pleading for an unjust cause, but all nations from the beginning of the world have been going on in one incessant course of murder, in punishing capital crimes by death: But,—

2dly. If the cause we have been defending is just, as we are persuaded it is, and hope we have in some measure proved, then it must be a most heinous offence against God and the rights of society, to spare the life of the murderer. 1st. It is a crime equal to murder itself; because to kill the innocent, and to spare the guilty, who is worthy of death, will be found to be reciprocally criminal, as it respects the person of the murderer; but, 2d. The sin of sparing the life of the murderer, will be found to be more aggravated than the act of killing an innocent person; because it gives the same person an opportunity of repeating his crime, and gives occasion to others to do it without fear; so that many

innocent persons may perish in consequence of sparing the life of one murderer.

3dly. It is a crime which brings guilt upon a nation. This guilt may be incurred. 1st. Through the representatives of a nation, authorising the sin in making laws, to spare the life of the murderer. 2d. By the people, the constituents of government, either in remaining silent, while such an outrage upon the justice of God, and the rights of civil society may be threatening, or by pleading for and justifying such a law. Little do such men consider, that while, they are pleading for a law to spare the life of the murderer, they are incurring the guilt of murder upon themselves, and the nation. We ought to be so far from pleading in behalf of such, that we ought not even to feel an inward sense of pity, for the murderer, when suffering the vengeance of the law. The more pity we feel for such an enemy to God and man, we shew ourselves to be, so much the more wicked and unprincipled, as will appear from the following citations, Deut. xix. 11. If a man hate his neighbour, and lie in wait for him, and smite him mortally, that he die, and fleeth into one of these cities: Then the elders of his city shall send and fetch him thence, and deliver him into the hand of the avenger of blood, that he may die. Thine eye shall not pity him: but thou shalt put away the guilt of innocent blood from Israel, that it may go well with thee.

Prov. xxviii. 17. A man that doeth violence to the blood of any person shall flee to the pit, let no man stay him, Exod. xxi. 12. He that smiteth a man, so that he die shall surely be put to death. Numb. xxxv. 16. The murderer shall surely be put to death, v. 31. ye shall take no satisfaction for the life of the murderer, he shall surely be put to death. So ye shall not pollute the land wherein ye are, for blood it defileth the land, and the land cannot be cleansed of the blood, that is shed therein, but by the blood of him, that shed it. The man who can read these portions of God's word, with others to the same import, and be moved with pity, so as to incline to spare the life of the murderer, can hardly be clear of the sin of murder in his heart.

The success of this publication is as yet unknown but could the author persuade himself that it would be a mean of vindicating the justice of God and the rights of man by strangling one murderer, he would not only think his labour well rewarded but would hope that the fact itself might be a subject of pleasing reflection through the remainder of his life and a matter of consolation in death.